Page 7224 MANITOBA CLEAN ENVIRONMENT COMMISSION BIPOLE III TRANSMISSION PROJECT PUBLIC HEARING VOLUME 34 \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* Transcript of Proceedings Held at Winnipeg Convention Centre Winnipeg, Manitoba THURSDAY, MARCH 14, 2013 \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \*

APPEARANCES	Page 7225
CLEAN ENVIRONMENT COMMISSION Terry Sargeant - Chairman Pat MacKay - Member Brian Kaplan - Member Ken Gibbons - Member Michael Green - Counsel to the Board Cathy Johnson - Commission Secretary	
MANITOBA CONSERVATION AND WATER STEWARDSHIP Bruce Webb Elise Dagdick	
MANITOBA HYDRO Douglas Bedford - Counsel Janet Mayor - Counsel Shannon Johnson	
BIPOLE III COALITION Brian Meronek - Counsel Karen Friesen Garland Laliberte	
CONSUMERS ASSOCIATION OF CANADA Byron Williams - Counsel Gloria Desorcey Aimee Craft - Counsel	
MANITOBA METIS FEDERATION Jason Madden - Counsel	
MANITOBA WILDLANDS Gaile Whelan Enns	
GREEN PARTY OF MANITOBA James Beddome	
PEGUIS FIRST NATION Robert Dawson - Counsel	
TATASKWEYAK CREE NATION Ian Cluny Shaun Keating	

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## APPEARANCES CONTINUED:

PINE CREEK FIRST NATION Charlie Boucher Warren Mills John Stockwell

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1	Thursday, March 14, 2013
2	Upon commencing at 9:00 a.m.
3	THE CHAIRMAN: Good morning, we will
4	reconvene. I may jinx this, but I think we have
5	reached a day we have all been looking forward to
6	for the last many, many months. Let's hope that
7	nothing pops up in the next two or three hours
8	that may change that. I expect that we will
9	conclude in a half a day today, but we'll have to
10	wait and see.
11	First up we have Mr. Williams, who
12	will be speaking a little bit in response to the
13	question I posed yesterday afternoon about best
14	practices. Following him we'll have Mr. Beddome
15	give his final argument on behalf of the Green
16	Party of Manitoba. And then the ultimate,
17	Manitoba Hydro in their closing argument.
18	So we will start off, Mr. Williams?
19	MR. WILLIAMS: Good morning members of
20	the panel. I just want to make sure that the
21	panel has received a document titled, perhaps
22	optimistically, "Clarifying the CEA terms
23	(Hopefully)."
24	And I do thank the panel for the
25	question, and I apologize for a lack of clarity in

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1	my discussion yesterday. I did wake up bright and
2	early this morning to just kind of reflect on the
3	record and go through a bit of the discussion of
4	the hearing. And I think the question was
5	tremendously important and insightful. And just
б	when I flipped through the record, I think have I
7	actually identified six different terms that are
8	being used to describe three or four concepts.
9	So if the panel will indulge me, I am
10	going to try and patiently take you through some
11	of the ones that have been thrown around the
12	hearing and then try and give you clarity about
13	what I was saying yesterday.
14	I thought it would be useful to start
15	with kind of some of the terms that Manitoba Hydro
16	has been using. And because, you know, certainly
17	my client has assumed that those are the standards
18	by which Hydro is suggesting that we judge their
19	application. And so at the you will see at the
20	top of the first page of the clarifying the CEA
21	terms, I put in the text from section 4.2 of the
22	EIS where Manitoba Hydro states essentially, the
23	assessment in this project is consistent with
24	Provincial and Federal legislation guidelines and
25	procedures that's kind of part 1 of its

Page 7231 assertion -- as well as, using their words, best 1 practices. 2 3 Then we take you to section 9.1 of the 4 Environmental Impact Statement, which is the chapter 9, the CEA analysis. And Hydro kind of 5 sets the context for its approach to the CEA 6 analysis. And towards the bottom of that lengthy 7 paragraph you see an excerpt from the scoping 8 document stating that the cumulative effects 9 assessment framework will be defined in the EIS 10 and will be based on CEA guidance, as well as best 11 12 and current practices, and then including the consideration of regional and strategic 13 environmental assessment approaches. Really, if 14 you compare it to the previous statement from the 15 EIS, certainly from our client's perspective, 16 going beyond the EIS and into regional and 17 strategic environmental assessment approaches, 18 19 suggesting that would be the approach. 20 Our clients and certainly their legal 21 counsel, I can't profess to be an expert on regional and strategic environmental assessment 22 23 approaches, except for to note that they are 24 certainly much more ambitious, to my understanding, than what we have here. And let's 25

1		Page 7232
1	say that one was looking at the northern portion	
2	of Manitoba, it might involve getting all	
3	getting all industry sectors to the table, whether	
4	it is the mining industry, the forestry industry,	
5	the hydroelectric, the fishers and trappers and	
6	the harvesters develop doing an assessment	
7	based upon the needs of that whole region, and a	
8	very, very ambitious type of project. Certainly	
9	very worthwhile, but far beyond what our clients	
10	would have contemplated for Manitoba Hydro.	
11	So while Manitoba Hydro in the scoping	
12	document may aspire to that, I want to be clear,	
13	our clients don't for the purposes of the EIS.	
14	And they would say that that's far too ambitious,	
15	and so do Gunn and Noble.	
16	So that's kind of what we see Manitoba	
17	Hydro saying in its materials.	
18	So let's go to some of the words used	
19	by either Dr. Gunn, Dr. Noble or by myself	
20	yesterday. One word that I flippantly threw	
21	around yesterday was gold standard, and I was	
22	using that to describe Dr. Gunn's curriculum	
23	vitae. And in her direct evidence she used that	
24	term gold standard to describe her work with the	
25	environment ministers on regional and strategic	

1	approaches to cumulative affects assessment. And	Page 7233
2	certainly so when I used that term yesterday, I	
3	was using it in the same sense as Dr. Gunn, that	
4	big picture regional and strategic assessment that	
5	she cautioned about using for Bipole III EIS, and	
б	so do my clients. I simply used that term because	
7	I was trying to buttress or butter up her	
8	curriculum vitae, just to say this is the kind of	
9	analyst that you have before you.	
10	I do want to note, and I want to be	
11	very clear on this, if you went to page 72 of Gunn	
12	and Noble's PowerPoint, it is in here, you don't	
13	need to go there, but if you went to the end of	
14	their PowerPoint, they do a bunch of EIS	
15	recommendations. And then they take off their	
16	analyst for the purposes of the EIS hat and put on	
17	their kind of public interest hat, and make some	
18	recommendations about changes to legislation,	
19	clearly, and also about identifying a crucial need	
20	in the northern portion of this Bipole III study	
21	area. And they do suggest, not for the purposes	
22	of the EIS, but they do suggest to the Province of	
23	Manitoba that it undertake a regional strategic	
24	environmental assessment of that northern region.	
25	You will see that at page 72.	

1	I just want to be clear, it is not	Page 7234
2	part of the Bipole III EIS commentary, it is kind	
3	of taking off their hat, that hat, and moving into	
4	public policy.	
5	So if you flip to the second page of	
6	the typed overview, and it is up to the panel I	
7	have actually ripped that front page off the	
8	document, but if you want to in the remainder	
9	of the document, if you wanted to flip back and	
10	keep a thumb on another page from their	
11	PowerPoint, it is a page called "Recommendations	
12	Specific to the Bipole III Project EIS Cumulative	
13	Effects Assessment." Recommendations Specific to	
14	the Bipole III Project EIS Cumulative Effects	
15	Assessment."	
16	And generally if you look at Gunn and	
17	Noble's written material and much of their direct	
18	evidence, when they are talking about, or creating	
19	a standard to assess the Bipole III cumulative	
20	effects assessment, they use the terms reasonable,	
21	or good practice. And predominantly they use the	
22	word good practice. And this is a critical	
23	definition and a critical term from our client's	
24	perspective. What Gunn and Noble mean by good	
25	practice is, what is the type of CEA, Cumulative	

		Page 7235
1	Effects Assessment, that a regulator requires to	
2	make an informed decision? When you kind of put	
3	it all together, that's essentially what they are	
4	saying. A good practice CEA is the type of	
5	analysis that allows a regulator to make an	
6	informed decision.	
7	So they've provided reams of evidence	
8	in this hearing about what they consider a good	
9	CEA to look like, but I thought I would cheat, and	
10	again taking you to their PowerPoint 70 and 71,	
11	that recommendation specific to the Bipole III	
12	project EIS, they said, if you are going to send	
13	Manitoba Hydro away to do a cumulative effects	
14	assessment so that the Minister can make an	
15	informed decision, these are the key elements of	
16	it.	
17	And so I could walk the panel through	
18	it or I can just leave it there for your	
19	information.	
20	THE CHAIRMAN: Leave it for our	
21	information.	
22	MR. WILLIAMS: Why I'm highlighting	
23	that document is because I, as legal counsel	
24	and let me stop just here for a second. So	
25	generally Gunn and Noble, they will say good	

_		Page 7236
1	practice. But certainly when I was preparing my	
2	closing I was relying a lot on the transcript, and	
3	when they started discussing their recommendations	
4	with Mr. Bedford, they started using good practice	
5	and best practice interchangeably. If you are	
6	looking for a transcript reference, I put the	
7	footnote down at the bottom, but that's page 4975	
8	of the transcript where Dr. Gunn is using best	
9	practice, but I interpret her to be using good	
10	practice and best practice in the same way.	
11	In our closing yesterday on behalf of	
12	my clients, I used the term best practice CEA.	
13	What I was using that word to mean was consistent	
14	with the recommendations of Gunn and Noble at	
15	pages 70 and 71 of their PowerPoint. And I	
16	apologize for my lack of clarity, but the words	
17	have kind of flown out interchangeably. And	
18	certainly for the purposes of clarity, our clients	
19	have no objection and I have checked with my	
20	client if you would, when you see that word	
21	best practice pop up in terms of the CEA, in my	
22	submissions you can just stroke out "best" and put	
23	in "good", and certainly that would be a fair	
24	reflection of my client's comments and intent,	
25	which is really to achieve the recommendations of	

		Page 7237
1	Gunn and Noble at pages 70 and 71 of their	
2	PowerPoint.	
3	So hopefully you are with me so far	
4	and it is simple so far, of course.	
5	THE CHAIRMAN: Everything about CEA is	
б	simple.	
7	MR. WILLIAMS: Indeed. Towards the	
8	front of the excerpt from the Gunn and Noble	
9	PowerPoint, there is the title page saying "Review	
10	of the Cumulative Effects Assessment," if you flip	
11	that page over, you are going to see "Approach to	
12	Our Review of the Bipole III CEA." And if you are	
13	with me so far, I hope I don't lose you on the	
14	next point. So Gunn and Noble ask the question,	
15	what is reasonable or good practice? And then	
16	they say, does the Bipole III CEA meet the minimum	
17	standard?	
18	Well, what are their criteria for	
19	determining the minimum standard? If you flip	
20	over to the next page, you are going to see a	
21	table with, on the left-hand side at the top, CEA	
22	component, and on the right-hand side, critical	
23	review questions. And that's a two-page table.	
24	And when Gunn and Noble use minimum	
25	standard, or you see counsel for CAC Manitoba	

Page 7238 using minimum standard, they are referring and I'm 1 referring to the little test that they use to 2 3 assess the technical reports and the evidence of 4 Manitoba Hydro. And this is critical. So, I just want to walk you through the four elements of this 5 test. They started with scoping and that's -- and б I'm not going to go through all of the elements, 7 but you can see one of the key questions is at 8 number 5, do the spatial boundaries reflect the 9 natural distribution pattern present in historic 10 VECs selected for CEA? And that's obviously a big 11 12 topic up for dispute. 13 And then on the next kind of major 14 analysis they talk about a retrospective analysis of cumulative effects. And down near the bottom 15 16 under III, you see they are saying they have to be having some thresholds specified against which 17 cumulative change and the significance of effects 18 19 can be assessed. They can be quantitative, 20 regulatory, you know, there is a variety that they discuss. 21 Right above that, II, is another key 22 23 one. And they are saying, we have got to be looking at -- understand what is going on with 24 these VECs. How has their condition changed over 25

		Page 7239
1	time, and what has driven those changes? And the	
2	simplest example that I can think of is caribou.	
3	It is generally assumed that disturbance of their	
4	natural habitat is playing a function in their	
5	population decline. So you would want to look at	
6	their habitat disturbance as compared to an	
7	analysis of how their population is doing over	
8	time. Lambda would be that assessment.	
9	Just quickly to the next page of this	
10	for a second a prospective analysis of	
11	cumulative effects. Because, of course,	
12	ultimately cumulative effects is a predictive tool	
13	for this regulator. And I won't go through all of	
14	the questions there, but I do want to flag number	
15	II, is there sufficient analysis evidence to	
16	support the conclusions? And that is a key	
17	distinction, if you are looking at Gunn and Noble	
18	versus Hegmann, they went from chapter 9 and went	
19	back to the technical reports, Hegmann did not.	
20	And that was really one of the key questions they	
21	asked themselves. Are they supporting the	
22	conclusions?	
23	THE CHAIRMAN: I think, Mr. Williams,	
24	you should probably stick to more generic stuff	
25	and stay away from critique of this particular	

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1	CEA, because we have had that day. We were
2	looking more for generic.
3	MR. WILLIAMS: Okay. So I put in
4	under, on my written notes, I put in an example of
5	the minimum standards screen, just to note that
6	most of them failed on, Mr. Chair, most of them
7	failed on the scoping and the retrospective. And
8	because I'm trying to distinguish between the
9	minimum standard and the good practice, the one
10	that came real close to passing was the caribou
11	report. And it ultimately failed under the
12	prospective analysis in Dr. Noble's conclusion.
13	If you are looking at my typed, and
14	mindful of your comments, Mr. Chair, if you are
15	looking at my typed comment, I can try and take
16	you with the caribou analysis into what a good
17	practice might look like, but if you think I'm
18	getting into yesterday's commentary on that point,
19	I won't.
20	THE CHAIRMAN: I think we would rather
21	you just stick to more don't get into more
22	argument, get into just the generic description.
23	MR. WILLIAMS: Fair enough. So the
24	last point so I think, certainly I think that
25	should help you to understand what our client

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1	means by minimum standards, and what Gunn and	U
2	Noble meant. I hope that helps you to clarify the	
3	connection between good and best practice. Our	
4	clients are substituting good practice for best	
5	practice, and they say that's what you need and	
6	that's what the Minister needs to make an informed	
7	decision.	
8	Gold standard is something really that	
9	the scoping documents sought to incorporate, but	
10	my clients and Gunn and Noble say, don't	
11	incorporate.	
12	The last term that I do want to bring	
13	to your attention, because I think that's the	
14	other one that has popped into the hearing, is	
15	right near the bottom of page 2 of my typed notes.	
16	Because in Dr. Noble's discussion with the	
17	Chairman, he talked about a good practice CEA, but	
18	limited to some key drivers. So I would see that	
19	as a variant on the good practice CEA. But I want	
20	to bring that to your attention, because if you	
21	are struggling with this issue of, if we send them	
22	back, how do we send them back?	
23	I think Dr. Noble gave you two	
24	options. One is the one that we would is the	
25	good practice CEA in totality, and that's	

Page 7242 certainly on a going forward basis what he would 1 recommend. But the good practice CEA, but limited 2 3 to some key drivers is something that, given the 4 time pressures, is also something that he was leaving open to you. 5 And just for the panel's benefit, that б discussion in terms of the good -- a good practice 7 but limited to some key drivers, I have put in the 8 two transcript pages that discuss that at the back 9 of this document. Those are pages 509 and 510. 10 So, Mr. Chair, mindful that you don't 11 12 want me to get into argument any more than I probably already have, does that assist the panel 13 14 in the way that you intended? 15 THE CHAIRMAN: Yes. I think this is helpful, and thank you for the effort in doing 16 this. 17 18 Do any of the panel members have 19 questions of clarification? Do any of the 20 participants or does the proponent have any 21 questions or comments? 22 Okay. Thank you. Thank you very 23 much, Mr. Williams. 24 Mr. Beddome? 25 MR. BEDDOME: I just firstly want to

	Page 724	3
1	start, I think you said it yourself this morning,	
2	Mr. Chairman, that you know, knock on wood I	
3	guess, we are getting to the end of I guess what	
4	has been more than a six month process. And I	
5	want to start by giving my gratitude. I will	
6	start with the staff of the Commission, that	
7	includes the secretary, the assistant secretary,	
8	the stenographers who have so diligently taken	
9	care of the transcript, and the support staff at	
10	both the Fort Garry and the Winnipeg Convention	
11	Centre, who have ensured we had much needed	
12	caffeine. Manitoba Hydro, the staff and	
13	consultants who have had to endure, I think Mr.	
14	Bedford called being hit from multiple sides with	
15	a shotgun in one of the pre-hearing conferences.	
16	So I think that is appreciated. Fellow	
17	participants, along with their representatives and	
18	the experts that they presented. I think we have	
19	all benefited from a lot of information. Members	
20	of the public, representatives of First Nations	
21	and other communities who presented evidence,	
22	oral, written or both. I think it is really	
23	important that we think about the public mandate	
24	of this Commission. And of course I didn't forget	
25	the panel of the Commission, including of course	

		Page 7244
1	the Chair. I think it is really important and I	
2	think we should all give ourselves a pat on the	
3	back, and I think that needs to be recognized	
4	right off the hop.	
5	Now, I just will start by saying that	
6	I say that because I don't think that the	
7	Commission has an easy task. Obviously, the	
8	mandate of the Commission can be found in section	
9	6 of the Environment Act, but I think there is	
10	there is a good quote off the CEC's web page that	
11	succinctly captures the mandate of the CEC.	
12	That's on the what we do page, under the heading,	
13	"Responsibilities of the CEC." And essentially	
14	you are summarizing section 6 of the Act, I think	
15	is more pithy. And that's, "To provide an avenue	
16	through which the public can participate in	
17	decision making process regarding the environment	
18	of Manitoba, and the Commission also provides	
19	advice and recommendations to the Conservation	
20	Minister with respect to environmental issues and	
21	licensing."	
22	So this is the challenge before the	
23	Commission. And I'm not naive to it, in the sense	
24	that on one hand you need to try to address the	

25 myriad of public concerns that were brought

		Page 7245
1	forward, and on the other side you need to offer	
2	recommendations to the Minister. And I guess the	
3	point that I'm going to be returning to many times	
4	today is, sometimes a friend offers really hard	
5	advice, sometimes a friend offers really hard	
6	recommendations.	
7	And I say this because I want to just	
8	take you back, I know it has been I guess six	
9	months or even more here I guess, to	
10	September 11th, when we had a pre-hearing	
11	transcript. And at that time both myself and	
12	Mr. Dawson commented this is a recommendatory	
13	capacity in terms of the board offers	
14	recommendations. And the chairman responded, and	
15	I have given this a lot of thought.	
16	"Although the statue does say that we	
17	make recommendations to the Minister,	
18	we do carry a significant amount of	
19	weight. In fact, probably one heck of	
20	a lot."	
21	And I have given that a lot of thought and I think	
22	you do carry a lot of weight. And as the	
23	discussion continued that day, there was some talk	
24	about Wuskwatim, there was some talk about what	
25	you might consider licensing recommendations and	

		Page 7246
1	non licensing recommendations.	1 age 7240
2	So I guess one of my recommendations	
3	to the Commission is to use your power of	
4	non-licensing recommendations. It is to use your	
5	power to broaden out, to offer some broad	
6	recommendations. And one of them that I thought	
7	was worth reading from Wuskwatim, and it hasn't	
8	been acted on, but I still think it has power, it	
9	creates a historical record. So the	
10	recommendation, and I think we can all agree, all	
11	of the participants, all the proponents, perhaps	
12	the Commission, and Manitoba Hydro, recommendation	
13	7.8 from the Clean Environment Commission in	
14	Wuskwatim was that:	
15	"The practice of environmental	
16	assessment in Manitoba be enhanced by	
17	requiring higher standards of	
18	performance. In this regard, the	
19	Government of Manitoba should enact	
20	environmental assessment legislation,	
21	provide guidance for proponents,	
22	consultants and practitioners,	
23	establish protocols for best	
24	professional practice."	
25	I could go on, but I am not going to read the	

		Page 7247
1	entire but what I am saying is, obviously you	
2	guys are commissioners, you can only offer your	
3	friends in the legislature advice, you can't	
4	change the legislation. I certainly understand	
5	that. But sometimes your friends need to hear	
6	hard advice, and I would really strongly recommend	
7	that you guys issue some hard advice. Because I	
8	think, you know, once again, Mr. Chairman, you	
9	succinctly captured it on March 11th of the	
10	transcript, that will be page 6513 of the	
11	transcript, lines 24 to 25.	
12	"We have got dozens, if not hundreds,	
13	of issues on the plate before us."	
14	And so, indeed, I just kind of quickly	
15	thought about all of the different issues that	
16	came forward from this. This is, of course, a	
17	massive project in terms of a 1400 long kilometre,	
18	with two converter stations with related	
19	equipment. So there are, I think it is fair to	
20	say, many uncertain questions, and I think that's	
21	to a certain extent going to be unavoidable.	
22	We have heard about impact on flora	
23	and fauna populations, including but not limited	
24	to declines in caribou, moose, bear, geese and	
25	wolverine, and increases in undesired vegetation	

1	Page 7248
1	and other outside populations such as white-tailed
2	deer and what that might mean for disease
3	spreading.
4	This is not meant to be complete.
5	This is just meant to capture some of the themes.
6	I am sure you guys are well aware of these, but I
7	think it is worth going over. Questions about
8	what impacts for Aboriginal communities, trappers
9	and wilderness outfitters, changes in wildlife
10	sorry, I am making life difficult for the
11	stenographer. So let me slow down and make sure I
12	will be much clearer about that.
13	Questions about what impacts for
14	Aboriginal communities, trappers and wilderness
15	outfitters, changes in wildlife will have on both
16	their spirituality and their livelihoods.
17	Questions about the adequacy of wildlife studies
18	identified by numerous participants, but I guess I
19	will highlight, I think it was well highlighted by
20	them themselves, but really the experts of the
21	Consumers Association and the Manitoba Metis
22	Federation
23	THE CHAIRMAN: You are speeding up.
24	MR. BEDDOME: I am speeding up.
25	Particularly, the experts of the

		Page 7249
1	Consumers Association and the Manitoba Metis	
2	Federation. Of course, there were collateral	
3	questions about consultations or lack thereof	
4	between the Government of Manitoba and Aboriginal	
5	communities, that although not specifically a CEC	
б	responsibility, was unavoidable nonetheless.	
7	Questions about what impacts this project will	
8	have on the mostly agriculture private landowners	
9	whose land this project will cross, and who also	
10	have a connection to land that in many cases have	
11	probably been in the family for generations.	
12	Concerns over whether the cumulative impacts of	
13	the project should include historic Hydro	
14	developments, or whether the historical impacts	
15	should form the baseline. Questions over whether	
16	the cumulative effects analysis was adequate, by	
17	participants, the public and experts. Impacts in	
18	regards to the cost of the project, the impacts of	
19	ratepayers, and how this project fits into	
20	Manitoba Hydro's long-term developments plans.	
21	And I think I'm going to have to try	
22	to guess, an interjection, that I might be using	
23	those verboten words, NFAAT. But I would just	
24	suggest that these issues were brought forward.	
25	And rather than trying to cover them, once again I	

1	would suggest that to a certain extent they also	Page 7250
2	were unavoidable.	
3	So I will continue. Alternatives such	
4	as connecting Bipole II to the Riel converter	
5	station and connecting Bipole III at a future	
6	date, or connecting Bipole III to Dorsey were also	
7	examined by the CEC panel and by the Bipole III	
8	Coalition. Questions about whether this project	
9	is solely about reliability versus how it connects	
10	to future Hydro development plans was also a	
11	common question brought forward by numerous of the	
12	participants and numerous public people. And the	
13	reliability of load forecasts, and therefore the	
14	project load deficits that were projected,	
15	considering the potential for greater demand	
16	management and current economic conditions.	
17	And indeed, this is just a small list.	
18	So I will once again say I don't envy you. You	
19	have a difficult task ahead of you. But there is	
20	another issue that I suppose I would suggest, and	
21	I mean this with no disrespect, there is also the	
22	issue of the relevance of this Commission itself.	
23	And that's why I ask for the hardest and the	
24	strongest non-licensing recommendations that this	
25	Commission sees fit of offering. I think this	

1		Page 7251
1	Commission has sadly been placed in an impossible	
2	situation. On the one hand, it has to carry out	
3	its public mandate, yet on the other hand, issues	
4	have been sliced away. And I think we have seen	
5	from the public that has presented, from the	
6	participants that presented, that these are the	
7	burning questions that surround this project. So,	
8	you know, there is a real difficulty with that.	
9	And for that, I'm going to suggest	
10	firstly, the primary recommendation has been	
11	recommended, I think, by almost all of the	
12	participants in their closing, is that the CEC not	
13	consider issuing a licence at this time. It	
14	doesn't mean that the project doesn't get built,	
15	it means it allows time. And I think that adding	
16	that time is really important.	
17	And I think it is really unfortunate	
18	that the CEC, and I recommended in pre-hearing	
19	meetings, sought clarification, and instead got	
20	none from the Minister. Quite frankly his pithy,	
21	you know, short one-liner that NFAAT wasn't there,	
22	I don't think provided any guidance. I say that	
23	not saying that this is, you know, a CEA analysis,	
24	I say that because I would say that the authority	
25	can be found starting with the scoping document.	

		Page 7252
1	And the scoping document is also	
2	appendix 1B in the EIS, as I'm sure the Commission	
3	is well aware. But it states that the purpose of	
4	the environmental assessment scoping document is	
5	to establish the framework and the scope for	
б	conducting the environmental assessment for the	
7	proposed Bipole III transmission project, and for	
8	preparing the Environmental Impact Statement for	
9	regulatory review and licensing.	
10	And then in section 3.2, the scope of	
11	assessment factors, the scope of the assessment	
12	will address, and I am just going to dot, dot, dot	
13	there. And at the bottom of paragraph:	
14	"The following factors will be	
15	considered in the environmental	
16	assessment and addressed in the EIS."	
17	And I would strongly suggest that you take a read	
18	of some of those, but I'm going to read a few	
19	selected highlighted ones.	
20	"The need for and the purpose of the	
21	proposed project."	
22	How are you supposed to conduct a review of this	
23	when the scoping document mentions the word "need	
24	for and purpose of", yet NFAAT is off the table?	
25	Are we supposed to never speak those words? Have	

-		Page 7253
1	they become curse words?	
2	I mean, it puts this review in an	
3	impossible situation. And while you are certainly	
4	going to have to take that clarification, I	
5	certainly think you have the freedom in your non	
6	licensing recommendations to point out how that	
7	frustrated the process.	
8	And I will continue just to read a few	
9	more because I think they are important. Review	
10	of alternative transmission routes and facility	
11	locations. Identification of economical feasible	
12	measures to mitigate adverse environmental	
13	effects, opportunities to enhance beneficial	
14	effects, so the current use of lands and resources	
15	for traditional purposes by Aboriginal persons.	
16	Obviously we have heard a lot about	
17	that, but as I said, it became unavoidable. So	
18	that's the rough challenge that this Commission is	
19	facing.	
20	And furthermore, your terms of	
21	reference do mention the scoping document, they	
22	also mention the principles of sustainable	
23	development. I think once again we run into an	
24	impossible situation, and I would ask the	
25	Commissioners to consider keeping the principles	

		Page 7254
1	beside themself, or the code of practice document,	
2	and to read it and to reread it, and to think	
3	about how those principles can be incorporated in,	
4	and to think about how not allowing an NFAAT in	
5	fact inhibits those principles.	
6	Now, I have said that a lot, and I	
7	want to address a few other points, and I promise	
8	the Commission I'm not going to take longer than	
9	an hour. So, you know, I thought that those were	
10	important points that had to be addressed off the	
11	front, though, because I think that's the	
12	fundamental challenge of this Commission. And I	
13	guess my fundamental recommendation is, sometimes	
14	a friend offers hard advice.	
15	Now, I want to move to a couple of	
16	other points. I think, in a bit of a great debt	
17	of gratitude to both the Commission itself and the	
18	Bipole III Coalition, for presenting some	
19	alternatives in the eleventh hour, for asking the	
20	questions and, therefore, forcing us to present	
21	and consider some alternatives. I will be frank,	
22	I think there are many more alternatives that I	
23	think could and should have been considered. But	
24	the point that was very interesting that came up	
25	clear from my reading of the experts that the	

		Page 7255
1	Bipole III Coalition presented here was it	
2	November 12th or was it 11th? Maybe it was the	
3	7th. Anyway, I'm sorry that I can't recall the	
4	exact date. But what was clear was that they	
5	mentioned that Hydro uses a worst case scenario on	
6	the one hand, but then when it comes to presenting	
7	opposite scenarios, opposite worst case scenarios,	
8	I personally wasn't able to get any answers on it.	
9	So I'm going to leave NFAAT aside, and	
10	I am sorry that I used those verboten words, I	
11	didn't mean to offend anyone, but I felt that it	
12	needed to be said.	
13	My point on the uncertainty actually	
14	is in some of the questions that I asked on	
15	environmental effects. One of them that I asked,	
16	I remember asking and I have a second one I	
17	will address was the issue of how close Deacon	
18	water reservoir was to Riel? The answer that I	
19	received I said, well, isn't there some	
20	probability and I wish I could find the exact	
21	transcript reference, I'm looking for it isn't	
22	there some probability that if the converter	
23	station at Riel were to fail that it could	
24	contaminate Deacon? The response I got was, it is	
25	highly unlikely, we looked at it. In a nutshell,	
1		

		Page 7256
1	that is the response I got. But yet here is a	1 age 7250
2	worst case scenario I tried to present and I	
3	didn't get, well, we had Teshmont consultants look	
4	at it and that's a 1 in 700 year probability and,	
5	therefore, we are not necessarily looking at it.	
6	And that was, you know, also in my conversations	
7	with Mr. Szwaluk I brought up the same, a similar	
8	question. And basically it was dealing with	
9	potential impact into fish habitat. I think it	
10	was Mr. Elder perhaps one second, I have it	
11	highlighted in here. Sorry, bear with me for one	
12	second.	
13	All right. Here we go. My apologies	
14	for the delay. November 5, 2012, page 3191 to 92	
15	starting at line 23.	
16	"Is it also possible there could be	
17	minnows or any other sort of fish	
18	breeding in those wetlands that could	
19	potentially be impacted, that may	
20	eventually at some point make their	
21	way further downstream into a larger	
22	watershed?	
23	Mr. Swazluk: It is possible, but not	
24	very likely."	
25	What I'm saying, and that sort of	

		Page 7257
1	continues on 3912, lines 1 to 5. So what I'm	
2	saying is, on the one case we are presented, and I	
3	think the Commission experts put forward quite	
4	eloquently, that this is our worst case scenario,	
5	and we have to always plan for the worst case	
6	scenario when arguing for the need for the	
7	project sorry, I just swore, I didn't mean to	
8	do that when arguing the need for the project.	
9	My point being, many people argue this, that you	
10	have to look at the need when you are looking at	
11	the impacts of the project, obviously. Obviously,	
12	no project would have no impact, but that doesn't	
13	mean that you shouldn't build the project.	
14	So then when we look at the other side	
15	and we are not getting those worst case scenarios,	
16	and to me that creates an inequity.	
17	I also think that we should look at	
18	the uncertainty. And this is not the proponent's	
19	fault, I will admit that, but it is one of the	
20	benefits of a pause, that I think would help us.	
21	One of the benefits of a pause would be we might	
22	have better data. So on November 5th, 2012, I was	
23	cross-examining Mr.Berger. If you go to page 3171	
24	of the transcripts, line 15. I was at that point	
25	speaking about, you know, do you think that we	

1	would have an improved assessment if the bird	Page 7258
2	atlas was completed in Manitoba? And not	
3	surprising, Mr.Berger answered, I believe with	
4	such data, it would improve our understanding of	
5	potential project effects.	
6	So we had an alternative presented	
7	that may cost less money, but yet then we also	
8	might clarify some of the uncertainty.	
9	Also when I was speaking with	
10	Mr. Schindler, and that is on page 298 of the	
11	transcript starting at line 1, and I ask:	
12	"Is it not fair to say that that's	
13	sort of a bit of a small sample size	
14	and that certainly it would have been	
15	preferable to have, you know, three to	
16	five years of monitoring	
17	pre-construction and three to five	
18	years monitoring post construction?"	
19	Obviously, as you know, Mr. Schindler was the	
20	caribou expert. And Mr. Schindler said:	
21	"I would agree, in an ideal situation	
22	the study design would have been those	
23	types of attributes. I believe that	
24	Jim hit on a really good point in	
25	terms of the number of collars	

		Page 7259
1	relative to your objective of your	
2	study, and obviously it would have,	
3	you know, increased the results	
4	considerably. You would have more	
5	animals collared, you know, perhaps	
6	the one winter prior"	
7	THE CHAIRMAN: Mr. Beddome, I realize	
8	when you are reading verbatim from the transcript,	
9	you think you can speed through it, but we can't	
10	expect the transcriber to go back and check the	
11	transcripts to get that quote. She is taking down	
12	what you are saying today. So just slow it down a	
13	little, please.	
14	MR. BEDDOME: I apologize, I do have a	
15	tendency to speak fast.	
16	THE CHAIRMAN: We have noticed.	
17	MR. BEDDOME: I am sure you have.	
18	Would you like me to continue on with	
19	the quote again, I will reread it.	
20	"I would agree in an ideal situation	
21	the study design would have those	
22	types of attributes. I believe Jim	
23	hit on a really good point in terms of	
24	the number of collars relative to the	
25	objective of your study, and obviously	

	F	Page 7260
1	it would have, you know, increased the	
2	results considerably. You have more	
3	animals collared, you know, perhaps	
4	the one winter prior to construction,	
5	maybe you didn't need three or four	
6	years, but just to get some relative	
7	information, it would be nice to have	
8	the variability."	
9	So the point being, the uncertainty can be	
10	mitigated by delay. And I know that on the	
11	opposite side we are going to be put that, but the	
12	worst case scenario is calamity to Manitoba. And	
13	indeed there is some truth to that, it isn't to	
14	deny that there are reliability issues. But I	
15	really enjoyed and appreciated the presentation,	
16	or reading through the expert reports presented by	
17	the Bipole III Coalition near the end of these	
18	hearings. Because I think they finally presented	
19	one other alternative. I'm not going to spend a	
20	lot of time on it.	
21	Obviously the Green Party of	
22	Manitoba's position is that we think we need to	
23	look at other alternatives, we need to look at	
24	micro generation, wind, demand side management.	
25	Obviously we didn't sorry, wind maybe I will	

	F	Page 7261
1	look at the stenographer, that way I can try to	0
2	make sure I'm not going too fast.	
3	We obviously want to look at wind,	
4	demand side management, micro generation, et	
5	cetera. We felt that this Commission wasn't	
6	looking to go there, so I'm not going to go there	
7	any further. What I do like is we have one	
8	alternative presented. An alternative that deals	
9	with, dealing with the reliability risk, not	
10	completely. But I, you know, had brought this up	
11	in my cross-examination with Mr. Mazur in	
12	October 2nd. And basically what I was getting at	
13	is the fact there is two separate risks.	
14	October 3, 2012, page 584, starting at	
15	line 17:	
16	"So there are separate risks when it	
17	comes to reliability, the first being	
18	of that converter station failure, and	
19	the second being that of transmission	
20	corridor failure."	
21	Mr. Mazur at line 22:	
22	"That is correct."	
23	Moving along to page 585, line 2:	
24	"Mr. Mazur, it is a different risk in	
25	the sense that the consequences of the	

		Dogo 7060
1	failure is more significant because	Page 7262
2	the estimated duration of the failure	
3	will be significantly longer."	
4	That I don't think that has been argued by anyone.	
5	So what we have is we have two situations, and I	
6	think, you know, Bipole III Coalition certainly	
7	put this forward. On the one hand we have	
8	uncertainty of a converter station failure, and	
9	under this proposed plan that risk will last	
10	longer than will the risk of transmission failure,	
11	which is six to eight weeks. And it is a trade	
12	off. I think, you know, I think it was Mr. Derry	
13	made a great point basically saying, you can't	
14	have 100 per cent. And he used the example of,	
15	you know, Southeastern Manitoba this past fall	
16	when we had, you know, a series of ice storms,	
17	followed by fires that created obviously an	
18	emergent situation that's very difficult to be	
19	avoided.	
20	But yet when I tried that 100 per cent	

But yet when I tried that 100 per cent argument, probably remember me quoting my favorite quotes, and I'm surprised no one had heard it on the Hydro panel because it is in almost every university text book that I have ever had, and that is the famous words of Yogi Berra, "in theory

Page 7263 everything works, in practice it doesn't." And I 1 had brought that up to Ms. Hicks, trying to point 2 3 out that 100 per cent compliance with camp rules wasn't going to be realistic. And in fact in some 4 of the undertakings, Manitoba Hydro essentially 5 admitted that at least when it came to Wuskwatim 6 historically, they couldn't get 100 per cent 7 compliance. No one is necessarily asking 100 per 8 cent compliance, but on one end we are asking for 9 100 per cent compliance, when it comes to unknown 10 risk to caribou, when it comes to impacts to 11 outfitters or First Nations, you know, when it 12 13 comes to a number of these concerns, it seems to be, well, that's not a significant risk. But it 14 is not significant 100 per cent? I mean, it is 15 not realistic for us to expect to do 100 per cent 16 compliance. And that's not what I'm asking for. 17 But it seems to be the impossibility that we have 18 19 been put up against. 20 Delay also presents other 21 opportunities. We have heard Manitoba Hydro present that one of the effects that was found to 22 23 be significant was sort of some of the socioeconomic effects and the impacts on 24 infrastructure. Obviously, slowing down the 25

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1	development plan would serve to mitigate that to a	
2	certain extent. And certainly, of course, it is	
3	inherent. So I think that's a fair point. But it	
4	creates a real problem, and it creates a real	
5	problem potentially for the credibility of this	
6	panel, because in our advice to the licensing	
7	branch we essentially said that, that we shouldn't	
8	move forward until we have an independent	
9	citizens' driven commission that reviews the	
10	entirety of the development plan. And there may	
11	or may not be some disagreement, and I know you	
12	certainly can't write that into the terms of the	
13	licence. But if we don't do that, then we are	
14	never going to move forward with public	
15	credibility, and all of this will have been for	
16	naught.	
17	And there is a real power that this	

18 Commission has. At several points throughout this Commission people have commented, oh, in the past 19 we didn't do, you know, environmental assessment 20 like we did. Well, that may be true. Certainly 21 there has been some development in environmental 22 assessment law. But I think something really 23 important to recognize is the value of this 24 record, the value of all of the objections that 25

Page 7265 have been put on place. 1 2 For historical geeks like myself, I 3 have went back to the 1970 Water Commission 4 report, in some ways a precursor to this board, on some previous hydro projects. It doesn't even 5 need to be mentioned, there was a massive 1956 6 study that looked at the watershed in Manitoba 7 and, in my opinion, stands out as one of the best 8 studies that I have ever came across. And it 9 analyzed ecological effects with great 10 sensitivity. So what I'm saying is there is a 11 12 power to that record. This Commission has heard numerous 13 objections. And without a doubt, they go beyond 14 where you can necessarily go on the licensing 15 conditions. I will repeat it again, sometimes 16 your friends need hard advice. Sometimes they 17 need to be pointed out that there is a ton of 18 19 problems with the process, and that's what we need 20 to work on fixing. 21 The first problem is sequence. We are 22 trying to conduct an environmental assessment 23 before, if we are to believe much of the evidence lead by many of the participants, before 24 Government Crown and Aboriginal consultations are 25

		Page 7266
1	done, or before you know, we can ask whether	
2	this is a related project or not, and I'm going to	
3	address that as I close, or we can ask whether the	
4	NFAAT of related projects should be done before we	
5	do this. Because a lot of the burning questions	
б	can't be answered until we answer those questions	
7	first.	
8	So I think as a non-licensing	
9	recommendation, we need to make a recommendation	
10	to the Minister that in the future, maybe this	
11	process is un-savable, given how far we are, but	
12	in the future we need to ensure that consultation	
13	and NFAAT are the primary steps. And it is the	
14	only logical way that makes sense when you really	
15	think about it.	
16	Now, I mentioned one point that I	
17	guess is going to be one of contention, because I	
18	know the proponent has on numerous cases	
19	essentially argued that this is a reliability	
20	project, it is no way connected to other projects.	
21	Well, I would like to go through some evidence.	
22	Chapter 3, page 7 of the Environmental Impact	
23	Statement:	
24	"The design concept for the 230	
25	kilovolt switchyard at the new	

		Page 7267
1	Keewatinoow converter station will	0
2	also make provision for possible	
3	future termination of the 230 kilovolt	
4	transmission lines in the event of new	
5	northern generation developments.	
6	Example, Conawapa."	
7	I think it is also worth noting that	
8	the next Hydro project slated to go forward, being	
9	Keeyask, will be running through Bipole I. But my	
10	understanding of it, and correct me if I'm wrong,	
11	is some of the feeder lines going into Long Spruce	
12	and Henday from Bipole III will probably enable	
13	that additional capacity.	
14	There also we can look at another	
15	quote, I think going further down on page 7,	
16	chapter 3.	
17	"The general concept of siting the	
18	Keewatinoow converter station near the	
19	potential Conawapa generating station	
20	was established on the basis of system	
21	planning requirements. The choice of	
22	the Keewatinoow site primarily	
23	reflects technical considerations.	
24	The location is physically separated	
25	from existing Bipoles I and II	

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1	converter facilities at Radisson and	
2	Henday. The site is accessible via	
3	the existing Conawapa access road.	
4	The site is reasonably located for	
5	connection to the existing northern	
6	collection system and the site is well	
7	located relative to possible future	
8	generating station development at	
9	Keeyask and Conawapa."	
10	That's in the EIS itself. I want to make sure I	
11	have that page number right. I have page numbers	
12	beside every one except this quote. So I will	
13	double check that quote for the Commission and	
14	make sure I email you back, if you will grant me	
15	that indulgence. But the exact quote, if you want	
16	to use control F on chapter 3 of the EIS:	
17	"This site is well located relative to	
18	possible future generating station	
19	development at Keeyask and Conawapa."	
20	I'm not objecting to Hydro planning	
21	broadly. Of course they should plan broadly. But	
22	what I'm objecting to is that, on the one hand	
23	they are saying this is just a reliability	
24	project, but on the other hand it is clear that it	
25	is tied into their connected projects. But we	

1	have been given we have been told, you have to	Page 7269
2	solve a 50 piece puzzle but we are only going to	
3	give you five pieces of the puzzle. At best you	
4	can only create a partial picture. And you know,	
5	it says at 3.511, that's page 56 in chapter 3, it	
6	has been planned to reflect preliminary Conawapa	
7	development concepts, there are plans to re-use	
8	the bunkhouse when they develop Conawapa. And	
9	when I cross-examined, we were once again able to	
10	also get, you know, essentially Manitoba Hydro	
11	employees to say, yes, that it was sort of planned	
12	to a certain extent to be connected with Conawapa.	
13	So this is in October 4th, page 822 to	
14	824, it is a conversation between myself and	
15	Mr. McGarry about the relative fixed locations of	
16	the converter stations. If you look at that	
17	discussion, you will see basically that I'm	
18	saying, so you were told more or less where the	
19	north had to go, and the south was already	
20	basically fixed, so you weren't really given a lot	
21	of options, were you? And I think Mr. McGarry	
22	would say there was a larger area, and we	
23	certainly studied it, to be fair to himself, and I	
24	think he did more or less say that. But I had to	
25	clarify. So at line 13 on page 822:	

		Page 7270
1	"Sir, maybe I'm not being clear	0
2	enough. I guess on page 39 it says	
3	ten sites, all within five and a half	
4	kilometres of the proposed Conawapa	
5	site. So I'm just basically saying	
6	that your directive to start with was	
7	to build the northern converter	
8	station in close proximity to the	
9	proposed Conawapa site.	
10	Mr. McGarry: Yes, I'm sorry if I	
11	misunderstood. Yes, that's correct."	
12	And in asking about the Riel converter	
13	station to Ms. Hicks, that's November 7, pages	
14	3918 to 19, starting at lines 24 and 25 and	
15	continuing on to the next page.	
16	"Ms. Hicks: No, the Riel converter	
17	station, actually Riel station was	
18	licensed as a different project. What	
19	it does is the lands that Riel is	
20	currently sitting at with the	
21	transformers coming on is a separate	
22	project. Riel converter station, the	
23	equipment required for it will have to	
24	be added in once the project gets its	
25	licence. They are two separate	

1		Page 7271
	projects.	
2	Mr. Beddome: And I do understand	
3	that, so I'm just trying to wonder	
4	conceptually, though, did you say that	
5	Riel was part of Bipole III?	
6	Ms. Hicks: Riel converter station is	
7	part of Bipole III. We can see that	
8	there is an overlap between those two	
9	projects."	
10	And that's the challenge that we have been faced	
11	with. And it has been a challenge that we have	
12	found, because in directions that have been given	
13	by the Chairman, during some of the pre-hearing	
14	meetings and through some of my inquiries to the	
15	Commission secretary, we have been told, we can't	
16	look at load forecast or we can't look at that.	
17	But yet we have had to.	
18	When I talked with Mr. Mazur on	
19	October 2nd, when I cross-examined him, and I was	
20	truncated by the Chair and you told me,	
21	Mr. Chair, I will be allowed to return to this in	
22	my closing argument, so I'm taking that liberty	
23	where I was asking him, is 100 megawatt	
24	curtailment, as you estimated, factored in? And	
25	he said, no, it is not factored in our 1500	

		Page 7272
1	megawatt difference. So is 100-megawatt	
2	curtailment, as you estimate, is the best they	
3	have been able to achieve by making pleas to	
4	Manitoba factored into the 1500 megawatt deficit?	
5	And he said no. I asked him, is an export line to	
6	the States factored in? He said no, because that	
7	will be in the future projects.	
8	So what I'm saying is, that makes	
9	significant changes to load forecasts. And I know	
10	that's verboten and it is off the table. But at	
11	several times we have had to come to those	
12	questions, it has been unavoidable.	
13	And that's the impossible situation,	
14	sadly, that the Minister has put you in. So	
15	sometimes you have got to give your friends some	
16	really hard advice, and so that hard advice we	
17	would recommend is delaying completion of this	
18	project until a lot of these broad sweeping public	
19	concerns can be put to rest, so the projects can	
20	move forward, if they do move forward, with	
21	credibility. It is not necessarily being opposed	
22	to them, it is wanting to ensure that the public	
23	is involved in the decision-making.	
24	Thank you very much. Subject to any	
25	questions you may have, I think that concludes my	

Page 7273 presentation. 1 2 THE CHAIRMAN: Thank you, Mr. Beddome. 3 I want to thank you for your participation 4 throughout these hearings and your contributions to the process. I think we have all been 5 impressed by the fact that you are not only doing 6 this in the fall, almost on a full-time basis, but 7 carrying a full load at law school. 8 MR. BEDDOME: It is a half load 9 10 actually. THE CHAIRMAN: Well, then we won't 11 12 feel quite so sorry for you. Nonetheless, thank you for your 13 participation, and thank you for your presentation 14 today. 15 Mr. Bedford, would you like to start 16 now and have a break part way through, or would 17 you rather we take a short break now and then 18 19 commence? 20 MR. BEDFORD: If we could take a very 21 short break now, then I will begin. THE CHAIRMAN: We will break for about 22 23 ten minutes. 24 (Hearing recessed at 9:58 a.m. and 25 reconvened at 10:08 a.m.)

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		Page 7274
1	THE CHAIRMAN: Could we reconvene,	raye 1214
2	please?	
3	Mr. Beddome, we will give you the	
4	final word, at least the final word in argument.	
5	Over to you. I'm sorry. I don't know whether	
6	that was a slip or something.	
7	Mr. Bedford?	
8	MR. BEDFORD: Thank you. I imagine	
9	that after listening to some 11 hours of why the	
10	Bipole III project should not be approved, that	
11	you will perhaps be ready to hear something	
12	completely different.	
13	Ms. Mayor, my colleague, has invested	
14	considerable time with the assistance of a number	
15	of our team to prepare written argument. I	
16	anticipate it will be filed tomorrow. I commend	
17	it to your attention, and particularly to	
18	Mr. Dawson's attention.	
19	Much of what I will now say is not in	
20	the written argument. I will keep you I estimate	
21	something a little less than one hour longer, and	
22	then we can all disperse.	
23	The work in designing and studying the	
24	Bipole III west route began in 2008, shortly after	
25	the government confirmed in September 2007, that	

		Page 7275
1	the route was to be a west route. We put in three	
2	years of study, research, and public meetings	
3	until the spring of 2011. Then we sat down to	
4	write the Environmental Impact Statement, which it	
5	has been your responsibility to read.	
б	Writing that Environmental Impact	
7	Statement took us from June of 2011 to November of	
8	2011 to write. Although we filed the document on	
9	December 1, 2011, that did not mean that all	
10	fieldwork and all consultations ended. On species	
11	such as caribou, research continued, consultations	
12	continued, and I remind you, of course, of the	
13	adjustment that we made to the final preferred	
14	route in the area of Tourond, south of Winnipeg.	
15	Some 85 consultants and staff worked	
16	on the environmental components of the	
17	Environmental Impact Statement and the public	
18	consultation process. Had we kept studying and	
19	researching and working for two more years, yes,	
20	we would have written more, covered more, and	
21	presumably we would have produced a superior	
22	product. Had we studied and worked for six more	
23	years, we would have provided even more detail	
24	and, yes, no doubt an even better product. Ours	
25	was no different than the choice faced by any	
i i		

		Page 7276
1	professional tasked with writing an article or a	
2	book. At some point you sit down and you write,	
3	while knowing that there is always more that could	
4	be studied if you need an excuse to put off the	
5	challenge of writing.	
6	Deadlines bring discipline to the time	
7	for study and writing. Ours was in 2011. At some	
8	point it becomes irresponsible to continue to put	
9	more money and resources into research and study	
10	at the expense of other projects and at the	
11	inherent cost of delaying yours.	
12	To those who have argued at this	
13	hearing that Manitoba Hydro should avoid planning	
14	for extreme scenarios, and should have the courage	
15	to accept the risks of the reasonable, I say so we	
16	did in putting pen to paper in 2011, and filing an	
17	Environmental Impact Statement we knew would never	
18	satisfy the criticisms of the most exacting	
19	critics.	
20	It is not difficult with a project so	
21	large, with so many important issues to identify	
22	topics and sites where there is room to study more	
23	and to write more. This hearing has provided any	
24	number of examples of that. No one ought to be	
25	surprised at that. But compare what we did with	

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1	what we have been asked to do during the course of
2	this hearing.
3	At the end of August 2012, the
4	Department of Conservation and Water Stewardship
5	asked us to find four alternate routes in four
б	segments of the final preferred route, obviously
7	thinking we could do so in one month, and then the
8	options could be canvassed at this hearing.
9	Pine Creek First Nation, in the course
10	of the hearing, has come up with a suggestion for
11	a hybrid route in a segment of importance to it
12	and is frustrated that we simply cannot endorse
13	its hybrid route.
14	Swan Lake First Nation asked us, in
15	the event that we find a cultural site or a
16	heritage site of importance to its community, that
17	we simply promise or commit now to just move the
18	route somewhere else.
19	In each case we said planning a route
20	requires detailed assessment and public
21	consultation. That response hardly reflects a
22	company taking a superficial or cavalier attitude
23	to research and study, and drawing conclusions.
24	Had we acceded to the request to do
25	what would amount to tabletop exercises of drawing

Page 7277

1	lines on money then the demonds that T have been	Page 7278
1	lines on maps, then the demands that I have heard	
2	that we should go away and do more homework would	
3	be well put.	
4	At the conclusion of the Wuskwatim	
5	hearing in 2004, before this Commission, one of	
6	the things I acknowledged was that with respect to	
7	the Wuskwatim Environmental Impact Statement, we	
8	could have done better to explain how we had made	
9	use of the Aboriginal traditional knowledge that	
10	was shared with us.	
11	With respect to the project Bipole III	
12	that you are considering, I suggest to you that	
13	compared with Wuskwatim, we have made	
14	improvements. We have more Aboriginal traditional	
15	knowledge, which is a reflection partly of the	
16	sheer size and scope of the project.	
17	With respect to the timing of	
18	gathering that information, I can't help but note	
19	that with one exception, all of the Aboriginal	
20	traditional knowledge that we contracted for	
21	arrived late, sometimes over a year beyond the	
22	deadline to which parties had initially agreed.	
23	Which posed us, of course, a serious challenge in	
24	incorporating the work into our Environmental	
25	Impact Statement.	

Page 7279 And I must say, we did not just attach 1 the Aboriginal traditional knowledge products that 2 3 we obtained from First Nations and the Manitoba Metis Federation, but obviously we did attach them 4 because we did not wish to edit or change what had 5 been given to us. And the parties that gave us 6 that work were anxious that we produce it in its 7 entirety. 8 9 We gave each technical report to each of our specialists. We insisted that each 10 specialist read the reports and comment and 11 12 incorporate, and do what they could to make use of the knowledge we had gathered. And if you harken 13 back to the evidence you heard, you may recall 14 that in presentations, they endeavored to do that. 15 But I will say to you, I think we can do better. 16 My hopes from 2004, personally were certainly not 17 realized with this particular product. And we and 18 19 I would be so very pleased if you can give us some 20 helpful advice on how to do a better job in the 21 future, in both gathering and incorporating 22 Aboriginal traditional knowledge into the work which we do. 23 24 On page 21 of the scoping document, we

25 are directed to base cumulative effects analysis

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1	on the Canadian Environmental Assessment Act	
2	guidance in effect on the Canadian Environmental	
3	Assessment Act, CEAA, guide. Dr. Gunn and	
4	Dr. Noble, at page 8 of the report they wrote that	
5	was filed as an exhibit in these proceedings, cite	
6	that guide as a recommended source to direct	
7	cumulative effects analysis. They repeat that	
8	advice on page 13 of their report.	
9	When I asked Dr. Noble whether or not	
10	some of what he and Dr. Gunn were proposing was	
11	not novel and reflected recent academic thinking,	
12	he directed me to the CEAA guide as being a	
13	well-recognized standard which was now over a	
14	decade old.	
15	We were not directed in the scoping	
16	document to base cumulative effects analysis on	
17	this Commission's recommendations arising out of	
18	the Wuskwatim hearing. We were not directed to	
19	base cumulative effects analysis on a methodology	
20	used in another province. We were not directed to	
21	base cumulative effects analysis on a particular	
22	academic article or collection of articles.	
23	In August 2012, Mr. Williams assured	
24	us that best practice was what was done on a	
25	MacKenzie gas pipeline project and what was	

	Page 7281
1	elucidated in articles written by Gibson, Bond and
2	other specialists.
3	In October 2012, Mr. Williams
4	introduced us to Drs. Gunn and Noble and assured
5	us that their opinions now constituted best
6	practice. Next month there will be another
7	article published on cumulative effects analysis.
8	Will that then become best practice?
9	My purpose in calling Mr. Hegmann was
10	that he was the lead author of the CEAA guide.
11	All I wanted to know was, did we or did we not
12	follow the CEAA guide, which was what we were told
13	to do. Mr. Hegmann said we did. He said in doing
14	so we were following standard practice. He is not
15	only the lead author of that guide, which I
16	understand continues to be the only such guide
17	operative in this country, but he has done many
18	cumulative effect assessments himself. He follows
19	the guide.
20	I did not ask Mr. Hegmann to read any
21	more of the Environmental Impact Statement than
22	was reasonably necessary to advise us on whether
23	or not we had followed the guide. I did not need
24	Mr. Hegmann's opinion, nor I suggest do you, on
25	whether more could have been written on cumulative

		Page 7282
1	effects analysis, or whether what was written was	
2	well written. I know we could have written more	
3	and I know it could have been written better.	
4	We identified 67 valued environmental	
5	components, VECs; 21 in the field of socioeconomic	
6	issues; 46 biophysical. Personally, I confess to	
7	you, I thought 67 was a lot, was too many, and was	
8	difficult to come to grips with.	
9	Mr. Meronek would be happier if we had	
10	added at least one more; geese. However,	
11	notwithstanding Mr. Meronek's preferences, I	
12	suggest to you that there has been no persuasive	
13	evidence brought forward at this hearing that we	
14	missed a critical, important VEC.	
15	All but three of the 67 VECs were	
16	carried forward and considered for cumulative	
17	effects analysis. That three that did not go	
18	forward for consideration were economic	
19	opportunities, because the conclusion was that	
20	this project will have a positive effect on	
21	economic opportunities, which is more or less	
22	intuitive, I would suggest to you. And the other	
23	two that did not go forward were the species	
24	Dakota Skipper and groundwater. And the reason	
25	they did not go forward was the specialist told us	

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1	that our project would have no measurable
2	detectable effect on those two VECs.
3	The 64 VECs that were carried forward
4	for cumulative effects analysis, on the advice of
5	the discipline specialists who were asked to study
6	them, were carried forward because we were told
7	that our project will have some negative effect on
8	each of them which could be detected carried
9	forward notwithstanding that for many of the
10	specialists, their opinion was that the negative
11	effect would likely be small in terms of the
12	number of years that the effect would have an
13	impact, in terms of the geographic extent of the
14	impact.
15	And after considering the cumulative
16	effects analysis, the 64 VECs that were carried
17	forward, four were found to be potentially
18	significant, if not monitored and handled
19	carefully and prudently, there could be serious
20	effects as a consequence of our project going
21	forward. One of those four VECs is a biophysical,
22	it is boreal Woodland caribou in the Wabowden
23	area.
24	Happily, I suppose, as a consequence

25 of a request that we look at a different route in

Page 7284 that Wabowden sector, we have now brought forward 1 an alternative preferred route which helps the 2 3 specialists tell us, and as near as I could hear 4 everyone else, deals not entirely, but very helpfully and largely with some of the concerns 5 about the boreal Woodland caribou herd in the 6 Wabowden area. 7 Of the four remaining VECs, or rather 8 of the three, they are all socioeconomic, they all 9 arise in the Gillam area. They were public 10 safety, often described as a concern about the 11 12 interactions that will occur when a large work force, no doubt largely male, from a different 13 culture comes from outside the Gillam area to work 14 for some six years in a community with a 15 significant Aboriginal population, that there is 16 the potential for bad things to happen. 17 The second VEC, services, the focus 18 19 being primarily the local hospital and the local 20 RCMP post. And thirdly, transportation, the 21 22 concern being the intuitive one, that there will be a lot of traffic on a very limited number of 23 local roads. 24 And I remind you that in the case of 25

		Page 7285
1	the three socioeconomic VECs, critical aspects of	
2	the mitigation that we are putting forward is to	
3	place that camp with those workers an hour's drive	
4	away from Gillam. Those workers will travel to	
5	Gillam largely by air, they will not have personal	
6	vehicles that they can use to move back and forth	
7	to Gillam. They will all go through cultural	
8	awareness training. It is our expectation and	
9	hope that the negotiation is not concluded, that	
10	we will have proper and practical help lines,	
11	committees with members of the Fox Lake community,	
12	so that if it appears that bad things are	
13	happening or about to happen, that steps can be	
14	taken to ensure that those things do not happen.	
15	The workers will live in a camp with rules.	
16	Is that a certain guarantee that bad	
17	things will not happen? Of course it is not. But	
18	are those prudent and sensible things to do as a	
19	consequence of studying this topic for years, of	
20	recognizing that my client has significant	
21	infrastructure and has conducted significant	
22	construction in this area over 30 years, and that	
23	bad things have happened in the past? Yes, it is	
24	prudent for us to be doing these things. And also	
25	when you take into account the fact that there are	

Page 7286 other projects, future projects, Keeyask and 1 Conawapa, which in the same time frame, the next 2 3 decade, will bring additional workers to this same 4 community. 5 I note that with respect to the VEC caribou, Drs. Gunn and Noble, this has already 6 been acknowledged, thought we did better work. 7 And they can certainly be forgiven, but I am 8 reminded that when I questioned them on caribou, 9 they acknowledged they were not specialists in the 10 field and were unable to tell me or to 11 12 distinguish, and they can be forgiven for this, between barren land caribou and boreal Woodland 13 caribou. And in addition, they live in Regina, 14 not in Manitoba. They are less familiar with the 15 geography for this project and of our province and 16 so they didn't realize that activities in Gillam 17 are not going to have an impact on boreal Woodland 18 19 caribou at Wabowden. 20 And with respect to the three 21 socioeconomic VECs, Drs. Gunn and Noble did not tell us that we needed to do more analysis and 22 23 more thinking, because the mitigation or the

24 thinking in the study that we have done to date on 25 the potentially significant effects on those three

	Page 7287
1	socioeconomic VECs is still not well understood by
2	Manitoba Hydro.
3	You are urged to recommend to the
4	Minister of Conservation and Water Stewardship
5	that he direct us to go back and do more study,
6	more research and more writing on cumulative
7	effects analysis. If you choose to do that, help
8	the Minister, he is going to have to weigh
9	accepting such a recommendation and the costs and
10	delays that that will entail.
11	What critical VEC, what critical issue
12	makes it essential that more research and more
13	study and more writing be done on cumulative
14	effects analysis? It obviously is not stream
15	crossings in the case of the Bipole III project,
16	although Dr. Noble wanted us to do more. It's
17	obviously not wetlands, although that was
18	something else that Dr. Noble cited as a suitable
19	topic for more cumulative effects analysis. And I
20	suggest to you neither is it vegetation if, like
21	Mr. Williams, you give a good mark to
22	Mr. Matthewson and to Mr. Ortiz.
23	But if you wish to give such advice to
24	the Minister, please make it practical, make it
25	real. And please, if that is the recommendation,

		Page 7288
1	please tell the Minister of Conservation and Water	
2	Stewardship not to have proponents base cumulative	
3	effects analysis on the CEAA guide anymore.	
4	Because if they do, no projects obviously are	
5	going to be recommended for approval.	
6	We do not have a policy at Manitoba	
7	Hydro to compensate, aside from our trappers	
8	policy, for the impacts of the transmission lines	
9	we build. The explanation for that is that our	
10	experience over the years has been that the	
11	impacts of an individual transmission line are	
12	modest on wildlife, vegetation, fish, and the	
13	activities of Aboriginal communities.	
14	However, you have learned that we are	
15	negotiating with Tataskweyak Cree Nation and Fox	
16	Lake Cree Nation. I confirm, as you heard from	
17	them, that we as of today do not have agreements	
18	with them on this subject.	
19	Tataskweyak Cree Nation and Fox Lake	
20	Cree Nation tell us, as they told you, that they	
21	are different than other Aboriginal communities,	
22	not because the impacts of the proposed Bipole III	
23	project in isolation are greater upon them than	
24	anyone else, but because of the total amount of	
25	infrastructure that my client has built in their	

	F	Page 7289
1	traditional regions over the last 30 years. They	
2	have a perspective, which we respect and which we	
3	consider has merited what now amounts to two to	
4	three years of negotiation with each of those	
5	communities on the subject of compensation, driven	
6	by the proposal to now add yet more infrastructure	
7	in two regions of this province where, to repeat,	
8	my client has already placed significant	
9	infrastructure. And with respect, we don't need	
10	another year of analyzing cumulative effects to	
11	understand the point of view of both Tataskweyak	
12	Cree Nation and Fox Lake Cree Nation.	
13	Mr. Sargeant's memory served him well	
14	on Monday this week; when this Commission reviewed	
15	the Wuskwatim project, my client filed no	
16	Aboriginal traditional knowledge study from the	
17	Manitoba Metis Federation. In 2004, some of	
18	Mr. Madden's criticisms to the effect that	
19	Manitoba Hydro tries to understand the Metis	
20	simply by speaking to individual Metis persons in	
21	Northern Affairs communities, would have been apt.	
22	Hence, when it came time to develop the	
23	information for the Bipole III project, the	
24	sensible and recommended course of action for my	
25	client was to contract with the Manitoba Metis	

	Page 7290
1	Federation to provide us with an Aboriginal
2	traditional knowledge report. You've read it.
3	You heard from Mr. Chartrand that the parties
4	agreed to pay \$500,000 for the production of that
5	report, part of whose purpose was to document
6	traditional and contemporary uses of lands and
7	waters, traditional knowledge about plants and
8	animal species of interest, focusing additional
9	research on those species and their traditional
10	Metis uses in the Bipole III study area, and to
11	identify potential positive and negative effects
12	of the project on Metis land use and way of life,
13	including Metis spiritual, cultural,
14	socioeconomic, harvesting, and other traditional
15	and contemporary practices in the project study
16	area.
17	To anyone who says, with respect to
18	our Environmental Impact Statement, that
19	information on impacts to the Metis was not
20	collected, well, I suggest that the responsibility
21	for that, if true, certainly is shared by the
22	Manitoba Metis Federation. And if anyone is
23	looking for a shell game, I would suggest that
24	there is certainly one going on there.
25	As you told us in August, it is not

	Page 7291	
1	within your jurisdiction to determine whether the	
2	Crown consultation taking place with respect to	
3	the Bipole III project is being properly done.	
4	And it is not, I suggest to you or rather, the	
5	obligation which you do have to make	
б	recommendations to the Minister of Conservation	
7	and Water Stewardship is not a constitutional	
8	duty, as has been suggested to you.	
9	My client said in the materials it	
10	filed that my client is not carrying out	
11	consultation with Aboriginal communities with	
12	respect to their rights pursuant to Section 35 of	
13	the Constitution. You, having heard that,	
14	confirmed it by asking Mr. Hannon to speak to you	
15	on the record. To spend any more time on the	
16	subject of consultation regarding rights of	
17	Aboriginal communities, as they may be affected by	
18	my client's project, however important the topic	
19	is, is not of any assistance to the task before	
20	you.	
21	A requirement that the commencement of	
22	construction of Bipole III be subject to a	
23	precondition, namely the successful negotiation of	
24	an agreement with a third party, such as suggested	
25	by the Manitoba Metis Federation by Tataskweyak	

24

1	Quee Nation and others, is not mustical because	Page 7292
1	Cree Nation and others, is not practical because	
2	it is not enforceable. There is no process, or	
3	body, court or government that can successfully	
4	compel two parties to agree. If there is to be an	
5	agreement, the parties themselves have to	
6	negotiate it and conclude it. Just as judges have	
7	said continuously for hundreds of years, they will	
8	not enforce agreements to agree. They will be	
9	unable equally to compel a reluctant party to	
10	agree, when the frustrated licence holder asserts	
11	that the third party is being unreasonable, or	
12	when the third party asserts that the licence	
13	holder is not negotiating in good faith, or not	
14	funding the third party's negotiation costs in a	
15	reasonable amount.	
16	If you seek an agreement with my	
17	client or with me, we will have an agreement if we	
18	each recognize what is offered one to the other is	
19	better than the alternatives available to us. And	
20	you are more likely to be successful if you make	
21	an effort to understand my issues and constraints,	
22	not just your own. And yes, its not intelligent	
23	to start the negotiation by calling me repugnant	

25 recommend that you recommend conditions similar to

and threatening me with court action. Nor do I

		Page 7293
1	those that were drawn to our attention in the	
2	Victory Nickel Mine's licence, paragraph 48, which	
3	obligates the licence holder of that licence to	
4	consider results of Crown-Aboriginal consultation	
5	and to promote meaningful participation.	
6	Apparently, I assume those conditions,	
7	well-meaning, were designed however	
8	well-meaning, were designed to appease and mollify	
9	those who brought similar concerns to you. But as	
10	you have seen in the result, in the case of the	
11	Victory Nickel licence, the result was only to	
12	raise expectations on one side that, when not met,	
13	simply produced more frustration.	
14	In the critical area from Portage la	
15	Prairie to Riel, we have avoided all buildings and	
16	farmyards. We eliminated, as I recall this	
17	morning, entirely all diagonals. One-third of	
18	that route is on the half mile, sometimes called	
19	in this hearing the mid field. We intend to use	
20	self-supporting towers, which are less intrusive	
21	than the guyed towers used in Bipoles I and II.	
22	And yes, indeed, there will be interference and	
23	production loss to farmers. Mr. Meronek is	
24	entirely correct that in the result all one has	
25	left, when you can't avoid all of the problems,	
1		

25

Page 7294 and when you can't mitigate to zero what you can't 1 avoid, you have to compensate. And the 2 3 compensation that my client has proposed is a 4 combination of lump sum payment and periodic payment. A lump sum payment at 150 per cent of 5 fair market value, not simply fair market value, 6 but a lump sum payment because we require an 7 easement, not the rental of an easement. And yes, 8 a lump sum payment because we have to anticipate 9 that we may find ourselves having to expropriate 10 property. We hope not, but the reality is, as has 11 12 been admitted before this hearing, that is the 13 last resort. And the Expropriation Act, as Mr. Berrien conceded, does not provide for annual 14 or periodic payments in the acquisition of an 15 interest in land. 16 When I say a combination of lump sum 17 and periodic, what I have in mind through use of 18 19 the word periodic is the example of aerial 20 spraying that you heard testimony about. If 30 21 years from now a farmer with our towers and 22 conducers on his land experiences a wet season, and because of our towers and conductors has no 23 alternative to spray his or her crop, then there 24

will be compensation for the loss that obviously

		Page 7295
1	will have to be a calculation based 30 to 40 years	
2	from now, if that's when it happens, on whatever	
3	that crop is, on whatever the market conditions	
4	for that crop are.	
5	We would be so wonderfully pleased if	
6	you could find a route for us from Portage la	
7	Prairie to Riel that causes no interference or	
8	disturbance to any farmer. Having said that, I	
9	know, and of course you know, there is no such	
10	route. And so I suggest to you that recommending	
11	that we be sent back to search more in the region,	
12	Portage la Prairie to Riel, will at best, or	
13	should I say at worst, simply result on us being	
14	on some other farmer's land.	
15	We've heard a plea, we understand why,	
16	we understand and empathize with your angst on	
17	this issue, because it has been our angst as well,	
18	that we tried to avoid the route Portage la	
19	Prairie to Riel at least for eight years by	
20	postponing Bipole III in favour of separating the	
21	Bipole converter from Dorsey and moving it to	
22	Riel. The essential concern, to do that now and	
23	Bipole III in eight years, we calculate adds about	
24	a billion dollars. And in addition, as we have	
25	said, for the eight year period we continue to run	

		Page 7296
1	the risk of a loss or interruption of transmission	
2	in the Bipole I and II corridors.	
3	And similarly, with the plea to look	
4	at the use of underground conductors, our concern	
5	is essentially again one of cost. But one of the	
6	things that I have learned and benefited from	
7	evidence brought forward by the Bipole III	
8	Coalition, in this case Dr. Lawson's evidence, is	
9	that I personally had no idea of the time it would	
10	take, if you could get the conductors, or once	
11	conductors for underground installation have	
12	arrived in Manitoba, how many years it would take	
13	to put those conductors properly in the ground.	
14	Obviously, in the absence of	
15	environmental assessment, I recognize that you are	
16	in no position to recommend a new line from	
17	St. Ambroise to Riel. And I'm mindful that one of	
18	the things the Peguis First Nation have shown us	
19	at this hearing is that a route from St. Ambroise	
20	to Riel would certainly lie within its Treaty land	
21	entitlement notice zone.	
22	And on the subject of the concerns of	
23	Peguis First Nation, I note that it is correct	
24	that the terminal, southern terminal point for	

25 Bipole III does lie, when you look at the map, in

Page 7297 and adjacent, immediately adjacent to the notice 1 area for its Treaty land entitlement selections. 2 3 But as you heard, the Riel converter 4 station and the other infrastructure that is presently being built at that site pursuant to the 5 Riel sectionalization project is being built on 6 land that Manitoba Hydro has either owned for many 7 years, or has purchased in recent years from the 8 private landowners who owned the land immediately 9 abutting the land that we owned at Riel. And so 10 we do not require for the Bipole III project any 11 12 unoccupied Crown land that lies within the notice, TLE notice area that Peguis First Nation has drawn 13 to your attention. 14 It is unusual in a hearing to see so 15 many of our former colleagues appear and speak 16 against a project. They told you -- and I have in 17 mind, of course, the engineers and retired 18 19 employees of Manitoba Hydro who either came forward to make individual presentations or who 20 21 participated on behalf of the Bipole III 22 Coalition -- they told you what was in fact not a 23 secret to anyone. Until 2007, most of the Manitoba Hydro staff studying the issues regarding 24 this project preferred an east route, more or less 25

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1	for the reasons that our former colleagues told	
2	you about. But what otherwise has gone unremarked	
3	and unnoticed generally at this hearing, I hope	
4	was apparent to some, and particularly to each of	
5	you, and that is that once the government of this	
6	province decided that the route was to be west,	
7	and after that decision was debated by the entire	
8	citizenry of this province in two elections, the	
9	men and women employed by Manitoba Hydro, who were	
10	charged with planning, studying, and presenting	
11	this project, were able to set aside their	
12	personal disappointments, their personal	
13	preferences, and their personal politics, and work	
14	very hard to make this project the best that it	
15	can be.	
16	And I suggest to you that that is	
17	precisely what Manitobans should expect of	
18	employees of a Crown corporation. And that is	
19	after all what government of the people, by the	
20	people, for the people is all about. Moreover, I	
21	suggest to you that the Bipole III is hardly an	
22	example of a group of people who can't listen, or	
23	who think they decide what is good for Manitobans,	
24	or who are wrapped up in hubris.	
25	No one wins if this project is not	

		Page 7299
1	approved. That leaves us with the same risks we	
2	all face, if we lose Dorsey for three years, or if	
3	we lose the Bipole I and II corridors, perhaps in	
4	January in an area adjacent to the Nelson River,	
5	as we almost did two years ago, as Mr. Tymofichuk	
6	described to you in his opening presentation.	
7	We do understand that some Manitobans	
8	will be unreconciled to this project until the day	
9	that we do have a disaster at Dorsey or a	
10	significant loss in the Bipole I and Bipole II	
11	corridors. Just as there were some Manitobans who	
12	were unreconciled to the cost and the need for the	
13	floodway until 1997. No one wins if this project	
14	is approved and it is not built and monitored	
15	properly.	
16	What I ask of you is not that you	
17	recommend approval or no approval. I ask of each	
18	of you that you make thoughtful, practical	
19	recommendations that are well explained. Whatever	
20	the outcome of this hearing, we have all learned.	
21	Your report will reflect well on you, and	
22	indirectly well on us if it gives the Minister the	
23	sensible recommendations that he needs.	
24	My responsibility at this hearing was	
25	to guide a team of people through a very	

		Page 7300
1	challenging exercise. For each of them it has	
2	been very difficult. They are no different than	
3	each of you. They take pride and responsibility	
4	in the work that they do. For over a year now	
5	they have had to endure a chorus of criticism that	
6	their work was deficient and inadequate, that they	
7	failed, and that what was done did not even	
8	approach good practice.	
9	I say now to them, not to you,	
10	something I wrote privately to one of them some	
11	nine months ago. He was discouraged and he	
12	resigned. And in an effort to persuade him to	
13	change his mind and withdraw his resignation, I	
14	borrowed some words from the 18th century. Those	
15	of you who recognize them will know that they are	
16	associated with a much different event than our	
17	project. But those words were written with a	
18	similar purpose in mind to the one I had nine	
19	months ago, which was to inspire and motivate	
20	someone who was discouraged. I said to him, and	
21	now take this opportunity to say publicly to the	
22	rest of the people with whom I have worked on this	
23	project.	
24	"I am conscious every day that the	
25	hearing will be difficult,	
1		

		Page 7301
1	controversial and, yes, thankless.	-
2	Having said that, I do look upon it as	
3	an opportunity for a team of people to	
4	show that we can rise to a challenge	
5	and show the Commissioners of the	
6	Clean Environment Commission just how	
7	professional and dedicated we are when	
8	the going is tough. You and I are not	
9	summer patriots or sunshine soldiers,	
10	and I am determined that that will not	
11	be said of anyone on our team."	
12	And having said that to the rest of my	
13	colleagues, I suggest to you, the Commissioners of	
14	the Clean Environment Commission, that there were	
15	no summer soldiers nor sunshine patriots on the	
16	team that I lead.	
17	On November 15, 2012, when Drs. Gunn	
18	and Noble finished their presentations, I	
19	congratulated them for good work and good writing.	
20	I did so because when work is good, and the	
21	writing is fine, I believe that one ought to	
22	praise the authors. I did so as well because I	
23	believe your process is improved when counsel can	
24	praise good work presented by a participant.	
25	These hearings are not trials. Hard nosed	
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1	advocacy fitting for a courtroom is not	'
2	appropriate here. If you want the public to come	
3	and to contribute, the public must feel welcome,	
4	not threatened.	
5	But complimenting good work does not	
6	mean that I or my client necessarily agree with	
7	everything that is said. Some evidence is more	
8	persuasive than others. Sometimes we may	
9	profoundly disagree with what is said by a	
10	witness, but nonetheless we can appreciate and	
11	value the testimony because it helps us sharpen	
12	our own thoughts, or it generates a new debate in	
13	our own minds.	
14	And yes, I told you that I, along with	
15	Ms. Mayor and Ms. Johnson, had ensured that the	
16	work of Drs. Gunn and Noble was circulated at a	
17	senior level of Manitoba Hydro. And incidentally,	
18	the fact that I did that, in the company of	
19	Ms. Mayor and Ms. Johnson, hardly reflects the	
20	actions of people who are not willing to learn,	
21	who are defensive in their thinking, or high bound	
22	by tradition and hubris.	
23	And the immediate and efficient	
24	consequence of what we did in bringing the work of	
25	Drs. Gunn and Noble to the attention of senior	

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Page 7303 management at Manitoba Hydro was that Mr. Hegmann 1 was identified and invited to come and provide us 2 3 with a workshop so we could determine whether he 4 also had an opinion that we had -- or rather whether it was his opinion that we had either not 5 followed or followed the CEAA guide, and good 6 practice. And you've heard what he had to say. 7 Yesterday Mr. Williams urged you to 8 find in your report, which will become a public 9 document, that Mr. Osler is not qualified to offer 10 expert evidence of cumulative effects analysis. 11 12 To do that would be tantamount to wrecking 13 Mr. Osler's professional career. Mr. Williams was wrong to ask that of you. It would be wrong of 14 you to do that. Experts are not going to want to 15 participate in hearings before the Clean 16 Environment Commission if a potential consequence 17 is the destruction of their professional 18 19 reputations. 20 Mr. Williams suggested that you find 21 that Mr. Schindler's work is not credible, it seems because Mr. Williams is under the impression 22 that Mr. Schindler had to be motivated by 23 questions you asked in May 2012 about boreal 24 Woodland caribou to do more work on the subject. 25

		Page 7304
1	After we filed the Environmental	
2	Impact Statement on December 1, 2011,	
3	Mr. Schindler continued to work on boreal Woodland	
4	caribou for us, because he knew and we knew that	
5	more work was required. He completed that further	
6	work in draft form in April 2012. The reason we	
7	were able to respond so rapidly with so much more	
8	good work from Mr. Schindler to your questions was	
9	that Mr. Schindler had already done the work and	
10	it was in draft form. He did not need to be	
11	prodded or motivated by questions.	
12	On the subject of Mr. Osler's	
13	reputation and a request that you find that he is	
14	not qualified to do the work that he did for us, I	
15	can tell you that the team member to whom I wrote	
16	privately nine months ago was Mr. Osler. He had	
17	no desire to come here and testify with respect to	
18	a project which, as he told you in his testimony,	
19	he joined late. He joined late because his	
20	predecessors working on cumulative effects	
21	analysis for us, one became ill and was not	
22	prepared to testify, and the other retired. I, as	
23	you have now learned, persuaded Mr. Osler to stay	
24	and to testify. If anyone here has an appetite to	
25	destroy a professional reputation, please destroy	

1	mine T em wegnengible fer all of mu withegaeg	Page 7305
1	mine. I am responsible for all of my witnesses.	
2	And there is not one of them, Mr. Osler included,	
3	of whom I am not proud.	
4	I will reveal to you that there is	
5	some consternation that the direct consequence of	
6	my commendation of Drs. Gunn and Noble undermined	
7	Mr. Osler's testimony and reputation here. I hope	
8	now that my intentions are properly understood. I	
9	think it would be so terribly unfortunate if	
10	counsel at your next hearing fails to commend good	
11	work out of a fear that in doing so more will be	
12	lost than gained.	
13	I said in my opening remarks that we	
14	at Manitoba Hydro do not believe that we are the	
15	final authority on environmental matters. I said	
16	we looked forward to hearing suggestions to make	
17	this project better. We have heard many.	
18	On behalf of my colleagues at Manitoba	
19	Hydro and myself, I thank the participants and the	
20	members of the public who have brought forward so	
21	many good ideas, frequently with much skill and	
22	virtually always with grace and courtesy.	
23	And I thank the Commissioners of the	
24	Clean Environment Commission who have sat on this	
25	hearing, for listening for hours on end, listening	

	Page 7306
1	I know is a skill in itself, which not all of us
2	have.
3	We are done. You still have miles to
4	go. Thank you.
5	THE CHAIRMAN: Thank you, Mr. Bedford.
6	I would like to thank you, Mr. Bedford, and all of
7	the Hydro team for their participation, their
8	dedication to this process. The relationships
9	between or the relationship between the
10	Commission and Hydro over the last year at least
11	on this project has always been professional,
12	respectful and courteous, and I particularly
13	appreciate that.
14	And I for one have never felt that
15	there were any summer soldiers, as you put it
16	that's a new term for me but I never felt there
17	were any summer soldiers on your part.
18	So thank you for this. I know that
19	from this and from past reviews, that for the
20	proponent in particular, there are extremely long
21	hours and an amazing amount of work that goes on
22	just during the few weeks that we hold the
23	hearings.
24	Just in closing, before we shut this
25	down completely, I would just like to say that

		Page 7307
1	over the and this will sort of take on or carry	
2	on a bit from Mr. Bedford's very final words about	
3	our long road. In the nine years that I have been	
4	on the Clean Environment Commission, I have sat on	
5	a number of reviews and investigations, many of	
б	them of a large nature, including Wuskwatim and	
7	the Floodway and our hog review, but none of them	
8	come anywhere near this project in its	
9	complexities.	
10	We have heard this morning, as well as	
11	over the last number of months, about the size of	
12	this project, the fact that there are at least	
13	three significant elements to it. The northern	
14	converter station and its ancillary complex or	
15	components, the southern converter station and its	
16	ancillary components, as well as a 1400 kV	
17	transmission line in between the two, and the	
18	transmission line that traverses most of the	
19	Province of Manitoba, going from northern boreal	
20	forest through any number of eco-zones, the	
21	parklands, and then into Southern Manitoba	
22	agricultural country, including some of the best	
23	grain crop area on the prairies.	
24	We have heard many concerns brought	
25	forward by the participants, who I have	

		Page 7308
1	individually thanked over the last few days for	
2	their great work. Many of those concerns were	
3	actually laid out on a list by Mr. Beddome this	
4	morning, so I certainly won't repeat them.	
5	We have also heard many concerns	
6	particular to the Aboriginal peoples in a number	
7	of First Nations, and the Manitoba Metis, the	
8	Metis nation, who reside or conduct their	
9	Aboriginal rights along the transmission line.	
10	So Mr. Bedford is right, we have a	
11	long road ahead of us. There are a lot of	
12	decisions, there are a lot of complex issues that	
13	we on the panel will have to think about,	
14	consider, and come to some conclusions so that we	
15	can make good recommendations and offer good	
16	advice to the Minister responsible.	
17	We had off the record indicated that	
18	given the break from November to March, we might	
19	be able to speed up the delivery of our report to	
20	the Minister. By legislation we are required to	
21	deliver that report within 90 days of the close of	
22	the hearings. We will make best efforts to move	
23	it along as expeditiously as possible, but the	
24	issues, as I have already noted, are extremely	
25	complex, and will take some time.	

1	A couple of matters, administrative	Page 7309
2	matters that we need to take care of today. We	
3	will have to allow a few days before we close the	
4	record. Mr. Bedford has indicated that Manitoba	
5	Hydro will be filing a written closing argument.	
6	Mr. Madden indicated the other day that he would	
7	be filing one as well. So the secretary has	
8	suggested that next Thursday be the day for	
9	closing the record. Is that a reasonable day?	
10	Does anyone object to that? I hope not. I think	
11	that a week is more than enough time. And let's,	
12	as with our other document filings, noon on	
13	Thursday, next week. They can be delivered	
14	physically, in hard copy or by email I was	
15	coming to that by email to the Commission. And	
16	just recall that we do require an electronic copy	
17	as well as any other version you might wish to	
18	send over.	

19 The other thing, and this is to the 20 participants, and there are some who are not here 21 today so we will remind them by email, but the 120 22 day clock starts today for you to complete your 23 accounting and submit it to us. The regulation 24 says that it is 30 days after the close of the 25 proceedings. We have interpreted the close of the

		Page 7310
1	proceedings to be the day we file the report to	
2	the Minister. So 90 plus 30, 120 days. Get your	
3	accounting in. Given that period of time, we will	
4	not tolerate any lateness in that respect. I	
5	don't really anticipate any problems in that, I	
6	just wanted to remind you.	
7	I don't think that we have we do	
8	have, I guess Mr. Williams' document to put on the	
9	record.	
10	MS. JOHNSON: Yes, Mr. Williams	
11	document is CAC number 15, and I also have the	
12	final arguments from Pine Creek, that's PCFN	
13	number 5.	
14	(EXHIBIT CAC 15: Mr. Williams	
15	document presented March 14)	
16	(EXHIBIT PCFN 5: Final argument from	
17	Pine Creek)	
18	THE CHAIRMAN: Thank you. And in part	
19	to repeat myself again, I just want to thank all	
20	of you who participated, participants, all of the	
21	officials from Manitoba Hydro, my colleagues with	
22	the Commission, and the members of the public. It	
23	is a long process, but it is not without its	
24	benefits. It is an opportunity to get to know	
25	many other people, at least in a professional	

1	capacity, and I appreciate those opportunities. I	Page 7311
2	appreciate the dedication and respect is a word	
3	that I particularly like, but I think with very	
4	rare exceptions, these proceedings have been very	
5	respectful, and I thank you all for that.	
6	With that, we are adjourned.	
7	(Adjourned at 11:25 a.m.)	
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1	OFFICIAL EXAMINER'S CERTIFICATE	Page 7312
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4		
5	I, CECELIA J. REID, a duly appointed Official	
6	Examiner in the Province of Manitoba, do hereby	
7	certify the foregoing pages are a true and correct	
8	transcript of my Stenotype notes as taken by me at	
9	the time and place hereinbefore stated.	
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11		
12		
13		
14	Cecelia J. Reid	
15	Official Examiner, Q.B.	
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