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Robert Dawson - Counsel
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Ian Cluny
Shaun Keating
PINE CREEK FIRST NATION
Charlie Boucher
Warren Mills
John Stockwell

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Thursday, March 14, 2013
Upon commencing at 9:00 a.m.

THE CHAIRMAN: Good morning, we will
reconvene. I may jinx this, but \(I\) think we have reached a day we have all been looking forward to for the last many, many months. Let's hope that nothing pops up in the next two or three hours that may change that. I expect that we will conclude in a half a day today, but we'll have to wait and see.

First up we have Mr. Williams, who will be speaking a little bit in response to the question \(I\) posed yesterday afternoon about best practices. Following him we'll have Mr. Beddome give his final argument on behalf of the Green Party of Manitoba. And then the ultimate, Manitoba Hydro in their closing argument.

So we will start off, Mr. Williams?

MR. WILLIAMS: Good morning members of
the panel. I just want to make sure that the panel has received a document titled, perhaps optimistically, "Clarifying the CEA terms (Hopefully)."

And I do thank the panel for the question, and \(I\) apologize for a lack of clarity in
my discussion yesterday. I did wake up bright and early this morning to just kind of reflect on the record and go through a bit of the discussion of the hearing. And I think the question was tremendously important and insightful. And just when \(I\) flipped through the record, I think have I actually identified six different terms that are being used to describe three or four concepts. So if the panel will indulge me, I am going to try and patiently take you through some of the ones that have been thrown around the hearing and then try and give you clarity about what \(I\) was saying yesterday.

I thought it would be useful to start with kind of some of the terms that Manitoba Hydro has been using. And because, you know, certainly my client has assumed that those are the standards by which Hydro is suggesting that we judge their application. And so at the -- you will see at the top of the first page of the clarifying the CEA terms, I put in the text from section 4.2 of the EIS where Manitoba Hydro states essentially, the assessment in this project is consistent with Provincial and Federal legislation guidelines and procedures -- that's kind of part 1 of its
assertion -- as well as, using their words, best practices.

Then we take you to section 9.1 of the
Environmental Impact Statement, which is the chapter 9, the CEA analysis. And Hydro kind of sets the context for its approach to the CEA analysis. And towards the bottom of that lengthy paragraph you see an excerpt from the scoping document stating that the cumulative effects assessment framework will be defined in the EIS and will be based on CEA guidance, as well as best and current practices, and then including the consideration of regional and strategic environmental assessment approaches. Really, if you compare it to the previous statement from the EIS, certainly from our client's perspective, going beyond the EIS and into regional and strategic environmental assessment approaches, suggesting that would be the approach.

Our clients and certainly their legal
counsel, \(I\) can't profess to be an expert on
regional and strategic environmental assessment
approaches, except for to note that they are certainly much more ambitious, to my
understanding, than what we have here. And let's
say that one was looking at the northern portion of Manitoba, it might involve getting all -getting all industry sectors to the table, whether it is the mining industry, the forestry industry, the hydroelectric, the fishers and trappers and the harvesters develop -- doing an assessment based upon the needs of that whole region, and a very, very ambitious type of project. Certainly very worthwhile, but far beyond what our clients would have contemplated for Manitoba Hydro.

So while Manitoba Hydro in the scoping document may aspire to that, I want to be clear, our clients don't for the purposes of the EIS. And they would say that that's far too ambitious, and so do Gunn and Noble.

So that's kind of what we see Manitoba Hydro saying in its materials.

So let's go to some of the words used by either Dr. Gunn, Dr. Noble or by myself yesterday. One word that \(I\) flippantly threw around yesterday was gold standard, and I was using that to describe Dr. Gunn's curriculum vitae. And in her direct evidence she used that term gold standard to describe her work with the environment ministers on regional and strategic

1 approaches to cumulative affects assessment. And
certainly -- so when I used that term yesterday, I was using it in the same sense as Dr. Gunn, that big picture regional and strategic assessment that she cautioned about using for Bipole III EIS, and so do my clients. I simply used that term because I was trying to buttress or butter up her curriculum vitae, just to say this is the kind of analyst that you have before you.

I do want to note, and I want to be very clear on this, if you went to page 72 of Gunn and Noble's PowerPoint, it is in here, you don't need to go there, but if you went to the end of their PowerPoint, they do a bunch of EIS recommendations. And then they take off their analyst for the purposes of the EIS hat and put on their kind of public interest hat, and make some recommendations about changes to legislation, clearly, and also about identifying a crucial need in the northern portion of this Bipole III study area. And they do suggest, not for the purposes of the EIS, but they do suggest to the Province of Manitoba that it undertake a regional strategic environmental assessment of that northern region. You will see that at page 72.

I just want to be clear, it is not part of the Bipole III EIS commentary, it is kind of taking off their hat, that hat, and moving into public policy.

So if you flip to the second page of the typed overview, and it is up to the panel -- I have actually ripped that front page off the document, but if you want to -- in the remainder of the document, if you wanted to flip back and keep a thumb on another page from their PowerPoint, it is a page called "Recommendations Specific to the Bipole III Project EIS Cumulative Effects Assessment." Recommendations Specific to the Bipole III Project EIS Cumulative Effects Assessment."

And generally if you look at Gunn and Noble's written material and much of their direct evidence, when they are talking about, or creating a standard to assess the Bipole III cumulative effects assessment, they use the terms reasonable, or good practice. And predominantly they use the word good practice. And this is a critical definition and a critical term from our client's perspective. What Gunn and Noble mean by good practice is, what is the type of CEA, Cumulative
\begin{tabular}{|c|c|c|}
\hline & Effects Assessment, that a regulator requires to & Page 7235 \\
\hline 2 & make an informed decision? When you kind of put & \\
\hline 3 & it all together, that's essentially what they are & \\
\hline 4 & saying. A good practice CEA is the type of & \\
\hline 5 & analysis that allows a regulator to make an & \\
\hline 6 & informed decision. & \\
\hline 7 & So they've provided reams of evidence & \\
\hline 8 & in this hearing about what they consider a good & \\
\hline 9 & CEA to look like, but I thought I would cheat, and & \\
\hline 10 & again taking you to their PowerPoint 70 and 71, & \\
\hline 11 & that recommendation specific to the Bipole III & \\
\hline 12 & project EIS, they said, if you are going to send & \\
\hline 13 & Manitoba Hydro away to do a cumulative effects & \\
\hline 14 & assessment so that the Minister can make an & \\
\hline 15 & informed decision, these are the key elements of & \\
\hline 16 & it. & \\
\hline 17 & And so I could walk the panel through & \\
\hline 18 & it or I can just leave it there for your & \\
\hline 19 & information. & \\
\hline 20 & THE CHAIRMAN: Leave it for our & \\
\hline 21 & information. & \\
\hline 22 & MR. WILLIAMS: Why I'm highlighting & \\
\hline 23 & that document is because I, as legal counsel -- & \\
\hline & and let me stop just here for a second. So & \\
\hline 25 & generally Gunn and Noble, they will say good & \\
\hline
\end{tabular}
practice. But certainly when \(I\) was preparing my closing I was relying a lot on the transcript, and when they started discussing their recommendations with Mr. Bedford, they started using good practice and best practice interchangeably. If you are looking for a transcript reference, I put the footnote down at the bottom, but that's page 4975 of the transcript where Dr. Gunn is using best practice, but I interpret her to be using good practice and best practice in the same way.
In our closing yesterday on behalf of my clients, I used the term best practice CEA. What I was using that word to mean was consistent with the recommendations of Gunn and Noble at pages 70 and 71 of their PowerPoint. And I apologize for my lack of clarity, but the words have kind of flown out interchangeably. And certainly for the purposes of clarity, our clients have no objection -- and I have checked with my client -- if you would, when you see that word best practice pop up in terms of the CEA, in my submissions you can just stroke out "best" and put in "good", and certainly that would be a fair reflection of my client's comments and intent, which is really to achieve the recommendations of
\begin{tabular}{|c|c|c|}
\hline & Gunn and Noble at pages 70 and 71 of their & Page 7237 \\
\hline 2 & PowerPoint. & \\
\hline 3 & So hopefully you are with me so far & \\
\hline 4 & and it is simple so far, of course. & \\
\hline 5 & THE CHAIRMAN: Everything about CEA is & \\
\hline 6 & simple. & \\
\hline 7 & MR. WILLIAMS: Indeed. Towards the & \\
\hline 8 & front of the excerpt from the Gunn and Noble & \\
\hline 9 & PowerPoint, there is the title page saying "Review & \\
\hline 10 & of the Cumulative Effects Assessment, " if you flip & \\
\hline 11 & that page over, you are going to see "Approach to & \\
\hline 12 & Our Review of the Bipole III CEA." And if you are & \\
\hline 13 & with me so far, I hope I don't lose you on the & \\
\hline 14 & next point. So Gunn and Noble ask the question, & \\
\hline 15 & what is reasonable or good practice? And then & \\
\hline 16 & they say, does the Bipole III CEA meet the minimum & \\
\hline 17 & standard? & \\
\hline 18 & Well, what are their criteria for & \\
\hline 19 & determining the minimum standard? If you flip & \\
\hline 20 & over to the next page, you are going to see a & \\
\hline 21 & table with, on the left-hand side at the top, CEA & \\
\hline 22 & component, and on the right-hand side, critical & \\
\hline 23 & review questions. And that's a two-page table. & \\
\hline 24 & And when Gunn and Noble use minimum & \\
\hline 25 & standard, or you see counsel for CAC Manitoba & \\
\hline
\end{tabular}
using minimum standard, they are referring and I'm referring to the little test that they use to assess the technical reports and the evidence of Manitoba Hydro. And this is critical. So, I just want to walk you through the four elements of this test. They started with scoping and that's -- and I'm not going to go through all of the elements, but you can see one of the key questions is at number 5, do the spatial boundaries reflect the natural distribution pattern present in historic VECs selected for CEA? And that's obviously a big topic up for dispute.

And then on the next kind of major analysis they talk about a retrospective analysis of cumulative effects. And down near the bottom under III, you see they are saying they have to be having some thresholds specified against which cumulative change and the significance of effects can be assessed. They can be quantitative, regulatory, you know, there is a variety that they discuss.

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

CEA, because we have had that day. We were looking more for generic.

MR. WILLIAMS: Okay. So I put in under, on my written notes, \(I\) put in an example of the minimum standards screen, just to note that most of them failed on, Mr. Chair, most of them failed on the scoping and the retrospective. And because I'm trying to distinguish between the minimum standard and the good practice, the one that came real close to passing was the caribou report. And it ultimately failed under the prospective analysis in Dr. Noble's conclusion.

If you are looking at my typed, and mindful of your comments, Mr. Chair, if you are looking at my typed comment, \(I\) can try and take you with the caribou analysis into what a good practice might look like, but if you think I'm getting into yesterday's commentary on that point, I won't.

THE CHAIRMAN: I think we would rather you just stick to more -- don't get into more argument, get into just the generic description.

MR. WILLIAMS: Fair enough. So the last point -- so I think, certainly I think that should help you to understand what our client
means by minimum standards, and what Gunn and Noble meant. I hope that helps you to clarify the connection between good and best practice. Our clients are substituting good practice for best practice, and they say that's what you need and that's what the Minister needs to make an informed decision.

Gold standard is something really that the scoping documents sought to incorporate, but my clients and Gunn and Noble say, don't incorporate.

The last term that \(I\) do want to bring
to your attention, because \(I\) think that's the other one that has popped into the hearing, is right near the bottom of page 2 of my typed notes. Because in Dr. Noble's discussion with the Chairman, he talked about a good practice CEA, but limited to some key drivers. So I would see that as a variant on the good practice CEA. But I want to bring that to your attention, because if you are struggling with this issue of, if we send them back, how do we send them back?

I think Dr. Noble gave you two
options. One is the one that we would -- is the good practice CEA in totality, and that's
certainly on a going forward basis what he would recommend. But the good practice CEA, but limited to some key drivers is something that, given the time pressures, is also something that he was leaving open to you.

And just for the panel's benefit, that discussion in terms of the good -- a good practice but limited to some key drivers, I have put in the two transcript pages that discuss that at the back of this document. Those are pages 509 and 510.

So, Mr. Chair, mindful that you don't want me to get into argument any more than \(I\) probably already have, does that assist the panel in the way that you intended?

THE CHAIRMAN: Yes. I think this is helpful, and thank you for the effort in doing this.

Do any of the panel members have questions of clarification? Do any of the participants or does the proponent have any questions or comments?

Okay. Thank you. Thank you very much, Mr. Williams.

Mr. Beddome?

MR. BEDDOME: I just firstly want to
start, \(I\) think you said it yourself this morning, Mr. Chairman, that you know, knock on wood I guess, we are getting to the end of \(I\) guess what has been more than a six month process. And I want to start by giving my gratitude. I will start with the staff of the Commission, that includes the secretary, the assistant secretary, the stenographers who have so diligently taken care of the transcript, and the support staff at both the Fort Garry and the Winnipeg Convention Centre, who have ensured we had much needed caffeine. Manitoba Hydro, the staff and consultants who have had to endure, I think Mr. Bedford called being hit from multiple sides with a shotgun in one of the pre-hearing conferences. So I think that is appreciated. Fellow participants, along with their representatives and the experts that they presented. I think we have all benefited from a lot of information. Members of the public, representatives of First Nations and other communities who presented evidence, oral, written or both. I think it is really important that we think about the public mandate of this Commission. And of course I didn't forget the panel of the Commission, including of course
the Chair. I think it is really important and I think we should all give ourselves a pat on the back, and I think that needs to be recognized right off the hop.

Now, I just will start by saying that
I say that because \(I\) don't think that the
Commission has an easy task. Obviously, the mandate of the Commission can be found in section 6 of the Environment Act, but I think there is -there is a good quote off the CEC's web page that succinctly captures the mandate of the CEC. That's on the what we do page, under the heading, "Responsibilities of the CEC." And essentially you are summarizing section 6 of the Act, I think is more pithy. And that's, "To provide an avenue through which the public can participate in decision making process regarding the environment of Manitoba, and the Commission also provides advice and recommendations to the Conservation Minister with respect to environmental issues and licensing."

So this is the challenge before the Commission. And I'm not naive to it, in the sense that on one hand you need to try to address the myriad of public concerns that were brought
\begin{tabular}{|c|c|c|}
\hline & forward, and on the other side you need to offer & Page 7245 \\
\hline 2 & recommendations to the Minister. And I guess the & \\
\hline 3 & point that I'm going to be returning to many times & \\
\hline 4 & today is, sometimes a friend offers really hard & \\
\hline 5 & advice, sometimes a friend offers really hard & \\
\hline 6 & recommendations. & \\
\hline 7 & And I say this because I want to just & \\
\hline 8 & take you back, I know it has been I guess six & \\
\hline 9 & months or even more here I guess, to & \\
\hline 10 & September 11th, when we had a pre-hearing & \\
\hline 11 & transcript. And at that time both myself and & \\
\hline 12 & Mr. Dawson commented this is a recommendatory & \\
\hline 13 & capacity in terms of the board offers & \\
\hline 14 & recommendations. And the chairman responded, and & \\
\hline 15 & I have given this a lot of thought. & \\
\hline 16 & "Although the statue does say that we & \\
\hline 17 & make recommendations to the Minister, & \\
\hline 18 & we do carry a significant amount of & \\
\hline 19 & weight. In fact, probably one heck of & \\
\hline 20 & a lot." & \\
\hline 21 & And I have given that a lot of thought and I think & \\
\hline 22 & you do carry a lot of weight. And as the & \\
\hline 23 & discussion continued that day, there was some talk & \\
\hline 24 & about Wuskwatim, there was some talk about what & \\
\hline 25 & you might consider licensing recommendations and & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline & non licensing recommendations. & Page 7246 \\
\hline 2 & So I guess one of my recommendations & \\
\hline 3 & to the Commission is to use your power of & \\
\hline 4 & non-licensing recommendations. It is to use your & \\
\hline 5 & power to broaden out, to offer some broad & \\
\hline 6 & recommendations. And one of them that I thought & \\
\hline 7 & was worth reading from Wuskwatim, and it hasn't & \\
\hline 8 & been acted on, but I still think it has power, it & \\
\hline 9 & creates a historical record. So the & \\
\hline 10 & recommendation, and I think we can all agree, all & \\
\hline 11 & of the participants, all the proponents, perhaps & \\
\hline 12 & the Commission, and Manitoba Hydro, recommendation & \\
\hline 13 & 7.8 from the Clean Environment Commission in & \\
\hline 14 & Wuskwatim was that: & \\
\hline 15 & "The practice of environmental & \\
\hline 16 & assessment in Manitoba be enhanced by & \\
\hline 17 & requiring higher standards of & \\
\hline 18 & performance. In this regard, the & \\
\hline 19 & Government of Manitoba should enact & \\
\hline 20 & environmental assessment legislation, & \\
\hline 21 & provide guidance for proponents, & \\
\hline 22 & consultants and practitioners, & \\
\hline 23 & establish protocols for best & \\
\hline 24 & professional practice." & \\
\hline 25 & I could go on, but I am not going to read the & \\
\hline
\end{tabular}
entire -- but what I am saying is, obviously you guys are commissioners, you can only offer your friends in the legislature advice, you can't change the legislation. I certainly understand that. But sometimes your friends need to hear hard advice, and I would really strongly recommend that you guys issue some hard advice. Because I think, you know, once again, Mr. Chairman, you succinctly captured it on March 11th of the transcript, that will be page 6513 of the transcript, lines 24 to 25.
"We have got dozens, if not hundreds, of issues on the plate before us." And so, indeed, \(I\) just kind of quickly thought about all of the different issues that came forward from this. This is, of course, a massive project in terms of a 1400 long kilometre, with two converter stations with related equipment. So there are, \(I\) think it is fair to say, many uncertain questions, and I think that's to a certain extent going to be unavoidable.

We have heard about impact on flora and fauna populations, including but not limited to declines in caribou, moose, bear, geese and wolverine, and increases in undesired vegetation
and other outside populations such as white-tailed deer and what that might mean for disease spreading.

This is not meant to be complete. This is just meant to capture some of the themes. I am sure you guys are well aware of these, but I think it is worth going over. Questions about what impacts for Aboriginal communities, trappers and wilderness outfitters, changes in wildlife -sorry, I am making life difficult for the stenographer. So let me slow down and make sure I will be much clearer about that.

Questions about what impacts for Aboriginal communities, trappers and wilderness outfitters, changes in wildlife will have on both their spirituality and their livelihoods. Questions about the adequacy of wildlife studies identified by numerous participants, but I guess I will highlight, I think it was well highlighted by them themselves, but really the experts of the Consumers Association and the Manitoba Metis Federation --

THE CHAIRMAN: You are speeding up.
MR. BEDDOME: I am speeding up.
Particularly, the experts of the

Consumers Association and the Manitoba Metis Federation. Of course, there were collateral questions about consultations or lack thereof between the Government of Manitoba and Aboriginal communities, that although not specifically a CEC responsibility, was unavoidable nonetheless.

Questions about what impacts this project will have on the mostly agriculture private landowners whose land this project will cross, and who also have a connection to land that in many cases have probably been in the family for generations. Concerns over whether the cumulative impacts of the project should include historic Hydro developments, or whether the historical impacts should form the baseline. Questions over whether the cumulative effects analysis was adequate, by participants, the public and experts. Impacts in regards to the cost of the project, the impacts of ratepayers, and how this project fits into Manitoba Hydro's long-term developments plans. And I think I'm going to have to try to guess, an interjection, that \(I\) might be using those verboten words, NFAAT. But \(I\) would just suggest that these issues were brought forward. And rather than trying to cover them, once again I
would suggest that to a certain extent they also were unavoidable.
So I will continue. Alternatives such as connecting Bipole II to the Riel converter station and connecting Bipole III at a future date, or connecting Bipole III to Dorsey were also examined by the CEC panel and by the Bipole III Coalition. Questions about whether this project is solely about reliability versus how it connects to future Hydro development plans was also a common question brought forward by numerous of the participants and numerous public people. And the reliability of load forecasts, and therefore the project load deficits that were projected, considering the potential for greater demand management and current economic conditions.
And indeed, this is just a small list. So I will once again say I don't envy you. You have a difficult task ahead of you. But there is another issue that \(I\) suppose \(I\) would suggest, and I mean this with no disrespect, there is also the issue of the relevance of this Commission itself. And that's why I ask for the hardest and the strongest non-licensing recommendations that this Commission sees fit of offering. I think this

1 Commission has sadly been placed in an impossible situation. On the one hand, it has to carry out its public mandate, yet on the other hand, issues have been sliced away. And I think we have seen from the public that has presented, from the participants that presented, that these are the burning questions that surround this project. So, you know, there is a real difficulty with that.

And for that, I'm going to suggest --
firstly, the primary recommendation has been
recommended, I think, by almost all of the participants in their closing, is that the CEC not consider issuing a licence at this time. It doesn't mean that the project doesn't get built, it means it allows time. And I think that adding that time is really important.

And I think it is really unfortunate that the CEC, and I recommended in pre-hearing meetings, sought clarification, and instead got none from the Minister. Quite frankly his pithy, you know, short one-liner that NFAAT wasn't there, I don't think provided any guidance. I say that not saying that this is, you know, a CEA analysis, I say that because I would say that the authority can be found starting with the scoping document.
\begin{tabular}{|c|c|c|}
\hline 1 & And the scoping document is also & Page 7252 \\
\hline 2 & appendix 1 B in the EIS, as I'm sure the Commission & \\
\hline 3 & is well aware. But it states that the purpose of & \\
\hline 4 & the environmental assessment scoping document is & \\
\hline 5 & to establish the framework and the scope for & \\
\hline 6 & conducting the environmental assessment for the & \\
\hline 7 & proposed Bipole III transmission project, and for & \\
\hline 8 & preparing the Environmental Impact Statement for & \\
\hline 9 & regulatory review and licensing. & \\
\hline 10 & And then in section 3.2 , the scope of & \\
\hline 11 & assessment factors, the scope of the assessment & \\
\hline 12 & will address, and I am just going to dot, dot, dot & \\
\hline 13 & there. And at the bottom of paragraph: & \\
\hline 14 & "The following factors will be & \\
\hline 15 & considered in the environmental & \\
\hline 16 & assessment and addressed in the EIS." & \\
\hline 17 & And I would strongly suggest that you take a read & \\
\hline 18 & of some of those, but I'm going to read a few & \\
\hline 19 & selected highlighted ones. & \\
\hline 20 & "The need for and the purpose of the & \\
\hline 21 & proposed project." & \\
\hline 22 & How are you supposed to conduct a review of this & \\
\hline & when the scoping document mentions the word "need & \\
\hline & for and purpose of", yet NFAAT is off the table? & \\
\hline 25 & Are we supposed to never speak those words? Have & \\
\hline
\end{tabular}

beside themself, or the code of practice document, and to read it and to reread it, and to think about how those principles can be incorporated in, and to think about how not allowing an NFAAT in fact inhibits those principles.

Now, I have said that a lot, and I want to address a few other points, and I promise the Commission I'm not going to take longer than an hour. So, you know, I thought that those were important points that had to be addressed off the front, though, because \(I\) think that's the fundamental challenge of this Commission. And I guess my fundamental recommendation is, sometimes a friend offers hard advice.

Now, I want to move to a couple of other points. I think, in a bit of a great debt of gratitude to both the Commission itself and the Bipole III Coalition, for presenting some alternatives in the eleventh hour, for asking the questions and, therefore, forcing us to present and consider some alternatives. I will be frank, I think there are many more alternatives that I think could and should have been considered. But the point that was very interesting that came up clear from my reading of the experts that the
\begin{tabular}{|c|c|c|}
\hline & Bipole III Coalition presented here -- was it & Page 7255 \\
\hline 2 & November 12th or was it 11th? Maybe it was the & \\
\hline 3 & 7th. Anyway, I'm sorry that I can't recall the & \\
\hline 4 & exact date. But what was clear was that they & \\
\hline 5 & mentioned that Hydro uses a worst case scenario on & \\
\hline 6 & the one hand, but then when it comes to presenting & \\
\hline 7 & opposite scenarios, opposite worst case scenarios, & \\
\hline 8 & I personally wasn't able to get any answers on it. & \\
\hline 9 & So I'm going to leave NFAAT aside, and & \\
\hline 10 & I am sorry that I used those verboten words, I & \\
\hline 11 & didn't mean to offend anyone, but I felt that it & \\
\hline 12 & needed to be said. & \\
\hline 13 & My point on the uncertainty actually & \\
\hline 14 & is in some of the questions that I asked on & \\
\hline 15 & environmental effects. One of them that I asked, & \\
\hline 16 & I remember asking -- and I have a second one I & \\
\hline 17 & will address -- was the issue of how close Deacon & \\
\hline 18 & water reservoir was to Riel? The answer that I & \\
\hline 19 & received -- I said, well, isn't there some & \\
\hline 20 & probability -- and I wish I could find the exact & \\
\hline 21 & transcript reference, I'm looking for it -- isn't & \\
\hline 22 & there some probability that if the converter & \\
\hline 23 & station at Riel were to fail that it could & \\
\hline 24 & contaminate Deacon? The response I got was, it is & \\
\hline 25 & highly unlikely, we looked at it. In a nutshell, & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline & that is the response I got. But yet here is a & Page 7256 \\
\hline 2 & worst case scenario I tried to present and I & \\
\hline 3 & didn't get, well, we had Teshmont consultants look & \\
\hline 4 & at it and that's a 1 in 700 year probability and, & \\
\hline 5 & therefore, we are not necessarily looking at it. & \\
\hline 6 & And that was, you know, also in my conversations & \\
\hline 7 & with Mr. Szwaluk I brought up the same, a similar & \\
\hline 8 & question. And basically it was dealing with & \\
\hline 9 & potential impact into fish habitat. I think it & \\
\hline 10 & was Mr. Elder perhaps -- one second, I have it & \\
\hline 11 & highlighted in here. Sorry, bear with me for one & \\
\hline 12 & second. & \\
\hline 13 & All right. Here we go. My apologies & \\
\hline 14 & for the delay. November 5, 2012, page 3191 to 92 & \\
\hline 15 & starting at line 23. & \\
\hline 16 & "Is it also possible there could be & \\
\hline 17 & minnows or any other sort of fish & \\
\hline 18 & breeding in those wetlands that could & \\
\hline 19 & potentially be impacted, that may & \\
\hline 20 & eventually at some point make their & \\
\hline 21 & way further downstream into a larger & \\
\hline 22 & watershed? & \\
\hline 23 & Mr. Swazluk: It is possible, but not & \\
\hline 24 & very likely." & \\
\hline 25 & What I'm saying, and that sort of & \\
\hline
\end{tabular}
continues on 3912 , lines 1 to 5. So what I'm saying is, on the one case we are presented, and I think the Commission experts put forward quite eloquently, that this is our worst case scenario, and we have to always plan for the worst case scenario when arguing for the need for the project -- sorry, I just swore, I didn't mean to do that -- when arguing the need for the project. My point being, many people argue this, that you have to look at the need when you are looking at the impacts of the project, obviously. Obviously, no project would have no impact, but that doesn't mean that you shouldn't build the project.

So then when we look at the other side and we are not getting those worst case scenarios, and to me that creates an inequity. I also think that we should look at the uncertainty. And this is not the proponent's fault, \(I\) will admit that, but it is one of the benefits of a pause, that \(I\) think would help us. One of the benefits of a pause would be we might have better data. So on November 5th, 2012, I was cross-examining Mr.Berger. If you go to page 3171 of the transcripts, line 15. I was at that point speaking about, you know, do you think that we
\begin{tabular}{|c|c|c|}
\hline & would have an improved assessment if the bird & Page 7258 \\
\hline 2 & atlas was completed in Manitoba? And not & \\
\hline 3 & surprising, Mr.Berger answered, I believe with & \\
\hline 4 & such data, it would improve our understanding of & \\
\hline 5 & potential project effects. & \\
\hline 6 & So we had an alternative presented & \\
\hline 7 & that may cost less money, but yet then we also & \\
\hline 8 & might clarify some of the uncertainty. & \\
\hline 9 & Also when I was speaking with & \\
\hline 10 & Mr. Schindler, and that is on page 298 of the & \\
\hline 11 & transcript starting at line 1, and I ask: & \\
\hline 12 & "Is it not fair to say that that's & \\
\hline 13 & sort of a bit of a small sample size & \\
\hline 14 & and that certainly it would have been & \\
\hline 15 & preferable to have, you know, three to & \\
\hline 16 & five years of monitoring & \\
\hline 17 & pre-construction and three to five & \\
\hline 18 & years monitoring post construction?" & \\
\hline 19 & Obviously, as you know, Mr. Schindler was the & \\
\hline 20 & caribou expert. And Mr. Schindler said: & \\
\hline 21 & "I would agree, in an ideal situation & \\
\hline 22 & the study design would have been those & \\
\hline 23 & types of attributes. I believe that & \\
\hline 24 & Jim hit on a really good point in & \\
\hline 25 & terms of the number of collars & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline & & Page 7259 \\
\hline 1 & relative to your objective of your & \\
\hline 2 & study, and obviously it would have, & \\
\hline 3 & you know, increased the results & \\
\hline 4 & considerably. You would have more & \\
\hline 5 & animals collared, you know, perhaps & \\
\hline 6 & the one winter prior..." & \\
\hline 7 & THE CHAIRMAN: Mr. Beddome, I realize & \\
\hline 8 & when you are reading verbatim from the transcript, & \\
\hline 9 & you think you can speed through it, but we can't & \\
\hline 10 & expect the transcriber to go back and check the & \\
\hline 11 & transcripts to get that quote. She is taking down & \\
\hline 12 & what you are saying today. So just slow it down a & \\
\hline 13 & little, please. & \\
\hline 14 & MR. BEDDOME: I apologize, I do have a & \\
\hline 15 & tendency to speak fast. & \\
\hline 16 & THE CHAIRMAN: We have noticed. & \\
\hline 17 & MR. BEDDOME: I am sure you have. & \\
\hline 18 & Would you like me to continue on with & \\
\hline 19 & the quote again, I will reread it. & \\
\hline 20 & "I would agree in an ideal situation & \\
\hline 21 & the study design would have those & \\
\hline 22 & types of attributes. I believe Jim & \\
\hline 23 & hit on a really good point in terms of & \\
\hline 24 & the number of collars relative to the & \\
\hline 25 & objective of your study, and obviously & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline & & Page 7260 \\
\hline 1 & it would have, you know, increased the & \\
\hline 2 & results considerably. You have more & \\
\hline 3 & animals collared, you know, perhaps & \\
\hline 4 & the one winter prior to construction, & \\
\hline 5 & maybe you didn't need three or four & \\
\hline 6 & years, but just to get some relative & \\
\hline 7 & information, it would be nice to have & \\
\hline 8 & the variability." & \\
\hline 9 & So the point being, the uncertainty can be & \\
\hline 10 & mitigated by delay. And I know that on the & \\
\hline 11 & opposite side we are going to be put that, but the & \\
\hline 12 & worst case scenario is calamity to Manitoba. And & \\
\hline 13 & indeed there is some truth to that, it isn't to & \\
\hline 14 & deny that there are reliability issues. But I & \\
\hline 15 & really enjoyed and appreciated the presentation, & \\
\hline 16 & or reading through the expert reports presented by & \\
\hline 17 & the Bipole III Coalition near the end of these & \\
\hline 18 & hearings. Because I think they finally presented & \\
\hline 19 & one other alternative. I'm not going to spend a & \\
\hline 20 & lot of time on it. & \\
\hline 21 & Obviously the Green Party of & \\
\hline 22 & Manitoba's position is that we think we need to & \\
\hline 23 & look at other alternatives, we need to look at & \\
\hline 24 & micro generation, wind, demand side management. & \\
\hline 25 & Obviously we didn't -- sorry, wind -- maybe I will & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline 1 & look at the stenographer, that way I can try to & Page 7261 \\
\hline 2 & make sure I'm not going too fast. & \\
\hline 3 & We obviously want to look at wind, & \\
\hline 4 & demand side management, micro generation, et & \\
\hline 5 & cetera. We felt that this Commission wasn't & \\
\hline 6 & looking to go there, so I'm not going to go there & \\
\hline 7 & any further. What I do like is we have one & \\
\hline 8 & alternative presented. An alternative that deals & \\
\hline 9 & with, dealing with the reliability risk, not & \\
\hline 10 & completely. But I, you know, had brought this up & \\
\hline 11 & in my cross-examination with Mr. Mazur in & \\
\hline 12 & October 2nd. And basically what I was getting at & \\
\hline 13 & is the fact there is two separate risks. & \\
\hline 14 & October 3, 2012, page 584, starting at & \\
\hline 15 & line 17: & \\
\hline 16 & "So there are separate risks when it & \\
\hline 17 & comes to reliability, the first being & \\
\hline 18 & of that converter station failure, and & \\
\hline 19 & the second being that of transmission & \\
\hline 20 & corridor failure." & \\
\hline 21 & Mr. Mazur at line 22: & \\
\hline 22 & "That is correct." & \\
\hline 23 & Moving along to page 585, line 2: & \\
\hline 24 & "Mr. Mazur, it is a different risk in & \\
\hline 25 & the sense that the consequences of the & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline & & Page 7262 \\
\hline 1 & failure is more significant because & \\
\hline 2 & the estimated duration of the failure & \\
\hline 3 & will be significantly longer." & \\
\hline 4 & That I don't think that has been argued by anyone. & \\
\hline 5 & So what we have is we have two situations, and I & \\
\hline 6 & think, you know, Bipole III Coalition certainly & \\
\hline 7 & put this forward. On the one hand we have & \\
\hline 8 & uncertainty of a converter station failure, and & \\
\hline 9 & under this proposed plan that risk will last & \\
\hline 10 & longer than will the risk of transmission failure, & \\
\hline 11 & which is six to eight weeks. And it is a trade & \\
\hline 12 & off. I think, you know, I think it was Mr. Derry & \\
\hline 13 & made a great point basically saying, you can't & \\
\hline 14 & have 100 per cent. And he used the example of, & \\
\hline 15 & you know, Southeastern Manitoba this past fall & \\
\hline 16 & when we had, you know, a series of ice storms, & \\
\hline 17 & followed by fires that created obviously an & \\
\hline 18 & emergent situation that's very difficult to be & \\
\hline 19 & avoided. & \\
\hline 20 & But yet when I tried that 100 per cent & \\
\hline & argument, probably remember me quoting my favorite & \\
\hline & quotes, and I'm surprised no one had heard it on & \\
\hline & the Hydro panel because it is in almost every & \\
\hline & university text book that I have ever had, and & \\
\hline 25 & that is the famous words of Yogi Berra, "in theory & \\
\hline
\end{tabular}
everything works, in practice it doesn't." And I had brought that up to Ms. Hicks, trying to point out that 100 per cent compliance with camp rules wasn't going to be realistic. And in fact in some of the undertakings, Manitoba Hydro essentially admitted that at least when it came to Wuskwatim historically, they couldn't get 100 per cent compliance. No one is necessarily asking 100 per cent compliance, but on one end we are asking for 100 per cent compliance, when it comes to unknown risk to caribou, when it comes to impacts to outfitters or First Nations, you know, when it comes to a number of these concerns, it seems to be, well, that's not a significant risk. But it is not significant 100 per cent? I mean, it is not realistic for us to expect to do 100 per cent compliance. And that's not what I'm asking for. But it seems to be the impossibility that we have been put up against.

Delay also presents other
opportunities. We have heard Manitoba Hydro present that one of the effects that was found to be significant was sort of some of the socioeconomic effects and the impacts on infrastructure. Obviously, slowing down the

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

And there is a real power that this Commission has. At several points throughout this Commission people have commented, oh, in the past we didn't do, you know, environmental assessment like we did. Well, that may be true. Certainly there has been some development in environmental assessment law. But \(I\) think something really important to recognize is the value of this record, the value of all of the objections that
have been put on place.
For historical geeks like myself, I
have went back to the 1970 Water Commission
report, in some ways a precursor to this board, on
some previous hydro projects. It doesn't even
need to be mentioned, there was a massive 1956
study that looked at the watershed in Manitoba and, in my opinion, stands out as one of the best studies that I have ever came across. And it analyzed ecological effects with great sensitivity. So what I'm saying is there is a power to that record.

This Commission has heard numerous objections. And without a doubt, they go beyond where you can necessarily go on the licensing conditions. I will repeat it again, sometimes your friends need hard advice. Sometimes they need to be pointed out that there is a ton of problems with the process, and that's what we need to work on fixing.

The first problem is sequence. We are trying to conduct an environmental assessment before, if we are to believe much of the evidence lead by many of the participants, before Government Crown and Aboriginal consultations are
\begin{tabular}{|c|c|c|}
\hline 1 & done, or before -- you know, we can ask whether & Page 7266 \\
\hline 2 & this is a related project or not, and I'm going to & \\
\hline 3 & address that as I close, or we can ask whether the & \\
\hline 4 & NFAAT of related projects should be done before we & \\
\hline 5 & do this. Because a lot of the burning questions & \\
\hline 6 & can't be answered until we answer those questions & \\
\hline 7 & first. & \\
\hline 8 & So I think as a non-licensing & \\
\hline 9 & recommendation, we need to make a recommendation & \\
\hline 10 & to the Minister that in the future, maybe this & \\
\hline 11 & process is un-savable, given how far we are, but & \\
\hline 12 & in the future we need to ensure that consultation & \\
\hline 13 & and NFAAT are the primary steps. And it is the & \\
\hline 14 & only logical way that makes sense when you really & \\
\hline 15 & think about it. & \\
\hline 16 & Now, I mentioned one point that I & \\
\hline 17 & guess is going to be one of contention, because I & \\
\hline 18 & know the proponent has on numerous cases & \\
\hline 19 & essentially argued that this is a reliability & \\
\hline 20 & project, it is no way connected to other projects. & \\
\hline 21 & Well, I would like to go through some evidence. & \\
\hline 22 & Chapter 3, page 7 of the Environmental Impact & \\
\hline 23 & Statement: & \\
\hline 24 & "The design concept for the 230 & \\
\hline 25 & kilovolt switchyard at the new & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline 1 & Keewatinoow converter station will & Page 7267 \\
\hline & Keewatinoow converter station will & \\
\hline 2 & also make provision for possible & \\
\hline 3 & future termination of the 230 kilovolt & \\
\hline 4 & transmission lines in the event of new & \\
\hline 5 & northern generation developments. & \\
\hline 6 & Example, Conawapa." & \\
\hline 7 & I think it is also worth noting that & \\
\hline 8 & the next Hydro project slated to go forward, being & \\
\hline 9 & Keeyask, will be running through Bipole I. But my & \\
\hline 10 & understanding of it, and correct me if I'm wrong, & \\
\hline & is some of the feeder lines going into Long Spruce & \\
\hline 12 & and Henday from Bipole III will probably enable & \\
\hline 13 & that additional capacity. & \\
\hline 14 & There also we can look at another & \\
\hline 15 & quote, \(I\) think going further down on page 7, & \\
\hline 16 & chapter 3. & \\
\hline 17 & "The general concept of siting the & \\
\hline 18 & Keewatinoow converter station near the & \\
\hline 19 & potential Conawapa generating station & \\
\hline 20 & was established on the basis of system & \\
\hline 21 & planning requirements. The choice of & \\
\hline 22 & the Keewatinoow site primarily & \\
\hline 23 & reflects technical considerations. & \\
\hline 24 & The location is physically separated & \\
\hline 25 & from existing Bipoles I and II & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline 1 & converter facilities at Radisson and & Page 7268 \\
\hline 2 & Henday. The site is accessible via & \\
\hline 3 & the existing Conawapa access road. & \\
\hline 4 & The site is reasonably located for & \\
\hline 5 & connection to the existing northern & \\
\hline 6 & collection system and the site is well & \\
\hline 7 & located relative to possible future & \\
\hline 8 & generating station development at & \\
\hline 9 & Keeyask and Conawapa." & \\
\hline 10 & That's in the EIS itself. I want to make sure I & \\
\hline 11 & have that page number right. I have page numbers & \\
\hline 12 & beside every one except this quote. So I will & \\
\hline 13 & double check that quote for the Commission and & \\
\hline 14 & make sure I email you back, if you will grant me & \\
\hline 15 & that indulgence. But the exact quote, if you want & \\
\hline 16 & to use control \(F\) on chapter 3 of the EIS: & \\
\hline 17 & "This site is well located relative to & \\
\hline 18 & possible future generating station & \\
\hline 19 & development at Keeyask and Conawapa." & \\
\hline 20 & I'm not objecting to Hydro planning & \\
\hline 21 & broadly. Of course they should plan broadly. But & \\
\hline 22 & what I'm objecting to is that, on the one hand & \\
\hline 23 & they are saying this is just a reliability & \\
\hline 24 & project, but on the other hand it is clear that it & \\
\hline 25 & is tied into their connected projects. But we & \\
\hline
\end{tabular}

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


\begin{tabular}{|c|c|c|}
\hline & megawatt difference So is 100-megawat & Page 7272 \\
\hline & awa & \\
\hline 2 & curtailment, as you estimate, is the best they & \\
\hline 3 & have been able to achieve by making pleas to & \\
\hline 4 & Manitoba factored into the 1500 megawatt deficit? & \\
\hline 5 & And he said no. I asked him, is an export line to & \\
\hline 6 & the States factored in? He said no, because that & \\
\hline 7 & will be in the future projects. & \\
\hline 8 & So what I'm saying is, that makes & \\
\hline 9 & significant changes to load forecasts. And I know & \\
\hline 10 & that's verboten and it is off the table. But at & \\
\hline 11 & several times we have had to come to those & \\
\hline 12 & questions, it has been unavoidable. & \\
\hline 13 & And that's the impossible situation, & \\
\hline 14 & sadly, that the Minister has put you in. So & \\
\hline 15 & sometimes you have got to give your friends some & \\
\hline 16 & really hard advice, and so that hard advice we & \\
\hline 17 & would recommend is delaying completion of this & \\
\hline 18 & project until a lot of these broad sweeping public & \\
\hline 19 & concerns can be put to rest, so the projects can & \\
\hline 20 & move forward, if they do move forward, with & \\
\hline 21 & credibility. It is not necessarily being opposed & \\
\hline 22 & to them, it is wanting to ensure that the public & \\
\hline 23 & is involved in the decision-making. & \\
\hline 24 & Thank you very much. Subject to any & \\
\hline 25 & questions you may have, I think that concludes my & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline & presentation. & Page 7273 \\
\hline 2 & THE CHAIRMAN: Thank you, Mr. Beddome. & \\
\hline 3 & I want to thank you for your participation & \\
\hline 4 & throughout these hearings and your contributions & \\
\hline 5 & to the process. I think we have all been & \\
\hline 6 & impressed by the fact that you are not only doing & \\
\hline 7 & this in the fall, almost on a full-time basis, but & \\
\hline 8 & carrying a full load at law school. & \\
\hline 9 & MR. BEDDOME: It is a half load & \\
\hline 10 & actually. & \\
\hline 11 & THE CHAIRMAN: Well, then we won't & \\
\hline 12 & feel quite so sorry for you. & \\
\hline 13 & Nonetheless, thank you for your & \\
\hline 14 & participation, and thank you for your presentation & \\
\hline 15 & today. & \\
\hline 16 & Mr. Bedford, would you like to start & \\
\hline 17 & now and have a break part way through, or would & \\
\hline 18 & you rather we take a short break now and then & \\
\hline 19 & commence? & \\
\hline 20 & MR. BEDFORD: If we could take a very & \\
\hline 21 & short break now, then I will begin. & \\
\hline 22 & THE CHAIRMAN: We will break for about & \\
\hline 23 & ten minutes. & \\
\hline 24 & (Hearing recessed at 9:58 a.m. and & \\
\hline 25 & reconvened at 10:08 a.m.) & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline 1 & THE CHAIRMAN: Could we reconvene, & Page 7274 \\
\hline 2 & please? & \\
\hline 3 & Mr . Beddome, we will give you the & \\
\hline 4 & final word, at least the final word in argument. & \\
\hline 5 & Over to you. I'm sorry. I don't know whether & \\
\hline 6 & that was a slip or something. & \\
\hline 7 & Mr. Bedford? & \\
\hline 8 & MR. BEDFORD: Thank you. I imagine & \\
\hline 9 & that after listening to some 11 hours of why the & \\
\hline 10 & Bipole III project should not be approved, that & \\
\hline 11 & you will perhaps be ready to hear something & \\
\hline 12 & completely different. & \\
\hline 13 & Ms. Mayor, my colleague, has invested & \\
\hline 14 & considerable time with the assistance of a number & \\
\hline 15 & of our team to prepare written argument. I & \\
\hline 16 & anticipate it will be filed tomorrow. I commend & \\
\hline 17 & it to your attention, and particularly to & \\
\hline 18 & Mr. Dawson's attention. & \\
\hline 19 & Much of what I will now say is not in & \\
\hline 20 & the written argument. I will keep you I estimate & \\
\hline 21 & something a little less than one hour longer, and & \\
\hline 22 & then we can all disperse. & \\
\hline 23 & The work in designing and studying the & \\
\hline 24 & Bipole III west route began in 2008, shortly after & \\
\hline 25 & the government confirmed in September 2007, that & \\
\hline
\end{tabular}
the route was to be a west route. We put in three years of study, research, and public meetings until the spring of 2011. Then we sat down to write the Environmental Impact Statement, which it has been your responsibility to read.

Writing that Environmental Impact Statement took us from June of 2011 to November of 2011 to write. Although we filed the document on December 1, 2011, that did not mean that all fieldwork and all consultations ended. On species such as caribou, research continued, consultations continued, and I remind you, of course, of the adjustment that we made to the final preferred route in the area of Tourond, south of Winnipeg.

Some 85 consultants and staff worked on the environmental components of the Environmental Impact Statement and the public consultation process. Had we kept studying and researching and working for two more years, yes, we would have written more, covered more, and presumably we would have produced a superior product. Had we studied and worked for six more years, we would have provided even more detail and, yes, no doubt an even better product. Ours was no different than the choice faced by any
professional tasked with writing an article or a book. At some point you sit down and you write, while knowing that there is always more that could be studied if you need an excuse to put off the challenge of writing.

Deadlines bring discipline to the time for study and writing. Ours was in 2011. At some point it becomes irresponsible to continue to put more money and resources into research and study at the expense of other projects and at the inherent cost of delaying yours.

To those who have argued at this hearing that Manitoba Hydro should avoid planning for extreme scenarios, and should have the courage to accept the risks of the reasonable, \(I\) say so we did in putting pen to paper in 2011, and filing an Environmental Impact Statement we knew would never satisfy the criticisms of the most exacting critics.

It is not difficult with a project so
large, with so many important issues to identify topics and sites where there is room to study more and to write more. This hearing has provided any number of examples of that. No one ought to be surprised at that. But compare what we did with
\begin{tabular}{|c|c|c|}
\hline & what we have been asked to do during the course of & Page 7277 \\
\hline 2 & this hearing. & \\
\hline 3 & At the end of August 2012, the & \\
\hline 4 & Department of Conservation and Water Stewardship & \\
\hline 5 & asked us to find four alternate routes in four & \\
\hline 6 & segments of the final preferred route, obviously & \\
\hline 7 & thinking we could do so in one month, and then the & \\
\hline 8 & options could be canvassed at this hearing. & \\
\hline 9 & Pine Creek First Nation, in the course & \\
\hline 10 & of the hearing, has come up with a suggestion for & \\
\hline 11 & a hybrid route in a segment of importance to it & \\
\hline 12 & and is frustrated that we simply cannot endorse & \\
\hline 13 & its hybrid route. & \\
\hline 14 & Swan Lake First Nation asked us, in & \\
\hline 15 & the event that we find a cultural site or a & \\
\hline 16 & heritage site of importance to its community, that & \\
\hline 17 & we simply promise or commit now to just move the & \\
\hline 18 & route somewhere else. & \\
\hline 19 & In each case we said planning a route & \\
\hline 20 & requires detailed assessment and public & \\
\hline 21 & consultation. That response hardly reflects a & \\
\hline 22 & company taking a superficial or cavalier attitude & \\
\hline 23 & to research and study, and drawing conclusions. & \\
\hline 24 & Had we acceded to the request to do & \\
\hline 25 & what would amount to tabletop exercises of drawing & \\
\hline
\end{tabular}
lines on maps, then the demands that I have heard that we should go away and do more homework would be well put.

At the conclusion of the Wuskwatim hearing in 2004, before this Commission, one of the things I acknowledged was that with respect to the Wuskwatim Environmental Impact Statement, we could have done better to explain how we had made use of the Aboriginal traditional knowledge that was shared with us.

With respect to the project Bipole III
that you are considering, I suggest to you that compared with Wuskwatim, we have made
improvements. We have more Aboriginal traditional knowledge, which is a reflection partly of the sheer size and scope of the project.

With respect to the timing of
gathering that information, I can't help but note that with one exception, all of the Aboriginal traditional knowledge that we contracted for arrived late, sometimes over a year beyond the deadline to which parties had initially agreed. Which posed us, of course, a serious challenge in incorporating the work into our Environmental Impact Statement.

And I must say, we did not just attach the Aboriginal traditional knowledge products that we obtained from First Nations and the Manitoba Metis Federation, but obviously we did attach them because we did not wish to edit or change what had been given to us. And the parties that gave us that work were anxious that we produce it in its entirety.

We gave each technical report to each of our specialists. We insisted that each specialist read the reports and comment and incorporate, and do what they could to make use of the knowledge we had gathered. And if you harken back to the evidence you heard, you may recall that in presentations, they endeavored to do that. But \(I\) will say to you, I think we can do better. My hopes from 2004, personally were certainly not realized with this particular product. And we and I would be so very pleased if you can give us some helpful advice on how to do a better job in the future, in both gathering and incorporating Aboriginal traditional knowledge into the work which we do.

On page 21 of the scoping document, we are directed to base cumulative effects analysis
\begin{tabular}{|c|c|c|}
\hline & on the Canadian Environmental Assessment Act & Page 7280 \\
\hline 2 & guidance in effect on the Canadian Environmental & \\
\hline 3 & Assessment Act, CEAA, guide. Dr. Gunn and & \\
\hline 4 & Dr. Noble, at page 8 of the report they wrote that & \\
\hline 5 & was filed as an exhibit in these proceedings, cite & \\
\hline 6 & that guide as a recommended source to direct & \\
\hline 7 & cumulative effects analysis. They repeat that & \\
\hline 8 & advice on page 13 of their report. & \\
\hline 9 & When I asked Dr. Noble whether or not & \\
\hline 10 & some of what he and Dr. Gunn were proposing was & \\
\hline 11 & not novel and reflected recent academic thinking, & \\
\hline 12 & he directed me to the CEAA guide as being a & \\
\hline 13 & well-recognized standard which was now over a & \\
\hline 14 & decade old. & \\
\hline 15 & We were not directed in the scoping & \\
\hline 16 & document to base cumulative effects analysis on & \\
\hline 17 & this Commission's recommendations arising out of & \\
\hline 18 & the Wuskwatim hearing. We were not directed to & \\
\hline 19 & base cumulative effects analysis on a methodology & \\
\hline 20 & used in another province. We were not directed to & \\
\hline 21 & base cumulative effects analysis on a particular & \\
\hline 22 & academic article or collection of articles. & \\
\hline 23 & In August 2012, Mr. Williams assured & \\
\hline 24 & us that best practice was what was done on a & \\
\hline 25 & MacKenzie gas pipeline project and what was & \\
\hline
\end{tabular}
elucidated in articles written by Gibson, Bond and other specialists.

In October 2012, Mr. Williams
introduced us to Drs. Gunn and Noble and assured us that their opinions now constituted best practice. Next month there will be another article published on cumulative effects analysis. Will that then become best practice?

My purpose in calling Mr. Hegmann was that he was the lead author of the CEAA guide. All I wanted to know was, did we or did we not follow the CEAA guide, which was what we were told to do. Mr. Hegmann said we did. He said in doing so we were following standard practice. He is not only the lead author of that guide, which I understand continues to be the only such guide operative in this country, but he has done many cumulative effect assessments himself. He follows the guide.

I did not ask Mr . Hegmann to read any more of the Environmental Impact Statement than was reasonably necessary to advise us on whether or not we had followed the guide. I did not need Mr. Hegmann's opinion, nor I suggest do you, on whether more could have been written on cumulative
effects analysis, or whether what was written was well written. I know we could have written more and I know it could have been written better.

We identified 67 valued environmental
components, VECs; 21 in the field of socioeconomic issues; 46 biophysical. Personally, I confess to you, I thought 67 was a lot, was too many, and was difficult to come to grips with.

Mr. Meronek would be happier if we had added at least one more; geese. However, notwithstanding Mr. Meronek's preferences, I suggest to you that there has been no persuasive evidence brought forward at this hearing that we missed a critical, important VEC.

All but three of the 67 VECs were carried forward and considered for cumulative effects analysis. That three that did not go forward for consideration were economic opportunities, because the conclusion was that this project will have a positive effect on economic opportunities, which is more or less intuitive, I would suggest to you. And the other two that did not go forward were the species Dakota Skipper and groundwater. And the reason they did not go forward was the specialist told us
that our project would have no measurable detectable effect on those two VECs.
The 64 VECs that were carried forward for cumulative effects analysis, on the advice of the discipline specialists who were asked to study them, were carried forward because we were told that our project will have some negative effect on each of them which could be detected -- carried forward notwithstanding that for many of the specialists, their opinion was that the negative effect would likely be small in terms of the number of years that the effect would have an impact, in terms of the geographic extent of the impact.
And after considering the cumulative effects analysis, the 64 VECs that were carried forward, four were found to be potentially significant, if not monitored and handled carefully and prudently, there could be serious effects as a consequence of our project going forward. One of those four VECs is a biophysical, it is boreal Woodland caribou in the Wabowden area.
Happily, I suppose, as a consequence of a request that we look at a different route in
that Wabowden sector, we have now brought forward an alternative preferred route which helps the specialists tell us, and as near as I could hear everyone else, deals not entirely, but very helpfully and largely with some of the concerns about the boreal Woodland caribou herd in the Wabowden area.

Of the four remaining VECs, or rather of the three, they are all socioeconomic, they all arise in the Gillam area. They were public safety, often described as a concern about the interactions that will occur when a large work force, no doubt largely male, from a different culture comes from outside the Gillam area to work for some six years in a community with a significant Aboriginal population, that there is the potential for bad things to happen.

The second VEC, services, the focus being primarily the local hospital and the local RCMP post.

And thirdly, transportation, the concern being the intuitive one, that there will be a lot of traffic on a very limited number of local roads.

And I remind you that in the case of

1 the three socioeconomic VECs, critical aspects of the mitigation that we are putting forward is to place that camp with those workers an hour's drive away from Gillam. Those workers will travel to Gillam largely by air, they will not have personal vehicles that they can use to move back and forth to Gillam. They will all go through cultural awareness training. It is our expectation and hope that the negotiation is not concluded, that we will have proper and practical help lines, committees with members of the Fox Lake community, so that if it appears that bad things are happening or about to happen, that steps can be taken to ensure that those things do not happen. The workers will live in a camp with rules.

Is that a certain guarantee that bad things will not happen? Of course it is not. But are those prudent and sensible things to do as a consequence of studying this topic for years, of recognizing that my client has significant infrastructure and has conducted significant construction in this area over 30 years, and that bad things have happened in the past? Yes, it is prudent for us to be doing these things. And also when you take into account the fact that there are
\begin{tabular}{|c|c|c|}
\hline & other projects, future projects, Keeyask and & Page 7286 \\
\hline 2 & Conawapa, which in the same time frame, the next & \\
\hline 3 & decade, will bring additional workers to this same & \\
\hline 4 & community. & \\
\hline 5 & I note that with respect to the VEC & \\
\hline 6 & caribou, Drs. Gunn and Noble, this has already & \\
\hline 7 & been acknowledged, thought we did better work. & \\
\hline 8 & And they can certainly be forgiven, but I am & \\
\hline 9 & reminded that when I questioned them on caribou, & \\
\hline 10 & they acknowledged they were not specialists in the & \\
\hline 11 & field and were unable to tell me or to & \\
\hline 12 & distinguish, and they can be forgiven for this, & \\
\hline 13 & between barren land caribou and boreal Woodland & \\
\hline 14 & caribou. And in addition, they live in Regina, & \\
\hline 15 & not in Manitoba. They are less familiar with the & \\
\hline 16 & geography for this project and of our province and & \\
\hline 17 & so they didn't realize that activities in Gillam & \\
\hline 18 & are not going to have an impact on boreal Woodland & \\
\hline 19 & caribou at Wabowden. & \\
\hline 20 & And with respect to the three & \\
\hline 21 & socioeconomic VECs, Drs. Gunn and Noble did not & \\
\hline 22 & tell us that we needed to do more analysis and & \\
\hline 23 & more thinking, because the mitigation or the & \\
\hline 24 & thinking in the study that we have done to date on & \\
\hline & the potentially significant effects on those three & \\
\hline
\end{tabular}
socioeconomic VECs is still not well understood by Manitoba Hydro.

You are urged to recommend to the Minister of Conservation and Water Stewardship that he direct us to go back and do more study, more research and more writing on cumulative effects analysis. If you choose to do that, help the Minister, he is going to have to weigh accepting such a recommendation and the costs and delays that that will entail.

What critical VEC, what critical issue makes it essential that more research and more study and more writing be done on cumulative effects analysis? It obviously is not stream crossings in the case of the Bipole III project, although Dr. Noble wanted us to do more. It's obviously not wetlands, although that was something else that Dr. Noble cited as a suitable topic for more cumulative effects analysis. And I suggest to you neither is it vegetation if, like Mr. Williams, you give a good mark to Mr. Matthewson and to Mr. Ortiz.

But if you wish to give such advice to the Minister, please make it practical, make it real. And please, if that is the recommendation,
\begin{tabular}{|c|c|c|}
\hline & please tell the Minister of Conservation and Water & Page 7288 \\
\hline 2 & Stewardship not to have proponents base cumulative & \\
\hline 3 & effects analysis on the CEAA guide anymore. & \\
\hline 4 & Because if they do, no projects obviously are & \\
\hline 5 & going to be recommended for approval. & \\
\hline 6 & We do not have a policy at Manitoba & \\
\hline 7 & Hydro to compensate, aside from our trappers & \\
\hline 8 & policy, for the impacts of the transmission lines & \\
\hline 9 & we build. The explanation for that is that our & \\
\hline 10 & experience over the years has been that the & \\
\hline 11 & impacts of an individual transmission line are & \\
\hline 12 & modest on wildlife, vegetation, fish, and the & \\
\hline 13 & activities of Aboriginal communities. & \\
\hline 14 & However, you have learned that we are & \\
\hline 15 & negotiating with Tataskweyak Cree Nation and Fox & \\
\hline 16 & Lake Cree Nation. I confirm, as you heard from & \\
\hline 17 & them, that we as of today do not have agreements & \\
\hline 18 & with them on this subject. & \\
\hline 19 & Tataskweyak Cree Nation and Fox Lake & \\
\hline 20 & Cree Nation tell us, as they told you, that they & \\
\hline 21 & are different than other Aboriginal communities, & \\
\hline & not because the impacts of the proposed Bipole III & \\
\hline & project in isolation are greater upon them than & \\
\hline & anyone else, but because of the total amount of & \\
\hline 25 & infrastructure that my client has built in their & \\
\hline
\end{tabular}
traditional regions over the last 30 years. They have a perspective, which we respect and which we consider has merited what now amounts to two to three years of negotiation with each of those communities on the subject of compensation, driven by the proposal to now add yet more infrastructure in two regions of this province where, to repeat, my client has already placed significant infrastructure. And with respect, we don't need another year of analyzing cumulative effects to understand the point of view of both Tataskweyak Cree Nation and Fox Lake Cree Nation.

Mr. Sargeant's memory served him well on Monday this week; when this Commission reviewed the Wuskwatim project, my client filed no Aboriginal traditional knowledge study from the Manitoba Metis Federation. In 2004, some of Mr. Madden's criticisms to the effect that Manitoba Hydro tries to understand the Metis simply by speaking to individual Metis persons in Northern Affairs communities, would have been apt. Hence, when it came time to develop the information for the Bipole III project, the sensible and recommended course of action for my client was to contract with the Manitoba Metis
\begin{tabular}{|rl}
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, \\
23 & looking for a shell game, I would suggest that is certainly one going on there. \\
14 & socioeconomic, harvesting, and other traditional \\
15 & and contemporary practices in the project study \\
16 & area. in \\
19 & information on impacts to the Metis was not
\end{tabular}
within your jurisdiction to determine whether the Crown consultation taking place with respect to the Bipole III project is being properly done. And it is not, I suggest to you -- or rather, the obligation which you do have to make recommendations to the Minister of Conservation and Water Stewardship is not a constitutional duty, as has been suggested to you.

My client said in the materials it
filed that my client is not carrying out
consultation with Aboriginal communities with respect to their rights pursuant to Section 35 of the Constitution. You, having heard that, confirmed it by asking Mr. Hannon to speak to you on the record. To spend any more time on the subject of consultation regarding rights of Aboriginal communities, as they may be affected by my client's project, however important the topic is, is not of any assistance to the task before you.

A requirement that the commencement of construction of Bipole III be subject to a precondition, namely the successful negotiation of an agreement with a third party, such as suggested by the Manitoba Metis Federation by Tataskweyak
\begin{tabular}{|c|c|c|}
\hline & Cree Nation and others, is not practical because & Page 7292 \\
\hline 2 & it is not enforceable. There is no process, or & \\
\hline 3 & body, court or government that can successfully & \\
\hline 4 & compel two parties to agree. If there is to be an & \\
\hline 5 & agreement, the parties themselves have to & \\
\hline 6 & negotiate it and conclude it. Just as judges have & \\
\hline 7 & said continuously for hundreds of years, they will & \\
\hline 8 & not enforce agreements to agree. They will be & \\
\hline 9 & unable equally to compel a reluctant party to & \\
\hline 10 & agree, when the frustrated licence holder asserts & \\
\hline 11 & that the third party is being unreasonable, or & \\
\hline 12 & when the third party asserts that the licence & \\
\hline 13 & holder is not negotiating in good faith, or not & \\
\hline 14 & funding the third party's negotiation costs in a & \\
\hline 15 & reasonable amount. & \\
\hline 16 & If you seek an agreement with my & \\
\hline 17 & client or with me, we will have an agreement if we & \\
\hline 18 & each recognize what is offered one to the other is & \\
\hline 19 & better than the alternatives available to us. And & \\
\hline 20 & you are more likely to be successful if you make & \\
\hline 21 & an effort to understand my issues and constraints, & \\
\hline 22 & not just your own. And yes, its not intelligent & \\
\hline 23 & to start the negotiation by calling me repugnant & \\
\hline 24 & and threatening me with court action. Nor do I & \\
\hline 25 & recommend that you recommend conditions similar to & \\
\hline
\end{tabular}
those that were drawn to our attention in the Victory Nickel Mine's licence, paragraph 48, which obligates the licence holder of that licence to consider results of Crown-Aboriginal consultation and to promote meaningful participation. Apparently, I assume those conditions, well-meaning, were designed -- however well-meaning, were designed to appease and mollify those who brought similar concerns to you. But as you have seen in the result, in the case of the Victory Nickel licence, the result was only to raise expectations on one side that, when not met, simply produced more frustration.
In the critical area from Portage la Prairie to Riel, we have avoided all buildings and farmyards. We eliminated, as I recall this morning, entirely all diagonals. One-third of that route is on the half mile, sometimes called in this hearing the mid field. We intend to use self-supporting towers, which are less intrusive than the guyed towers used in Bipoles I and II. And yes, indeed, there will be interference and production loss to farmers. Mr. Meronek is entirely correct that in the result all one has left, when you can't avoid all of the problems,
and when you can't mitigate to zero what you can't avoid, you have to compensate. And the
compensation that my client has proposed is a combination of lump sum payment and periodic payment. A lump sum payment at 150 per cent of fair market value, not simply fair market value, but a lump sum payment because we require an easement, not the rental of an easement. And yes, a lump sum payment because we have to anticipate that we may find ourselves having to expropriate property. We hope not, but the reality is, as has been admitted before this hearing, that is the last resort. And the Expropriation Act, as Mr. Berrien conceded, does not provide for annual or periodic payments in the acquisition of an interest in land.

When I say a combination of lump sum and periodic, what I have in mind through use of the word periodic is the example of aerial spraying that you heard testimony about. If 30 years from now a farmer with our towers and conducers on his land experiences a wet season, and because of our towers and conductors has no alternative to spray his or her crop, then there will be compensation for the loss that obviously
will have to be a calculation based 30 to 40 years from now, if that's when it happens, on whatever that crop is, on whatever the market conditions for that crop are.

We would be so wonderfully pleased if you could find a route for us from Portage la Prairie to Riel that causes no interference or disturbance to any farmer. Having said that, I know, and of course you know, there is no such route. And so I suggest to you that recommending that we be sent back to search more in the region, Portage la Prairie to Riel, will at best, or should I say at worst, simply result on us being on some other farmer's land.

We've heard a plea, we understand why, we understand and empathize with your angst on this issue, because it has been our angst as well, that we tried to avoid the route Portage la Prairie to Riel at least for eight years by postponing Bipole III in favour of separating the Bipole converter from Dorsey and moving it to Riel. The essential concern, to do that now and Bipole III in eight years, we calculate adds about a billion dollars. And in addition, as we have said, for the eight year period we continue to run
the risk of a loss or interruption of transmission in the Bipole I and II corridors.

And similarly, with the plea to look at the use of underground conductors, our concern is essentially again one of cost. But one of the things that \(I\) have learned and benefited from evidence brought forward by the Bipole III Coalition, in this case Dr. Lawson's evidence, is that \(I\) personally had no idea of the time it would take, if you could get the conductors, or once conductors for underground installation have arrived in Manitoba, how many years it would take to put those conductors properly in the ground.

Obviously, in the absence of environmental assessment, I recognize that you are in no position to recommend a new line from St. Ambroise to Riel. And I'm mindful that one of the things the Peguis First Nation have shown us at this hearing is that a route from St. Ambroise to Riel would certainly lie within its Treaty land entitlement notice zone.

And on the subject of the concerns of Peguis First Nation, I note that it is correct that the terminal, southern terminal point for Bipole III does lie, when you look at the map, in

for the reasons that our former colleagues told you about. But what otherwise has gone unremarked and unnoticed generally at this hearing, I hope was apparent to some, and particularly to each of you, and that is that once the government of this province decided that the route was to be west, and after that decision was debated by the entire citizenry of this province in two elections, the men and women employed by Manitoba Hydro, who were charged with planning, studying, and presenting this project, were able to set aside their personal disappointments, their personal preferences, and their personal politics, and work very hard to make this project the best that it can be.
And I suggest to you that that is precisely what Manitobans should expect of employees of a Crown corporation. And that is after all what government of the people, by the people, for the people is all about. Moreover, I suggest to you that the Bipole III is hardly an example of a group of people who can't listen, or who think they decide what is good for Manitobans, or who are wrapped up in hubris.
No one wins if this project is not
approved. That leaves us with the same risks we all face, if we lose Dorsey for three years, or if we lose the Bipole I and II corridors, perhaps in January in an area adjacent to the Nelson River, as we almost did two years ago, as Mr. Tymofichuk described to you in his opening presentation.

We do understand that some Manitobans will be unreconciled to this project until the day that we do have a disaster at Dorsey or a significant loss in the Bipole I and Bipole II corridors. Just as there were some Manitobans who were unreconciled to the cost and the need for the floodway until 1997. No one wins if this project is approved and it is not built and monitored properly.

What I ask of you is not that you recommend approval or no approval. I ask of each of you that you make thoughtful, practical recommendations that are well explained. Whatever the outcome of this hearing, we have all learned. Your report will reflect well on you, and indirectly well on us if it gives the Minister the sensible recommendations that he needs.

My responsibility at this hearing was to guide a team of people through a very
challenging exercise. For each of them it has been very difficult. They are no different than each of you. They take pride and responsibility in the work that they do. For over a year now they have had to endure a chorus of criticism that their work was deficient and inadequate, that they failed, and that what was done did not even approach good practice.

I say now to them, not to you, something I wrote privately to one of them some nine months ago. He was discouraged and he resigned. And in an effort to persuade him to change his mind and withdraw his resignation, \(I\) borrowed some words from the 18th century. Those of you who recognize them will know that they are associated with a much different event than our project. But those words were written with a similar purpose in mind to the one I had nine months ago, which was to inspire and motivate someone who was discouraged. I said to him, and now take this opportunity to say publicly to the rest of the people with whom I have worked on this project.
\[
\begin{aligned}
& \text { "I am conscious every day that the } \\
& \text { hearing will be difficult, }
\end{aligned}
\]
\begin{tabular}{|r}
\hline 1
\end{tabular}\(\quad\) controversial and, yes, thankless. \(\quad\) Hage 7301
advocacy fitting for a courtroom is not
appropriate here. If you want the public to come and to contribute, the public must feel welcome, not threatened.

But complimenting good work does not mean that \(I\) or my client necessarily agree with everything that is said. Some evidence is more persuasive than others. Sometimes we may profoundly disagree with what is said by a witness, but nonetheless we can appreciate and value the testimony because it helps us sharpen our own thoughts, or it generates a new debate in our own minds.

And yes, \(I\) told you that \(I, ~ a l o n g ~ w i t h ~\) Ms. Mayor and Ms. Johnson, had ensured that the work of Drs. Gunn and Noble was circulated at a senior level of Manitoba Hydro. And incidentally, the fact that \(I\) did that, in the company of Ms. Mayor and Ms. Johnson, hardly reflects the actions of people who are not willing to learn, who are defensive in their thinking, or high bound by tradition and hubris.

And the immediate and efficient consequence of what we did in bringing the work of Drs. Gunn and Noble to the attention of senior
management at Manitoba Hydro was that Mr. Hegmann was identified and invited to come and provide us with a workshop so we could determine whether he also had an opinion that we had -- or rather whether it was his opinion that we had either not followed or followed the CEAA guide, and good practice. And you've heard what he had to say. Yesterday Mr. Williams urged you to find in your report, which will become a public document, that Mr. Osler is not qualified to offer expert evidence of cumulative effects analysis. To do that would be tantamount to wrecking Mr. Osler's professional career. Mr. Williams was wrong to ask that of you. It would be wrong of you to do that. Experts are not going to want to participate in hearings before the Clean Environment Commission if a potential consequence is the destruction of their professional reputations.

Mr. Williams suggested that you find
that Mr. Schindler's work is not credible, it
seems because Mr. Williams is under the impression
that Mr. Schindler had to be motivated by
questions you asked in May 2012 about boreal Woodland caribou to do more work on the subject.

After we filed the Environmental

Impact Statement on December 1, 2011,

Mr. Schindler continued to work on boreal Woodland caribou for us, because he knew and we knew that more work was required. He completed that further work in draft form in April 2012. The reason we were able to respond so rapidly with so much more good work from Mr. Schindler to your questions was that Mr. Schindler had already done the work and it was in draft form. He did not need to be prodded or motivated by questions.

On the subject of Mr. Osler's
reputation and a request that you find that he is not qualified to do the work that he did for us, I can tell you that the team member to whom I wrote privately nine months ago was Mr. Osler. He had no desire to come here and testify with respect to a project which, as he told you in his testimony, he joined late. He joined late because his predecessors working on cumulative effects analysis for us, one became ill and was not prepared to testify, and the other retired. I, as you have now learned, persuaded Mr. Osler to stay and to testify. If anyone here has an appetite to destroy a professional reputation, please destroy
mine. I am responsible for all of my witnesses. And there is not one of them, Mr. Osler included, of whom I am not proud.

I will reveal to you that there is some consternation that the direct consequence of my commendation of Drs. Gunn and Noble undermined Mr. Osler's testimony and reputation here. I hope now that my intentions are properly understood. I think it would be so terribly unfortunate if counsel at your next hearing fails to commend good work out of a fear that in doing so more will be lost than gained.

I said in my opening remarks that we at Manitoba Hydro do not believe that we are the final authority on environmental matters. I said we looked forward to hearing suggestions to make this project better. We have heard many.

On behalf of my colleagues at Manitoba Hydro and myself, I thank the participants and the members of the public who have brought forward so many good ideas, frequently with much skill and virtually always with grace and courtesy.

And I thank the Commissioners of the Clean Environment Commission who have sat on this hearing, for listening for hours on end, listening

I know is a skill in itself, which not all of us have.

We are done. You still have miles to go. Thank you.

THE CHAIRMAN: Thank you, Mr. Bedford. I would like to thank you, Mr. Bedford, and all of the Hydro team for their participation, their dedication to this process. The relationships between -- or the relationship between the Commission and Hydro over the last year at least on this project has always been professional, respectful and courteous, and I particularly appreciate that.

And I for one have never felt that there were any summer soldiers, as you put it -that's a new term for me -- but I never felt there were any summer soldiers on your part.

So thank you for this. I know that
from this and from past reviews, that for the proponent in particular, there are extremely long hours and an amazing amount of work that goes on just during the few weeks that we hold the hearings.

Just in closing, before we shut this down completely, I would just like to say that

1 over the -- and this will sort of take on or carry on a bit from Mr. Bedford's very final words about our long road. In the nine years that \(I\) have been on the Clean Environment Commission, I have sat on a number of reviews and investigations, many of them of a large nature, including Wuskwatim and the Floodway and our hog review, but none of them come anywhere near this project in its complexities.

We have heard this morning, as well as over the last number of months, about the size of this project, the fact that there are at least three significant elements to it. The northern converter station and its ancillary complex or components, the southern converter station and its ancillary components, as well as a 1400 kV transmission line in between the two, and the transmission line that traverses most of the Province of Manitoba, going from northern boreal forest through any number of eco-zones, the parklands, and then into Southern Manitoba agricultural country, including some of the best grain crop area on the prairies.

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

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

The other thing, and this is to the participants, and there are some who are not here today so we will remind them by email, but the 120 day clock starts today for you to complete your accounting and submit it to us. The regulation says that it is 30 days after the close of the proceedings. We have interpreted the close of the
\begin{tabular}{|c|c|c|}
\hline & proceedings to be the day we file the report to & Page 7310 \\
\hline 2 & the Minister. So 90 plus 30, 120 days. Get your & \\
\hline 3 & accounting in. Given that period of time, we will & \\
\hline 4 & not tolerate any lateness in that respect. I & \\
\hline 5 & don't really anticipate any problems in that, I & \\
\hline 6 & just wanted to remind you. & \\
\hline 7 & I don't think that we have -- we do & \\
\hline 8 & have, I guess Mr. Williams' document to put on the & \\
\hline 9 & record. & \\
\hline 10 & MS. JOHNSON: Yes, Mr. Williams & \\
\hline 11 & document is CAC number 15, and I also have the & \\
\hline 12 & final arguments from Pine Creek, that's PCFN & \\
\hline 13 & number 5. & \\
\hline 14 & (EXHIBIT CAC 15: Mr. Williams & \\
\hline 15 & document presented March 14) & \\
\hline 16 & (EXHIBIT PCFN 5: Final argument from & \\
\hline 17 & Pine Creek) & \\
\hline 18 & THE CHAIRMAN: Thank you. And in part & \\
\hline 19 & to repeat myself again, I just want to thank all & \\
\hline 20 & of you who participated, participants, all of the & \\
\hline 21 & officials from Manitoba Hydro, my colleagues with & \\
\hline 22 & the Commission, and the members of the public. It & \\
\hline 23 & is a long process, but it is not without its & \\
\hline 24 & benefits. It is an opportunity to get to know & \\
\hline 25 & many other people, at least in a professional & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline 1 & capacity, and I appreciate those opportunities. I & Page 7311 \\
\hline 2 & appreciate the dedication and -- respect is a word & \\
\hline 3 & that I particularly like, but I think with very & \\
\hline 4 & rare exceptions, these proceedings have been very & \\
\hline 5 & respectful, and I thank you all for that. & \\
\hline 6 & With that, we are adjourned. & \\
\hline 7 & (Adjourned at 11:25 a.m.) & \\
\hline 8 & & \\
\hline 9 & & \\
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\hline & OFFICIAL EXAMINER'S CERTIFICATE & \\
\hline \multicolumn{3}{|l|}{2} \\
\hline \multicolumn{3}{|l|}{3} \\
\hline \multicolumn{3}{|l|}{4} \\
\hline 5 & I, CECELIA J. REID, a duly appointed Official & \\
\hline 6 & Examiner in the Province of Manitoba, do hereby & \\
\hline 7 & certify the foregoing pages are a true and correct & \\
\hline 8 & transcript of my Stenotype notes as taken by me at & \\
\hline 9 & the time and place hereinbefore stated. & \\
\hline \multicolumn{3}{|l|}{10} \\
\hline \multicolumn{3}{|l|}{11} \\
\hline \multicolumn{3}{|l|}{12} \\
\hline \multicolumn{3}{|l|}{13} \\
\hline 14 & Cecelia J. Reid & \\
\hline 15 & Official Examiner, Q.B. & \\
\hline \multicolumn{3}{|l|}{16} \\
\hline \multicolumn{3}{|l|}{17} \\
\hline \multicolumn{3}{|l|}{18} \\
\hline \multicolumn{3}{|l|}{19} \\
\hline \multicolumn{3}{|l|}{20} \\
\hline \multicolumn{3}{|l|}{21} \\
\hline \multicolumn{3}{|l|}{22} \\
\hline \multicolumn{3}{|l|}{23} \\
\hline \multicolumn{3}{|l|}{24} \\
\hline 25 & & \\
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