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Roy Beardy

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Tuesday, December 10, 2013

Upon commencing at 9:30 a.m.

THE CHAIRMAN: Okay. We will reconvene, please. Good morning.

First on our agenda this morning is a group of youth from the Fox Lake First Nation. And I would just like to point out for the record, they are not associated with the CFLGC. So is somebody there going to introduce them? We have to swear you in, so we will have the Commission secretary take care of that.

MS. JOHNSON: First I need everybody to state their name.

MR. WILKE: Aavory Wikie.

MS. WAVEY: Shannise Wavey.

MS. MASSAN: Khrystyna Massan.

MS. SPENCE: Rita Spence.

MR. BEARDY: Abraham Beardy.

Avery Wikie: Sworn.

Shannise Wavey: Sworn.

Christina Massan: Sworn.

Rita Spence: Sworn.

Abraham Beardy: Sworn.

THE CHAIRMAN: Go ahead.

MR. WILKE: Before we start this

presentation here, I want to take a second to thank my elder, Rita Spence, for going out and buying me this feather before we did the speech, and to Judy Da Silva, who got it blessed for me and gave me this eagle feather to go along with it on the bottom here.

Tansi, and good morning to all present, the elders, community members, chief and councillors, and members from the Clean Environment Commission.

My name is Avery Wikie and I am a former member of the Fox Lake Cree Nation and a former participant of the Youth Wilderness pilot project which was delivered in our community.

I would like to take this opportunity to introduce my fellow participants. Beside me are Shannise Wavey and Christina Massan. At first we had eight youth members but today there are only three of us. We also had an elder and two mentors from the Youth Wilderness Project joining us, but due to other reasons they could not be here.

I do, however, want to give thanks here today to all our mentors who provided us with their hunting, trapping and fishing expertise,

along with countless other skills. There are many to thank.

Here with us today are chaperones, Rita Spence and Abraham Beardy.

First, as youth from Fox Lake Cree Nation, we can only express our message, the experiences we received and continue to receive firsthand. Our presentation will have a brief history of us as youth. This is followed by shared accounts passed down to us from our elders and the mentors that we can all relate to as Fox Lake youth.

The last segments our presentation will focus on our views and potential adverse effects from the Keeyask project. Also provided is a brief discussion of some of the benefits we will receive as our Cree Nation moves forward with the Partnership of mutual interest, with the major owner, Manitoba Hydro, of the Keeyask project, and the future development projects within our territory.

In the final section is our recommendations of the Keeyask project and future development projects arising within our traditional area of Fox Lake Cree Nation.

THE CHAIRMAN: Avery, could you slow down a touch? We are recording everything, and if you speak too quickly the recorder might fall behind. And speak fairly closely into the mic, and that goes for all of you. Thank you.

MR. WILKE: The pilot project of the Youth Wilderness Traditions program delivered from our first event in February 2009, which I might add we went out to Angling Lake and Angling River and stayed in prospector tents in minus 52 for week. It provided us, for some of us, for the reintroduction of our cultural and traditional activities of the Fox Lake Cree. A couple of us were already taken out onto the land by our grandfathers and parents, which is usually a customary practice by our people. We learned to fish, hunt and trap animals. As you see, Shannise showing off her profits from the furs she sold. We also had to use different modes of transportation to get to where we were hunting, fishing or trapping. As you see in this slide a couple of pictures of our canoe trip out along the Weir River and coming out into the Nelson River.

To take you to another area of learning is our annual goose camp. This camp

brings all of the youth in both Gillam and Bird to hunt geese during the spring.

Also shown is a picture taken while we were learning to prepare our moose harvest. This is the late John Henderson Jr. with Roman Henderson during our hunting trip at Deer Island. If you look in the very top corner, you can see my boot.

We understand that our current goose camp location will once again become a rock quarry in preparation for future development downstream. Manitoba Hydro is proposing this, but our community members and leaders are carefully considering their proposal.

We prefer they leave our goose camp area alone. But if they need it, we hope they can get another camp built like it, because it is a good goose hunting area for all members from both Gillam and Bird.

As mentioned earlier, we can only present our experiences and what we believe are probable changes that all future development projects will make to the land, animals, and the environment. We do not see Keeyask project as a separate project. We see all of the Hydro

development projects as one huge project within our traditional lands. We do not separate from one dam to the other, as in turn create from connecting dam to the next the same effects to the land, waters and our traditional ways of life.

Generations before us witnessed the unspoiled beauty of Fox Lake, but we haven't. We have only seen the after effects each dam leaves behind. Our elders from the community shared with us many stories of how beautiful the lands and waters were before the beginning of the first dam, Kettle, in our immediate area. Because our helpers pass on information to us from the different community presentations here, we too visibly see the destruction of the land daily, the waste and debris left behind on the waters from the flooded lands. How are we going to be keepers of our Aski if there is only destruction left behind from the dams?

We see too the dark and murky waters. No longer fish, is there an abundance of healthy fish for healthier living. We have to travel further inland to catch healthier fish.

The same with our traditional medicines and berries that grew wild closer to

home, we have to travel further for those.

There has been a lot of damage already, and it is important to prepare and do what it takes to restore and help the land and water recover.

As we move forward as Cree Nation Partners of the Keeyask project with Manitoba Hydro, and with proper training, we will see the benefits in jobs and contracts, not only for us individually, but also with the Fox Lake Cree Nation. As we see more workers coming into the community of Gillam, we can be creative and kick start business ventures for ourselves.

We understand certain components of the Clean Environment Commission and the huge task and decisions that you have to make. As youth from Fox Lake Cree Nations, we have a few recommendations for our leaders and to Manitoba Hydro.

We want improved alternative and concrete plans to our agreements to decrease the damage to the land and the environment. I mean, if Keeyask has to be built, build it so damage to our land and water is not so adversely affected to our people.

MS. WAVEY: We know our funds for future adverse effect programs such as youth monitoring programs, and possibly other goose camps.

MR. MASSAN: We know that there are programs such as the Youth Wilderness Program in other communities, in order for us and other youth interested to keep on learning to build the course right into the curriculum in our schools.

MR. WILKE: We will require more job training programs, possibly to begin in our schools. Some of these, to list a few, can be welding or carpentry, construction programs.

This completes our presentation, and we would like to thank the Clean Environment Commission panel and to all present here today. We leave you with a few more pictures taken of our program. Thank you, and Egosi.

Here, you can see in this picture here -- in this picture here, this is our canoe training program. And this, more canoe training in this one. That's more canoe training. Okay. This is -- we were learning how to throw a lifeline in preparation to go on our Weir River canoe trip. And that was Elder Robert Beardy

showing us how to index our trout.

And this was our Weir River trip, when we had a canoe race along the trip, which I won by the way. And this is Jimmy Lockhart preparing our supper, which was a trout stuffed with potatoes and onions. And this is, I think Robert was actually teaching us how to, I think he was teaching us how to make a fish hook there by the looks of it. And there is a picture with all of us and our brook trout, which we have to travel far to get now.

And this is the last picture of us just relaxing by the fire getting told ghost stories. And that's looking out Conawapa right now, and what we have left.

That's our -- I don't know how to end it -- thank you for your time, and I hope you enjoyed the presentation.

[Applause]

THE CHAIRMAN: Thank you, Avery, and, Shannise and Christina, and thank you very much for your presentation this morning and for your effort in putting it together. It looks like you have a good youth program in your community.

How far do you have to go to get brook

trout nowadays?

MR. WILKE: We have to take a train ride that's about six or seven hours, then you have to get out on the river, on the bridge on the river, Weir River, and you have to canoe about, I don't know, it took us four or five days to get to the trout grounds, and then we spent --

THE CHAIRMAN: There is none left in the Kettle River?

MR. WILKE: No. I actually -- well, there is a few left in Limestone River but it is very rare to catch them there now.

THE CHAIRMAN: Again, thank you very much for your work in putting this together and coming here today to present it.

MR. WILKE: No problem.

[Applause]

THE CHAIRMAN: Okay. We will return now to the Concerned Fox Lake Grassroots Citizens. I believe they have a couple of presentations today and then -- couple more presentations, and then we will turn to questioning.

Okay. Now I don't believe Dr. Kulchyski has been sworn in; am I correct? I think Dr. McLachlan was sworn in yesterday, yes.

Okay.

Peter Kulchyski: Sworn.

MS. PAWLOWSKA: Good morning. My name is Agnes Pawlowska-Mainville and I'm the coordinator for the Concerned Fox Lake Grassroots Citizens.

I'm just going to ask Dr. Kulchyski and Dr. McLachlan to state, answer one question, and the rest of the panelists are there to make sure they are on schedule.

So, Dr. McLachlan, you are up first. Can you please speak to your expertise, perhaps discuss any publications that you have, and also any projects that you are involved in? We realize that we submitted a CV for both of these professors, so we are not going to ask extensive questions other than just kind of general ones.

DR. McLACHLAN: Okay, thank you. And thank you for allowing me to present today.

I'm trained as an ecologist, a restoration ecologist and an ecophysiologist. And since then, I have really kind of worked at the intersection, over the last 15 years, between local knowledge, Aboriginal traditional knowledge and science, environmental science. I'm a prof at

the University of Manitoba and have been working in collaboration with northern indigenous communities around various environmental issues for the last 15 years, really focusing on those intersecting loops between environmental health, human health and wildlife health, both from a science-based perspective and locating it within the wisdom and the experiences of indigenous communities. And so that really informs what I'm going to be speaking about today.

In terms of publications, I have done a fair amount with food sovereignty and food security in Northern Manitoba and elsewhere in Western Canada. And we have a big project right now focusing on the implications of the oil sands for downstream indigenous communities following that same collaborative model.

MS. PAWLOWSKA: Thank you.

Dr. Kulchyski.

DR. KULCHYSKI: Well, I have been involved, I guess my original training is in politics at the U of Winnipeg and at York University, where I did my PhD. Really since the early '80s, when I was doing graduate work, I have been working with hunting peoples and with issues

around Aboriginal and Treaty rights. So I think that's more than 30 years now. I feel like, if I start to think about it, I will feel very old.

So, you know, I came from Manitoba. I should say I attended -- I'm non-aboriginal but I attended a government-run residential school here in Manitoba, Frontier Collegiate. Of 400 children in my grade nine class, I think 36 made it through and graduated from grade 12. And one of them, the white guy who was in the room somehow went to university.

So I felt from starting university that there was something wrong in our country. And from when I was in Toronto at York, from 1983, I went to the Yukon. And, you know, Toronto is one of those cities that just kind of sucks you in and you never get out of the city. So being in the Yukon and being in the far north kind of reminded me of my own life close to the bush when I was growing up. So I hungered and started to work all across the north, in the Northwest Territories and in Nunavut.

And you know, as a graduate student, I thought, gee, it would be a good life if I could be in the far north in the summers and in the

south in the winters, being a bit of a wimp. And that's kind of what I have been able to accomplish luckily with much of life. So I got a job as a professor first at the University of Saskatchewan in Native Studies, then at Trent University. And I have been spending the four, you know, spring and summer months of research mostly up in the north. I have been in Nunavut in one community, Pangnirtung, now for 17 years in a row. I have been working with two communities, three communities in the western Artic, Fort Simpson, Fort Good Hope and Tulita since 1985.

I also volunteer and work on a pro bono basis for any Aboriginal communities and groups of Aboriginal people. You know, usually people who don't have the resources to hire someone, I go in and I give them para-legal advice, and I help them speak to whoever they need to talk to and negotiate with whoever they need to negotiate with. I hold workshops. But I found by traveling to a bunch of different communities, each community is, like I say in my report quoting Tolstoy, Tolstoy says every happy family is alike, but each unhappy family is unhappy in its own fashion or its own distinct way. I find that is

true of the communities, they are like snowflakes, they are all distinct and it is important to look at what is going on with each of them and then I can, you know -- and by working for free, but getting invited to communities, I can kind of develop some broader perspective.

Over the years I have now written, edited, or co-written and co-edited eight books, two books that are considered the definitive history of the Canadian Government and the Innuit, with a colleague, Frank Tester. My book "Like the Sound of a Drum" on aboriginal culture, politics in three communities in the far north was a winner of the Isbister prize here. I have written recently a couple of more popular books, one called "The Red Indians" and one called "Aboriginal Rights Are Not Human Rights," which are more for sort of general public consumption. I have written a wide number of refereed academic articles nationally and internationally.

Kind of one of my career peaks was being invited as a visiting research fellow to Cornell University, which is in the ivy league in the United States, and realized while I was there that I didn't know I had ability to work with the

top people around the world who had come through Cornell or who were already there. And that kind of gave me some confidence when I came back to Canada to realize that I don't really have to be, at least in my field, second place to anybody. You can never, you know, I can't be -- you can never be entirely sure of things. And I come from humble people, and I feel like, you know, we have to -- we can never know. And I almost hesitated about telling the truth, like I can't know the answers to these questions, but I can just use my judgment as best as I can use it. And that's what I try to bring in to bear.

In some ways, you know, I came back to Manitoba in 2000 really happily, because I was from here, and I have always thought that I wanted to lend my broad expertise into issues of Northern Manitoba, which is really -- I went into the far north because I missed my own roots in Northern Manitoba. And it is a privilege for me to work with the people that I work with and to be able to bring some of that expertise back to bear.

And that's a long answer, but there you go, thank you.

MS. PAWLOWSKA: Thank you,

Dr. Kulchyski. His resume is actually longer than his speech.

I will hand over the mic to Dr. McLachlan now.

DR. McLACHLAN: Thank you.

So, basically what I'm going to be talking about today is the disconnect, if you like, between what people are telling Manitoba Hydro and anybody who cares to listen about the changes that they are seeing in the environment. And what Manitoba Hydro or the various, mostly science-based consultants, are saying about what is going to happen. And I'm going to again be focusing on the intersection between those two narratives.

This quote from Melvin Cook really informed a lot of my thinking interestingly from the Split Lake public hearings, where he says:

"I've learned that people can be deaf in one ear and blind in the other."

I will start off the presentation just talking about the optimism that I think is felt in this room. I will go through very briefly the two-track process that's been adopted, and present a kind of alternative, if you like, three-track

process. I will talk about some of the underlying processes that I have encountered through this work and speak to that. I will speak to the past and anticipated impacts. I will focus on the VECs, to a large degree, and this multi-scale approach which I see is pretty problematic, and then focus on rehabilitation, and then kind of wrap things up, I guess, talking about the heavy hearts that I encountered in this work. The monitoring, and then revisiting the three-track process, and then finally make a few recommendations.

There is a proviso involved here that I haven't visited these sites that I'm talking about, but I don't think that's a problem because I have spent a lot of time talking to elders, Ivan and Tommy and, of course, Noah, and I'm comfortable in that place.

My restricted readings, I probably read in total 15 or 20 of the Manitoba Hydro volumes, and there are many, many more. And I have also gone in detail through the public hearings and some of the interviews that we did as the grassroots group. I have taken a cross-cultural holistic approach. So almost by

definition you are taking on a lot. So perhaps it wouldn't have been as detailed as it could otherwise have been.

That said, the document review that I have undertaken is thorough. I have done much work, as I just described, around Hydro development in the north, and have many, now decades of experience working with northern indigenous communities.

And right now I advise about 20 graduate students and undergraduate students, so I'm used to working at arm's length and advising research at an arm's length kind of way.

That said, despite that proviso, as I'm reading more and more, I'm finding more and more evidence, if you like, as support for what I'm saying. And so that just affirms my initial approach to this topic.

The optimism is predictable on the part of Manitoba here. And we have got a quote from the executive summary that talks about the project being a broad spectrum of economic, social and environmental attributes that are important to the Cree Nations, the local region, the Province of Manitoba, Canada, and energy consumers in the

U.S. market. So clearly it is ambitious as a vision for Keeyask.

Predictably, kind of if you like, the four Cree Nations that are partners in the project also see good in the project. And so we have a number of quotes here talking about, on the part of the CNP, talking about how the Keeyask will improve the capacity of our homeland ecosystem to sustain us both physically and culturally. Fox Lake in turn talks here about the potential economic benefits, and interestingly provides a context for that, also talking about the need to protect their culture, needs and aspirations. And finally York Factory down at the bottom here talks about, if they can achieve those objectives, that Keeyask can potentially make a contribution to their livelihoods in the present and in the future. So I appreciate that.

The approach that was taken, as we all know, is a two-track approach, where if you like, there were two separate trends in evaluating the implications of the Keeyask project. Where the First Nation Partners kind of conducted their own evaluations based on their own distinctive worldview, and then Hydro really evaluated the

project in terms of its regulatory significance from a technical and science-based perspective.

So it is two-track, two knowledge systems, these are parallel tracks. They interact very infrequently. And if they do, it is usually implicit, the form of ground truth and labour. And it is claimed throughout that, the Hydro work especially, that they are given equal weight. So here we have another quote from the executive summary that talks about the Cree worldview basis of the Keeyask Cree Nations evaluations of the environmental impact of the project upon themselves is given equal weight and recognition to technical science.

And so as you can see from the two-track assessment introduction that was presented last month, they are two parallel tracks. It is seen as a collaborative and harmonious process.

Here is an old Gary Larson cartoon, I'm old enough that I'm still using these, and here it says at the bottom:

"Okay, buddy, then how about the right arm?"

And there is this huge right arm in this kind of

arm wrestling competition that this little skinny geek guy is going to bring out on the table. And I guess my contention is that this relationship is anything but balanced, in that at all turns throughout the EIS documents, that the science position is privileged and given precedence over that that is informed by ATK.

So what I suggest is that the two-track approach is of course appropriate. It is essential, especially in the context of this limited partnership, but that it should be seen as a means rather than an end, and that a three-track approach is better to take. And this middle track is where you actually foster and facilitate the engagement between these two knowledge systems. And that's a triple win situation, if you like. It is a win for the science and for Hydro, because the science works better as a result. It is obviously a win for the First Nations because their ATK and their concerns, whether it is based on traditional knowledge or their own science, is accommodated. And finally, it is a win for the environment because the whole process works much better.

So, first of all, as I indicated, I

would like to really talk about the process that underlie, underlay a lot of the consultation and outreach with the First Nations. This is the first indication that there is an imbalance that's taking place.

And what I will be doing throughout is contrasting quotes from the EIS, from the science-based component, and contrasting that with other positions and experiences as reflected through the public hearings and the interviews that we have done as a group. And I will indicate any contradictions or any weaknesses in red, as I've indicated here in this slide.

So this is another quote from the executive summary, and it talks about how the approach is reflected in the EIS and demonstrates the real efforts of both the Cree Nations and Manitoba Hydro, and here it is in red, to reconcile their differing world views in a mutually beneficial and respectful way. So it is a very positive and optimistic tone.

And then you have other conflicting perspectives where at the top you talk about Ila Disbrow at the Split Lake public hearing, 2013, talks about where it took eight years to compile

this big document, the EIS. And you can tell it was written by lawyers and stuff. And they wanted, expected us to make that decision within three months. So the time line that was involved was much shorter in terms of evaluating the document from a grassroots community perspective than was afforded Manitoba Hydro to generate the outcomes.

> "John Spence in Gillam talks about: Everything is on the move, apparently, as far as I can hear from my group of people, the Fox Lake Band. I keep asking them, what is happening, what is happening? The good answer is, I don't know, I don't know. Everything seems to be strictly like confidential. Why do you keep it confidential to our people? You see we are prisoners on our land. Our people are not here because they are protesting today."

So that speaks to two things, obviously the process and the prevalence of confidentiality agreements and, like, that keeps people from sharing information within the bands. And it also

talks about Mr. Spence's perspective that people are in a sense showing their reluctance to participate and perhaps their criticism of the whole process by not participating in these public hearings.

Gillam, as far as I can tell, had two presentations that day. Ivan Moose, who we all heard speak yesterday, talks about:

"...the lack of information they give us, lack of everything. Like I said, when they talk to a couple of people, they say they've consulted. Yeah, that's what they do sometimes."

And again speaking to the inadequate consultation, and certainly inadequate information that's provided anywhere in the documents that I can see in terms of the numbers of people who participated, kind of whether those were the same core people again and again, or whether in fact it was a meaningful process.

To the degree that ATK was involved in the science kind of documents generated by Hydro and their consultants, in this terrestrial environment kind of document it talks about ATK playing an important role in both the technical

data collection and describing the existing environment. Nowhere was that made explicit as far as I could see. And it was implicitly involvement. And certain here in the executive summary there are lots of picture of indigenous people labouring for the scientists, but outside of that, nothing explicit.

On the other hand, again, you have Christine Massan, who we heard talk in the same quote, in the same video yesterday, talking about how North/South, one of the consultants:

> "Then they did their western science studies on the same thing, then they write up all of the reports about what their findings were, but nowhere do they report anything that we have told them. And I, the last few meetings that I had with Hydro, I told them, why do you even ask to talk to us?"

If you remember from the video yesterday, Jack Massan, also from Fox Lake then says that when he challenged the whole process, that the consultant actually got up and walked out of the room. And so, again, a very unequal, uneven balance, imbalanced relationship.

Later on they talk about here Jack saying:

"We asked the researchers, we asked questions, and when they don't tell us, I don't know if Manitoba Hydro is telling the research what..."

Christine adds:

"...what not to say."

And then Jack says:

"...not to say anything else but what Hydro wants them to say."

And so that in a sense speaks to a problematic relationship, that none of this data collection is copious, and as detailed as it is, is conducted I would argue at arm's length from Manitoba Hydro. And it brings into this problem conflict of interest that I will speak to a little bit later.

Conway Arthurson, one of the band councillors at Fox Lake, spoke in a very moving way, I think, in the Split Lake public hearing about the challenge that he felt coming forth. I want to read this rather long quote to you where he says:

"The other band councillor, there is

only two of us, the other band councillor needed to get his speech approved by Hydro as well. That is why I feel that I need to talk right now, because my speech is not scripted, I'm not accountable to Manitoba Hydro. I'm not even accountable to my lawyer who advised me not to speak. No longer will I remain quiet. No longer will I regret being silent. No longer will I allow Hydro's time line to go ahead without us being ready."

And I have since asked Ivan and Noah about Conway, because it was clear, he spoke at length about this, and he talked about how scared he was in terms of coming forward and speaking to the hearings. And in this case, what he did is he went and he asked for advice from his ancestors. He then went and asked advice from elders and other community members. And in fact, it was only at that point that he felt that he was able to move forward and had the wherewithal and the strength to do so. It just shows again the problematic process that's involved.

So, quickly, I just want to talk, obviously an important aspect of the EIS is contrasting the present with the past and also anticipating what will happen in the future. And I should also say that a lot of these pictures that I have were, as indicated here, I have taken the screen shots from the Our Story video, which was made in support of this project I think.

So in talking about the past, we heard Ivan and Noah yesterday talking a bit -- like here kind of portraying a picture everyone got along, there was no trouble, no one, unlike what is often portrayed in the popular media, went hungry. So they were never hungry, they always had food and wild food, that was based on trapping, and they lived on trapping and hunting and fishing, and close to land, and life, as is commonly portrayed, was good.

Then starting in the '50s, the Hydro development started and things started to change.

And through all of these accounts that I've documented going through this document review, we hear about a wide diversity, variety of changes. Here Ivan Moose talks about Hydro being the destroyers.

"They destroyed everything here, destroyed our way of life, peaceful life. Honestly, in all honesty, I don't have any use for Hydro. They are the ones that came here and uprooted everything, displaced everybody."

Samson Dick, an elder from Fox Lake, also talks about how that began in the '50s, and when he came back in the 1970s he saw big changes. He saw lots of water, lots of power lines, all of that stuff, they chased everything away.

So this is, these are kind of common observations from some of the people over the last 40, 50, even 60 years.

In contrast here you have, and I just took a screen shot of this from the terrestrial environment report where Dr. Ehnes presented in context, the terrestrial habitat. If you see along the bottom, and you have all seen this document before, but we have pre-development, existing cumulative effects, Keeyask and existing cumulative effects, and then Keeyask existing and future effects. So there is a time line from the far past to the future, and talking about here we

have per cent of area remaining. So it is terrestrial habitat looking at cumulative effects. And so everything was good pre-development, so the two worldviews agree with that 100 per cent. And then what we see again and again in terms of the ATK is tremendous impacts. And in contrast we have the scientists who say there is very, very minimal impacts, kind of based on their modeling and their best efforts. And we have very, very, whatever impacts are low in magnitude. And this is something, again, that presenter after presenter on the part of Manitoba Hydro has shown.

In terms of fish, people talked about the changing of species. We had one of the youth this morning talking about the brook trout, I think in a very moving and effective way. Likewise, Jack Massan talks about mariahs and other species that used to be around a lot more, that is no longer present in a substantial way, and he doesn't know what has happened to them.

Not only that, but the fish, the taste of the fish and the texture, talk about how -- here we have Samson Dick talking about how that's changed as well. The taste isn't good anymore.

"We used to get all kinds of fish..."

quoting here,

"...from sturgeon to jack fish, all kinds of fish that used to taste good, they tasted nice. Now you eat fish today. I bet you wouldn't eat it yourself because it doesn't even taste like fish anymore."

So obviously people are still fishing and their traditions are well, so we have a picture here of youth, and we know from the presentation this morning that youth are still going out, but things have changed, and changed in dramatic and important ways. And yet again from a science perspective, we talk here about the aquatic environment, talking about walleye and lake whitefish in Stephens Lake are predicted to experience negative effects in construction, in red, but effects will be neutral in the long term.

In the Keeyask reservoir both species are expected to experience, in fact, a small positive effect. Adverse effects during construction and the initial years of operation are reversible, as VECs are expected to recover over time.

So, again, it is that same narrative.

It doesn't matter what component that you are looking at that, that you see this optimistic science-based view that everything is okay. And in fact, sometimes we will see it might even get a bit better.

So I wanted to talk a little bit about the VECs, or the valued environmental components, some people say the valued ecological components. We have the olive-sided flycatcher on the left, dusty cowbird on the right, and the mallards in the middle.

Again, when we look from a science perspective, this is a long quote so I will just read the red:

"Priority plants were the native plant species that were highly sensitive to popular features, made high contributions to ecosystems functions."

Further down in the quote, you see,

"A plant species was considered to be highly sensitive to human features if it is globally, nationally, provincially rare, near a range limit, if it has low reproductive capacity

depends on rare environmental conditions and/or depends on the natural disturbance regime."

So the reason I put it in red is because these are all science-informed characteristics or VECs. And VECs or VECs I think are tremendously powerful as a concept, because potentially they allow us to bring in the ecological and the scientific as well as the social when we value these systems. But, again, what you see in the document is a privileging of the science over the traditional knowledge.

From the terrestrial environment report, you see a list of different "ecosystem components", everything from intactness and ecosystem diversity, wetland function which were identified as VECs. But they are obviously all science-based and they would have very little resonance with community members. In contrast, some reflected both science as well as social values, so that would be in the form of Canada geese, mallards and bald eagles. But there were a lot of endangered and provincially rare species like the flycatcher and the common night hawk, and the rusty blackbird, which were all documented

because of their regulatory significance rather than their importance to community members.

So when you summarize all of this, you get this figure. And I apologize to the panel that I used a draft when I made my first presentation, so there will be a slight difference under the birds. You will see the bar charts are minimally different, but the point remains unchanged. Here what we have is the number of components, if you like, the VECs, which are either science based in blue, reflect both knowledge systems or values in the green, and the ATK which is supposed to be orange. Well, you can see here for habitat and plants is that the science based kind of components far outweigh the ones that reflect both values, and that any VECs that might have been brought forth and supported by ATK only are missing.

In the birds, the science kind of based and the ones that reflect both values are equal number. Again, the ones based on ATK that might have been brought forward, if this process really had been equitable and balanced, are missing. Finally, with the mammals, all three of the mammals reflect both social values on the part

of First Nation partners, as well as science. There are numbers that are science based, but again the ATK are completely missing from the picture.

So what I'm suggesting again is that this potentially important and valuable approach has underemphasized the science -- or underemphasized the ATK and privileged the science once again.

And this, of course, was not a surprise to many of the participants. And so what we have from the evaluation that was conducted by Fox Lake, we talk about finding the balance between indigenous knowledge and western science as being a continuing challenge. Fox Lake participated in the VEC process but found the process difficult to accept. In part, because it values perhaps some species over others, but I think also in part because it privileges science.

Another kind of prevalent approach in especially the terrestrial environment, which I'm focusing on -- I didn't really talk to the physical environment at all, and only a little bit to the aquatic environment. But this multi-scale approach, where you have the local area that's

emphasized in terms of evaluating impact, and then various scales above that that grow from just beyond the local scale, all the way up to the larger regional scale. And I think as important as multi-scale approaches are in evaluating impact, that it is problematic in this case because of what is often referred to as a type two statistical error. That it gives false negatives, that throughout the process that it underestimated the potential impact, and as an explicit result of using this regional approach.

And so what we have here then is a picture where you have the study zones, again, going all the way up from one, which is very specific to the project, two, which is 150 metre buffer around the project footprint, all the way up to six. It struck me when I first saw this that it didn't seem balanced and that the Keeyask Generating Station, as proposed, was not in the middle.

As Dr. Ehnes presented, you have a situation where you have two, they are not really ecosystems, but two systems that seem to be subject to different regimes around fire. The one that's more -- sorry, here to the west where you

have much more fire, and then something weird happening here to the east where there is much less fire frequency.

Also, when you look at the surface materials, you will see you have a lot of gray over here, which is the marine till, and then you have kind of a wider diversity of surface materials over here. So there are two different systems at play. In fact, he indicated this explicitly. In these two pictures, you have one on the east and then one which is much delaying, it is kind of inherently different -- sorry, this is on the west and this is to the east. So what they did is they restricted all of, the huge majority of their analysis in terms of the terrestrial environment, with the exception of the caribou, to the westerly ecosystem. And that has implications, I would say, because obviously there are downstream impacts and we have very little insight into that.

So from a strictly scientific perspective, that's problematic. And certainly from an ATK perspective, people make use of both ecosystems regularly, and so that accounts perhaps for the difference. And so it is problematic,

both from a scientific and from an ATK perspective.

As we go through there was a lot of emphasis on fur bearers. And again, it is appropriate because it is so important to the livelihoods of these communities.

And there was a claim here in the terrestrial environment that the regionally rare species are assumed not to be threatened by Hydro development because they are typically, and this is in red, common and secure in other parts of Manitoba and beyond.

So what we see is this thinking repeated again and again for species when it is appropriate, that if they can show in this case a Porcupine, which Noah told me used to be much more common and which is not found nearly as commonly now in the region, but here what they are arguing is it is not a big deal if they are prevalent or found or secure in other parts of the province. And you can imagine how this kind of thinking, I would say spurious thinking is problematic, because you can make that argument almost about any of the boreal species, because indeed many of them are found around the world. Again,

accounting for this disconnect maybe between the science and the ATK.

I was interested in the mammal report because it was one of the few examples where you actually saw the two knowledge systems interacting with one another. So I will read from this, from Mr. Berger's summary here where he talks about:

> "There are fewer beaver in the York Landing area today. They were abundant along the shoreline of the Nelson River and are now a rare species in these areas due to previous hydroelectric development."

And he quotes here the environmental evaluations from York Factory and from Fox Lake. And so potentially this is a really kind of interesting exciting intersection, and very rare intersection between these two knowledge systems as presented in the Hydro documents. But it is also problematic because then he immediately goes to talk about how declining trends in beaver are more likely, and I emphasize that in red, to be associated with the depressed fur prices and reduced trapping efforts as opposed to the regional population declines.

So what he does is he presents the traditional knowledge and then undermines it with his own western science base view. And that's problematic. And in fact, the literature shows George Wenzel, I think, in the early '80s showed pretty clearly that with the rapid decline of fur prices in the far north in the Arctic, that people in fact continued hunting the way that they always hunted. Because, of course, people are hunting for much more than fur prices up there. It is traditional livelihood, it is important, completely grounded in their worldview. And so not only is that kind of problematic in this case, the literature doesn't support that. And in fact even Berger talks about how there is an element of uncertainty in this assertion.

So, for me it is worrisome, because here you had a scientist who did minimally take a three-track approach, and then second-guessed it and walked away from it.

Ryan Brook, kind of an ex-PhD and I wrote a paper, in fact, where we characterized the literature, the ecological literature which in fact did this, incorporated traditional knowledge and found this to be characteristic, where again

and again the scientist, if they are in charge of the process, kind of undermine and second guess the traditional knowledge. So that's reflected here.

So the three-track process is much more than just having scientists incorporating traditional knowledge. It has got to be kind of a process which is equitable and allows people to speak, in this case, the knowledge holders, the ATK knowledge holders, to be involved in the process as well.

So we have a quote here from Noah Massan talking about, as you can anticipate, that the beaver decline is real, and is not -- it's implicit, it is not involved, and it's not reflecting those pelt prices.

If we go forward, when we take a look at the terrestrial environment, they talk about the cumulative effects assessment here. And in red it says:

> "As terrestrial fur bearers are not a VEC, they are not covered in the cumulative effects assessment step that deals with future projects."

So it is tremendously important in

terms of what species get pushed up to a VEC standard and which ones get left behind as priority species, but aren't fully addressed by the cumulative effects assessment. And it is problematic in this case that many of these fur bearing species that are tremendously important to these communities were left out because, again, the science, the whole process was privileged towards science.

I have done a lot of work, as I indicated, with northern indigenous communities. And people are fairly careful and cautious about speaking with outsiders and scientists about medicines in any forthcoming way, because they are so powerful and meaningful to many of these communities. Yet some of that information was reflected in the interviews and the public hearings.

And so here we have Jack Massan talking about a number of our elders still use plants for medicinal uses. So Hydro will come and ask, where do you get your plants and we don't go, we won't in that area. Do you always go in the same spot to pick things? And then he laughs. So I referred to in my report to this kind of Safeway

thinking, where different sites are interchangeable, where people can just go from one aisle to the next. And that doesn't reflect the reality in many of these livelihoods. And Christine says likewise:

> "So do you go to the same shopping centre to buy whatever?"

And then Christine follows up by saying:

> "And now you have got to go further and further."

Again, we saw that today with the brook trout this morning, that because of these impacts, people generally do have to go, there may be a few populations here and there, but people have to go further and further to maintain their livelihoods.

And as you can see with this following quote from Noah and Ivan talking to one another, Noah says:

> "You should have seen that landing, Landing Lake Road, berries all over, all over town too."

Ivan then talks:

> "Especially by the Radisson there."

Noah follows up:

"Yet on the hill you have got to go all over the place, hardly any berries now."

So again, this idea that people have to go further and further. Not only that, and this is kind of an important one, but Ivan follows up by saying:

"Yep, got to go far. They missed that, you can tell, the elders, especially the older ones like our age or the women. They love to pick berries but they can't do it no more, nothing."

So there is this idea that even though these communities work together and support one another, that they are heterogenous, and that some people are affected more so than other people, in this case elders and women. And through any of the documentation, I didn't see enough attention placed to this. Certainly in terms of contaminated environments we know youth, children, and women of child bearing age in their own turn are especially vulnerable. But arguably, this hasn't been addressed adequately throughout.

In contrast, and this is the terrestrial environment, it talks here and it is

all red, so it contradicts what has just been said:

> "Substantial project effects on a KCN plant species are not expected. Most of the KCN species are either generally widespread or widespread in their preferred habitat. A small to moderate number of the known locations of each of remaining species occurs within the terrestrial plant zone of influence."

So, again, underselling the importance of the impacts as they are perceived and experienced by the land users.

We have heard a little bit briefly about sweet flag or wihkis, kind of an important medicine to many of the traditional healers. As indicated in this slide on table 3.6, you can see despite the importance of this species to the local people that it was absent from any of the quite course approach to plant sampling that was taken in the documents.

So what has happened here is, yes, people have gone out and they have done a defensible kind of random sampling in the

environment, which is important when you characterize the ecosystem as a whole, but the tools that these scientists have developed aren't sensitive to what people are saying. So in this case we have a tremendously important plant species that has been completely overlooked by the scientists, because had they taken a different approach and had they gone out with the elders and other users and the healers, and mapped out where these species were, then they could have had that reflected in their science. It is one thing if you are characterizing the ecosystem system as a whole, but it is another thing if you are really trying to monitor what you might see as vulnerable or priority plant species. So I will revisit that when I come back and talk about monitoring in a few minutes, but arguably the science is really problematic in this case.

There was a recent workshop that was done in 2012, and then the results kind of reported in 2013, where Manitoba Hydro did go out and did collect and document more information around the traditional plant use. And we can see here, as quoted in the workshop summary, several participants also highlighted the need to

incorporate a traditional plant perspective in the Keeyask monitoring activities. So that's important. But again it shouldn't just be through the ATK monitoring. My argument is that a three-track approach would have that traditional knowledge incorporated in this third track and, of course, in remediation and revegetation plans.

So that's a good first step but it shouldn't be seen as an end. So if you like, if you read between the lines, you can see here this workshop was funded by Manitoba Hydro. The objectives and activities were set up, and the whole process was facilitated by a Hydro employee. And so it wasn't inclusive, I don't think. York Factory did not participate in any of the mapping activities, and just participated in describing. And in fact, we see this again and again when you have these kinds of interactions.

In this case around this workshop or generally, wherever you have the intersection between the two knowledge systems, that usually it is the elders trying to communicate the importance to that outside partner, whether it is industry or whether it is the agency, in this case Manitoba Hydro. And in fact, a much more effective process

would have been, had it been kind of controlled and facilitated by the community for itself. In this case you had, as far as I could tell, the only outside participants were Manitoba Hydro and two botanists that were also hired as consultants by Manitoba Hydro. So not the way to go if you really want to document and understand and have the intersection between the knowledge systems around these very sensitive species.

As I indicated, a lot of my formal training was around ecological restoration. So this is reflected in mitigation and rehabilitation throughout the whole document. Generally speaking, you can see that here we had a system that is in a degraded state in red, and on the Y axis we can see there is a similarity to a desired or perhaps original habitat, on the Y axis, and then time as indicated here. And so degraded state, if restoration is successful, we had mitigation as a first step, reclamation, rehabilitation, and finally reconstruction or re-creation here, where you have kind of a successful replication of the newly restored habitat to what existed previously.

What was underestimated, and I think

would be fair to Manitoba Hydro, it is underestimated or underreported in the literature as a whole, is what happens when restoration goes wrong? And what I've indicated here is that you have consequent decline that takes place. And so whenever you go out and you muck with these systems, and you have your best guess as scientists, you are going to see change that takes place. Ideally, it is change that's desirable when you mitigate or rehabilitate. But in many cases, I think you actually see a decline in the system. And so there is a parallel here, if you like, between, as I argued in the report, between iatrogenesis, which is physician caused harm to patients. Very few except for the most pathological physicians would ever try to harm a patient, but clearly it happens a lot. Any of us who know our allopathic or western medical system knows that this takes place. In fact, I found a report where in the U.S. last year 225,000 people were actually effectively killed by kind of a western medical system gone wrong. And so the parallel here then is between that medical system and the healing that comes out of restoration. And similarly I think it is a problem

underreported in the literature because, of course, people don't want to talk about that. And I will return to that in a second.

Science based restoration is kind of an involved process, kind of where you set goals and you collect baseline data, action, restorative action, you have assessment and evaluation, and it is an iterative prolonged process. The process that was often described, to the degree that it was described at all in the documents, was something that was much less involved and kind of stop and start approach. And in fact, there was very, very little information available here at all.

And so when you look at vegetation rehabilitation plan here, you can see there is just a paragraph. And yes, it is a preliminary draft, as a paragraph you would expect it to be a draft. And this is I think 2013, I'm trying to read the date here, a very recent report. So it is not like I went back and dug 10 years ago and found a preliminary draft. So this just came out very, very recently.

So that is the description for the vegetation rehabilitation plan, and this is the

terrestrial mitigation implementation plan, similarly just one paragraph. And in fact, when you compare the paragraphs, which I have done here -- so on top is the paragraph from the vegetation rehabilitation plan, and the bottom from the mitigation implementation plan, I've indicated a few colours. The orange, if you like, indicates the text that is identical. The blue indicates the text that is kind of similar in intent and in content, but perhaps the words are slightly different. So effectively you have one paragraph that was copied and placed in the next document, and it is only one paragraph. And as you read through, I read from the rehabilitation plan, but again they are virtually identical. So this is June 2013, where it talks about the vegetation rehabilitation plan will be "developed" once construction is underway and the actual extent of disturbance raised by construction in the Keeyask Generating Station is known.

And then the other identical, the related meaning says:

"The detailed design and methodology for all rehabilitation areas will be carried out at that time."

Kind of below for the implementation plan it says:

"Detailed design and methodology for all terrestrial mitigation areas will be carried out at this later date."

So you can see the meaning is effectively the same. And I would argue that this is really inexcusable for a multi-billion dollar project to have, at face value, and maybe these documents exist, but certainly in terms of what I was able to find, they have a paragraph for each around rehabilitation and mitigation. And I would argue, as you will see in the recommendations, that really this should be questioned and we need much more information, at least from the terrestrial component, around mitigation and rehabilitation.

And in fact, this is the science-based approach, and we have already heard from that traditional plants workshop that there was interest, kind of on the part of community members, expressed to have a cross disciplinary approach to rehabilitation and to mitigation, where you incorporate the social as well as the scientific or the biophysical. You identify the processes by which you see the restoration, in this case rehabilitation or mitigation taking

place. You conduct the restoration. Then you assess the outcomes both from a social, in this case by social I mean using ATK, and biophysical process. And then it is iterative until both partners, both groups decide that it is adequate.

Again, nowhere was this seen in any of the documentation where it was portrayed as a strictly science-based approach.

Past practice, there was some information. And again, I'm documenting kind of things from public hearings and from interviews. And so if you asked people explicitly questions around past rehabilitation or mitigation, you would have got much more information. But here, as we indicate, kind of saw on the video yesterday, Jack Massan talks about:

> You know, just leave everything, that's how it looked before. You can't, that's the best way to help the animals, you can't just freak out about all the construction that's going on, that's going on out in the bush."

So implicit in this, I think, is either you avoid the disturbance in its entirety, or if you think

back to the multi-component restoration time line that I showed you, you need a lot of effort to return the bush back to what previously existed.

In terms of past practice, though, Christine here talks about:

"You know, they are supposed to put everything back the way it is supposed -- it was when they leave us. Like in Sundance where they had the Hydro camp, they didn't put it back the way it was. It was the most beautiful place we ever lived and everybody just loved it. We were just one big happy family there. But when we all had to move out, they said they were going to put everything back the way it was. They never did. They didn't even take the pipes out of the ground."

So this is not best practice. And again, the fact that it is done, that Hydro has done this in the past, and there is the absence of information in terms of planning, in terms of what is going to be conducted around Keeyask is highly problematic.

Obviously, the sturgeon project

received a lot of attention and was detailed, unlike the terrestrial component, in terms of rehabilitation. And I think that's important and appropriate. We know here Tommy talks, who you heard speak yesterday, and he spoke to kind of his long and kind of rich experience with reintroducing sturgeon into the systems, talks about:

> "Oh yeah, they can't tell you they won't interfere with that. They are also going affect the Birthday Rapids spawning area too. Yes, it is going to be higher water. Sturgeon is a migrating fish, okay, it goes all over, it is going to have to find different routes now. If you look at the north and south at the mouth of those rivers, you will see the sturgeon there, that's going to be destroyed."

So there is a lot of rich knowledge, not only just about the sturgeon and how they occur naturally, but in this case we have an elder, a leader in the community that has rich and protracted experience around reintroduction of sturgeon. And to what

degree was he involved in designing these plans? I would question whether he was involved at all.

Hydro argues, in the supporting volume of around the aquatic environment here:

"There will be no adverse effects to lake sturgeon numbers and the area directly affected by the project are expected due to mitigation measures to provide habitat for all life history stages, and the implementation of an extensive stocking program. An overall increase in the number of sturgeon in the Kelsey GS, that's the Kettle GS reach of the Nelson River, is expected in the long term as a result of population augmentation due to stocking, as was indicated in the presentations by Hydro, also due to this ambitious habitat creation for the juvenile life history stages."

There was some concern around this and I have, as someone who has been involved in restoration for now decades, I have real concerns around this. What you have is a naturally occurring system where you have kind of, it is

self-sustaining and it is obviously in decline, but here you switch from that system to a system which is potentially completely dependent upon these outside inputs. And so whether it is hatcheries, stocking, whether it is -- or whether it is habitat creation, obviously with all of this human input, it is almost -- an analogy would be someone who is an addict, you know, and so you are switching them from heroin to methadone, and eventually you are trying to switch them off this system, which is what you want with your rehabilitated system. But that process is traumatic and often ends up in failure, and then you just have the harm that we talked about.

We have Hydro who have come up with this optimistic plan, and from a scientific perspective, a potentially exciting plan around juvenile habitat creation. And we have heard that, in fact, if it is successful with a big "if" because it has never been tried before, that it might result in population increases in the sturgeon. That said, you have this potential of restoration harm.

In my report I talked about this now kind of 30-year old important book talking about

the arrogance of humanism. And there is this kind of unflappable kind of a faith, if you like, in humanity and being able to solve any and all problems through rational thinking. And so what you have here is you have a situation, there is this kind of incredible optimism around kind of creation of this juvenile habitat. If it goes wrong, you have these sturgeon populations that are very marginal to begin with, and you could easily see a situation, if it goes wrong, and we don't know if it will or not, where they get wiped out in their entirety. And that's not just Manitoba Hydro in this case, that arguably is manifest of western society as a whole.

And there were no indicated plan Bs, except for further restocking, which I've indicated is a problem. Because then you are that much more dependent upon inputs. And I would argue that in fact this is a very problematic approach. Just very briefly it brings up this idea of ecological thresholds, where here you have a steady state A, and a steady state B. So if you think about the sturgeon rehabilitation plan, and this is true for any rehabilitation or restoration activity, we have got the current situation and

then this alternate situation. What happens sometimes, and this would be a desirable trajectory, or what I'm arguing it could as likely be an undesirable harmful trajectory, and you get a different steady state B, where it takes a huge amount of energy to the push that in this model, simple mechanical model, to push it over the hump back to what preceded. So that's a good thing if the outcome is positive, but it is a terrible thing if we have a negative situation with all of these rehabilitation effort, where, in fact, what happens is you have this kind of harm system which can't go back to what preceded it. And you can imagine, if you have a situation where those residual populations of sturgeon are wiped out, that it would take a huge amount of effort on the part of the rehabilitation to re-introduce them, if in fact you are able to do that at all.

And this idea of ecological thresholds is one that is common in the ecological literature, and it is a red flag, I think.

Around health impacts, although not the focus of what I looked at, there was a lot of concern on the part of many around the transmission lines and the potential health

implications that they have. I think they were really under addressed. It is one that's common for the most part, it is something -- EMS, electro magnetic fields are controversial in the south in terms of the implications for human health. You have lots of pros and cons. There is no doubt many studies have showed, for example, that if you are a child that spends the first five years of his or her life within 325 metres of one of these large transmission lines that your chance for leukemia is three to five times greater than in kind of a controlled situation. So lots of studies have been done that look at this.

Certainly I have been told, and I haven't checked it myself, but the real estate values around these transmission lines in Winnipeg are much lower than those in kind of neighborhoods that are far away. And so consumers are reflecting their discomfort with the health implications of these transmission lines.

And so in this case, Ms. Beardy, in this public hearing, Split Lake asked for a health study kind of funded, I don't think undertaken by Hydro, but certainly funded by Hydro that would seriously question the health implications of

these transmission lines. Ivan yesterday talked about some of the direct health implications where you get kind of electrocuted if you are crazy enough to climb up one of these things. But there may be also downstream tremendous health implications as well. And here Ms. Beardy also talks about different illnesses because of the water. And so there are multiple effects.

Janet McIvor, again, from that same public hearing, talks about the cumulative impacts of all of these different projects. Some of the youth today talked about how this is one system, and I think quite rightly, we are not just one project versus the next project, so cumulative impacts. She talks about how as a child she used to run down to the lake to swim, and today they tell their kids not to swim due to contamination of the river. So that's looking within the cumulative impacts of the projects.

I think arguably what was under-represented in the EIS is that you have a legacy here of colonization, you have residential schools, and so what are the implications of these projects and how do they resonate, interact with and aggravate projects associated from those past

abuses? Again, nothing that I saw in any of the documentation that I looked at. That said, I could have missed it because it wasn't my focus.

Something that I do a lot of work on is around food insecurity and food sovereignty, where we facilitate research across the province, Northern Manitoba, rural and inner city Manitoba around food security. And so I'm part of a large research alliance, province based, that supports community projects across the province around these issues.

In the report I talk about how food insecurity is highly -- is a real problem, at least in some northern communities, kind of upwards of 90 per cent food insecurity. And many country -- in many of these communities, country food is still tremendously important. So what we have here is kind of a shock to the system around mercury and risk. And depending on what side of the divide you are, either you see it as something that's real, or something that perhaps is perceived. But there is no doubt that many communities up north, certainly the ones that I work with in Fort Chipewyan are tremendously concerned about mercury, and many people are

shifting their consumption patterns away from the country foods because of those fears. And in fact kind of the science, to the degree that it is even needed because I think there is lots of tradition knowledge there that indicates there is problems with the food, but the science seems to be supporting that as well, as I indicated in the report.

So what we have here is fear. We have extreme change in the environment. We have a case which I will argue of inadequate monitoring, and I would say inadequate responses. And so the alternative resource use program is important, but it is not adequate. And so it is this kind of Safeway thinking where kind of, we will get the food from somewhere else and we will bring it in. And you know, so Noah can kind of abandon his trapline, which will be largely under water. And then go and kind of trap elsewhere, and there is funding to enable that. But obviously it is problematic because it ends up distancing people from their traditions and from the land that they know so well.

Also you have a situation of inadequate communication that I talked about in

the report, around risk communication, where people distrust the information, especially in this case if it comes from Hydro or from consultants that they see as being hired by Hydro. And importantly, we have kind of an unhealthy relatively accessible food alternative that's available in local stores.

And so if you think back to this threshold response, what you can see is a situation very easily where you would have a shock to the system that knocks people maybe for five, maybe for ten years, away from their traditional consumption patterns because of mercury, where they go to alternative, kind of store bought, mostly unhealthy processed food alternatives. And what is the likelihood that they will shift back to those? Even optimistically, if in 10 or 15 years the land is healthy again, what is the likelihood that people will shift back and how much work will it take to shift people back? And I think that was under addressed in the report.

From a caribou perspective, it wasn't my focus here, but we've heard, for example, kind of presenters saying that the woodland caribou, that many people spoke to in informed ways, are

not recognized by Manitoba Conservation and Environment Canada as occurring within the Keeyask region. Which to me, again, is complete arrogance on the part of these government agencies.

So what we have here is Noah and Peter kind of talking, where Peter is asking him about the trapline and about finding the caribou. And so finally Peter says:

"So you yourself saw them?"

And Noah says:

"Yeah."

And again this whole issue arguably is side-stepped within the mammal component of the documentation by calling, not even calling them woodland caribou, by calling them summer residents. Again, where the science is being cautious, where it hasn't supported and, in fact, arguably undermines what people know is taking place in their region.

So Tommy here talks about lots of woodland caribou still exist, in contradiction to the agencies, and in contradiction in a sense to the report refers to them now as summer residents, but talks about their decline, and the fact that they don't occur the way they used to. And so

predictably then, as we have seen again and again when we look at the terrestrial environment report, we can see that the residual effects on the caribou as a whole are small to medium in extent, long term in duration, and small in magnitude. And they predict this, a moderate to high degree of certainty, a high confidence in habitat availability, the existing core areas and regional intactness estimates kind of gives them the confidence to say that there will be few, if any, residual effects on woodland caribou. Again, the data and the modeling would have been so much stronger if they had actually done it in a collaborative way using -- and in collaboration with the knowledge systems and the people who hold the knowledge systems in terms of answering some of these questions.

And there are important examples out there. Again, Ryan Brook and I, back kind of during his PhD, where an analogous situation, he modelled the movement of elk around Riding Mountain, around the question of tuberculosis, bovine tuberculosis, kind of with and using farmer knowledge. So there are good examples out there in the literature of this three-track approach,

which again benefits the science and benefits people because they are involved in the research and the outcomes.

So we are starting to wrap up here. When I look at the monitoring, this is from the terrestrial effects monitoring program, which again came out in June 2013. It is a bit crazy that these documents are still coming out at this late date, but it is a first step. But what you can see here is when they talk about the environmental monitoring -- monitoring plans, they have the technical science stream and they have the ATK stream. And there is no indication, except perhaps in this Manitoba Advisory Committee where you have representatives from both, kind of overseeing the monitoring plans, they are seen as parallel structures and processes that are taking place. And so there is no real opportunity, I would argue, as indicated thus far for the two systems to interact to strengthen one another.

In this case, within the documentation for priority plants and invasive plants, it is described in very general kinds of ways. So the time lines regularly during clearing activities, and then it speaks to the monitoring section. And

so I will go in detail around that. And then what it says here, and I think honestly, and it does indicate within the terrestrial effects monitoring program that there is a difference between the science. And so it is one of the few cases where it is acknowledged within the documentation that there are differences between the two streams that, from a scientific standpoint of significance that EIS predicted effects on priority plants would be low because the project is expected to affect low percentages of their known locations or available habitat. So we know that, we have seen that. And then it acknowledges from a Cree worldview that the value that they place on non-priority plant species as well that are traditionally used -- so it goes halfway, it says, okay, well, people value these plants. But it doesn't really even explicitly indicate that there will be adverse impacts on those. Problematic then is -- remember when we were talking about rat root and we were talking about wihkis that we were saying there was an absence of information because of these course sampling protocols that they took, that in that case, and perhaps in many cases of plants that are tremendous value to community

members, where people clearly know where they occur on the landscape and could have helped scientists kind of devise kind of sampling protocols that will allow them to monitor any changes, what Hydro has done, the consultants have done, is just set up these transects, so completely missed any populations of wihkis. So that may or may not be a problem through some characterizing of the ecosystem, but it is a real problem around monitoring. Because what they have done is they have constructed their monitoring program based on all of their baseline data. So what they are going to do is they are going to go out in year zero, or year one, year five and year ten, and they will go to those known locations that come from the baseline data, and they will see if there has been any change. But as I'm arguing, because they missed those populations to begin with, of course, unless they pop up in other places, unanticipated places, that they will continue missing those. So there will be no information.

Where, again, if they have taken the three-track approach and worked closely with community members, and actually identified where

the populations are, then they could have monitored them using the scientific approach. And again, community members could have along side monitored them as well.

So this is a fundamental problem with the vegetation sampling, I would argue, in the monitoring program, that it doesn't allow you to restart and to identify where the vulnerable populations are, and of their own accord.

Looking at methylmercury and wildlife in humans, we all know it is a problem. And Judy Da Silva yesterday spoke in very moving ways about the implications that methylmercury have had for her environment, her community's environment, and also for many of the community members. And arguably, in general, that was under-addressed in the EIS. But focusing on monitoring within wildlife, there is an argument here that what we can do is that fish as indicators of mercury in birds that share similar feeding habits and foraging habit is one of the methods used to establish background estimates for mercury in birds in the local study area. So there is this idea that what we will do is rather than monitoring the birds themselves -- so here we are

talking about things like mallards and other waterfowl kind of that are consumed by people still locally, that they will use kind of mercury levels in fish that occupy similar trophic levels, so they are seen as being equivalent because they are higher in the trophic structure, they will use them as proxies.

And again, as I argued in my report, I think that's irresponsible. I think, given the tremendous human health implications around mercury, given that we know that mercury levels are going to be high, it is absolutely crazy that they wouldn't devise monitoring programs for those same species. And I would strongly recommend that that be reassessed. And in fact, in terms of our own experience around Fort Chipewyan, arguably it is a little bit different, but there we have Hydro development from the WAC Bennett dam that was built in the early to mid '60s. We also have the oil sands upstream, 200 kilometres. But when we look at mercury levels, and in this case I looked at waterfowl here, I have the data for waterfowl, we can see they are at high levels that threaten human health. So whether it is older children that can only eat .2 kilograms of duck kidney,

.2 kilograms of duck liver per day safely -- so these are consumption limits that indicate how much of a certain organ or a certain species that you are safely able to eat given the concentrations in those tissues. With young children it is about half of that, .1-kilogram of duck kidney and .1-kilogram of duck liver. So these are for waterfowl, mostly for mallards, and again showing the importance of perhaps, I would argue, of monitoring more systematically around these mercury levels.

In fact, as I briefly indicated in my report, that the community-based monitoring that is reflected, and that is championed by two First Nation communities in Fort Chipewyan, I think is the best practices model around this. And so what you have is the Athabasca Chipewyan First Nation, so a Dene community, and the Mikisew Cree First Nation, obviously a Cree community, living side by side in Fort Chipewyan. They have their own staff, lots of science training, they work with scientists like myself and others in the background, but it is their own program, and it is a tremendous model in terms of how monitoring should take place.

So what you have is community members who harvest, and they themselves, some of the staff harvest. They do some preliminary analysis around water quality, for example. And then they take samples and they send them, as I described in the report, to the University of Saskatchewan for independent evaluation by vets for their animal health necropsies. And then what those vets do is they take samples and then send them forward to another independent lab associated with the University of Alberta for contaminant testing for metals and for PAHs. Those labs report back to the community members and they, with our help and the help of consultants that are hired by the community, kind of make sense of the results and communicate them back to the community. So it is a three-track process, and it is people doing their own science. And I think it is tremendously important that these kind of models be explored here in Manitoba Hydro, so that it is not Manitoba Hydro, and it is not Hydro employed consultants going out and collecting the data. Because what we found very quickly is that in this case, that the community members recommended that we switch commercial labs because they were, they thought

they were too strongly associated with industry. So, again, it is this idea that if people don't trust the credibility of the labs and the process that are doing the testing, then they are really going to question the outcomes.

Wrapping up here, I've focused mostly on the disconnects and the tensions between the two tracks that are taking place, and argue that a much more truly collaborative approach could be taken, where the science is strengthened by the ATK. And so I focused mostly on the adverse impacts. And, in fact, everyone that I -- there were two things that people in general had in common, regardless of whether they were proponents or critics of the project -- and by here people, I'm talking about community members -- is one, they recognized the severe substantial environmental adverse impacts, regardless of what side of the divide if you like, they located themselves on. And they were united by their distrust of Hydro and kind of this long legacy that Hydro has in the past.

That said, obviously there were people who voted and leadership who supported the project because they saw meaningful benefits for the

community members. But this is in direct contrast, I think, to the optimism that's implicit in the Hydro development. So here in my report I talked about the heavy hearts. And so people, Ted Bland, who is obviously a proponent and supporter of the project, talks about how difficult it was to move forward. Consultation itself was difficult. The ratification of the JKDA was a tough process for everybody to swallow. And the whole process was difficult, but that Keeyask is "our opportunity" to do something and to become independent.

Likewise Charlotte Wasticoot talks about:

"I support anything that would help, that would benefit our people, but also my heart is heavy because of what these developments do to our environment."

So whether you call it under extreme duress, or whether you just talk about heavy hearts and the knowledge that people are trying to do things for their children -- Ivan yesterday spoke very powerfully, I think, talking about how few benefits have been accrued in the past from

Hydro. But there is this feeling that perhaps now as partners, maybe they will be actually able to access some of those benefits, but they do so with heavy hearts, because no one denies the adverse environmental impacts that are seen.

Wayne Redhead here, as I wrap up, talks about traditional knowledge. And as I have argued, that wasn't given weight, equal weight to the scientific data anywhere in the report, as someone who is involved in the process throughout, that he really questions how much influence the ATK has been given, as symbolized by this picture here in my presentation.

And so I finish my report by a number of recommendations that I think emerge from the analysis and from the conversations that I have had with people, the analysis of the documentation. I really feel that the processes underline the consultation and outreach with community members as it relates to Keeyask EIS should be investigated. They should be documented. Obviously lots of things went wrong, if scientists aren't talking to community members, if you have this filtering process that's taking place, that only positive information, supportive

information, or mildly critical information and insights are being manifest in terms of the reports that scientific, that kind of scientific consultants for Manitoba Hydro writes up, that's usually problematic. If indeed leadership is being silenced, if indeed kind of, you know, community members are feeling excluded, that people aren't allowed to talk to their band councillors because of confidentiality agreements, then those things I think have to be changed. And I would recommend that a first step in that process is to really document to what degree it is a problem. It is a problem for at least some people. I don't know how pervasive it is. And that should be further documented.

I argued that a three-track process should be established. It is not too late to do that, especially because in the absence of effective rehabilitation, mitigation plans, even these preliminary monitoring programs, that it would be easy to do that, and to learn from the other best practices that are out there, as in Fort Chipewyan. I know Fox Lake has begun talking to one of the consultants who works with those bands. But, again, this isn't something, I would

argue, that should be kind of located in ATK. This is something that should come and be supported by Manitoba Hydro directly.

Mandatory cultural sensitivity workshops should be conducted with Hydro employees and consulting firms. I have heard all sorts of stories where people are just not treated with respect by these consultants. And in fact, as I argued in the report, we have even seen some of that in the hearing here where people have been mocked in unnecessary and insensitive ways.

Four, more effective mitigation and rehabilitation plans should be developed before the project proceeds. I think if indeed we only have that one paragraph for each, that's tremendously problematic. I haven't been able to find any additional information. Again, they may exist out there and I might have missed them, but certainly anything that I have seen is preliminary, very preliminary at best.

Number five, more effective culturally appropriate and inclusive monitoring programs, as I indicated, those best practices are out there. It will only strengthen the science and it will kind of help with other issues that I will talk

about in a sec, we can talk about here. So, for example, there is I'm sure existing science capacity within these communities. Ivan talked about the absence of benefits that have accrued in the past. We have heard again and again that most benefits will be displaced, you know, 20 or 30 years in terms of financial return for the communities. And so this would be a good example of kind of hiring local people, training local people if there is interest, youth and otherwise, through the school system to do their own science, and in a sense to reverse this existing reliance on outside consultants.

And the great thing is that this can be at a zero sum cost. Because millions of dollars are being spent on hiring consultants to come and to do research that for the most part, with very little support, the communities could do themselves and could embark on this three-track approach that I've talked about at Fort Chipewyan. And it doesn't have to cost anything, it just means that can be some of the benefits that accrue to the community in the short term, in terms of training, in terms of jobs, and in terms of livelihoods, and in terms of a monitoring program

that benefits Hydro, that benefits the communities, and that benefits society as a whole.

An independent and multi-stakeholder committee should be established to conduct and to facilitate relevant environmental research. So the reality is that most community members that I have talked to and that I have read about really question any science which is seen as being endorsed or funded directly by Manitoba Hydro and by its consultants.

So I recommend that an arm's length process take place where a multi-stakeholder project, and I suggested $200,000 a year for five years as a pilot program, where scientists and community members, other kind of actors could submit proposals to do arm's length research that would benefit everyone. But again it would be seen as credible by all, especially the critics, but arguably anyone involved and affected by the project. Because right now we have a situation that it is Manitoba Hydro either doing their own research, or kind of working in close proximity to consultants who do research that people question in terms of its outcomes.

And then finally, I would argue a more

inclusive, culturally sensitive and cross-cultural approach to risk communication. I talked about the fear that people experience around things like mercury, because people can't see the contaminants, right. They are invisible mostly to the naked eye. So food that by all appearances seems healthy, they are being told is not healthy in many cases, and that they should reduce their consumption of these foods. These are country foods. There is no doubt these foods, for the most part, are the healthiest alternative and most accessible alternative to people. But if they are scared off those foods because of inadequate risk communication, then that's a real problem.

That's not just this particular region, you know, people refer to the risk communication crisis that affects communities as a whole.

Ramona and Julie spoke last year, these communities in a sense bear the injustice around environmental decline. They are the ones that pay the price for benefits that are accrued by larger society and that divorced them from their livelihoods. So if they can arm's length, culturally appropriate, kind of accessible risk

communication programs that are in place, perhaps we can anticipate and help avoid some of those adverse impacts, those secondary impacts.

So with that, I conclude, and thank you for listening.

THE CHAIRMAN: Thank you, McLachlan, we will take a break until 11:35.

(Proceedings recessed at 11:20 a.m. and reconvened at 11:35 a.m.)

THE CHAIRMAN: Can we reconvene, please? We have one more presentation from the Concerned Fox Lake Citizens. Dr. Kulchyski?

DR. KULCHYSKI: Thank you.

So I want to thank the Commission for listening to me and thank you all who are here, who have to kind of suffer through my words. I want to say hi to everyone downstairs, and I have about ten notes reminding myself to speak slowly. I get excited and I tend to talk fast, but I'm really going to try and pace myself a little better.

MS. JOHNSON: Dr. Kulchyski, could you speak a little clearer? The transcriber is having a heck of time.

DR. KULCHYSKI: All right. So I'm

putting the mic as close as I can, and I will speak as clearly as I can.

Well, first I want to say a few words, before I get into my slide show, about the evolution of Aboriginal rights. In that sort of, really what we consider the modern era of Aboriginal rights starts in 1973 with the Calder case. And the Calder case was a split decision in the Supreme Court of Canada, but six out of the seven justices involved in 1973 said Aboriginal title still exists in law. That was like an earthquake in Canadian law and opened the door in a sense to challenges around Aboriginal title and Aboriginal rights.

And for about 20 years, generally speaking, and if you look at the books that are written at the time, and I cited Cumming and Mecklenburg in my report, people basically said Aboriginal rights derive from Aboriginal title. So they thought prior occupancy, Aboriginal people were here first, therefore, they have some form of land ownership and, therefore, they have some rights that are related to that. And that was really the thinking.

Even after Aboriginal rights were

entrenched in the Constitution through section 35, and in our constitution it is very important, section 25, even after that point, in the Garand case, which was the first major Supreme Court case post 1982, it was still, Aboriginal title was front and centre. There was a political process that took place at that time in the '80s, an attempt to identify and define Aboriginal rights in the Constitution, and that process ultimately failed. Very minor changes were made to the language, an important change around recognition of Aboriginal rights for Aboriginal women, but that was the extent of it.

And so slowly, I think, the Supreme Court of Canada was faced with this, we have a constitutional provision that says existing Aboriginal and Treaty rights of Aboriginal peoples of Canada are recognized and affirmed. But no one really knew what that meant.

And there why two competing visions. One vision was that it was what the Federal and many Provincial Governments called an empty box. You have to show that you have a documented source of Aboriginal rights and title, show us a document where it is acknowledged and then we will

recognize it. And the First Nations were saying we have a full box, you have to show us that we have surrendered or you have taken away Aboriginal rights or title.

So the first key case that came after the Constitution, where the courts looked at how they haven't been defined and they had to start defining it, was the Sparrow case in 1990. And basically the Supreme Court of Canada in that case threw out the empty box theory. And so that then sort of opened the way to all of the many cases that followed.

Now, the other thing that happened, a week prior to the Sparrow case was the Sioui decision in the Supreme Court of Canada, where they were also looking at what is a Treaty? Because they had a document that the First Nation claimed was a Treaty and the Federal Government said was not a Treaty. So in that case, the Sioui case they said, what is a Treaty? We have to use a liberal and generous interpretation of what a Treaty is. And they said, in interpreting what the Treaty says, we have to use a liberal and generous interpretation. And these are quotes from the Supreme Court of Canada and now fairly

widely known by those of us who sort of work in the field.

Now, parallel as that was going on, we had kind of the development of the Churchill River Diversion, Lake Winnipeg Regulation, the major wave of Hydro dams on the Nelson River that came with the Jenpeg dam and the Kettle dam and Long Spruce dam, and eventually Limestone dams that we have been hearing about. And of course the Kelsey dam was built much earlier to support Thompson. I think it would be fair to say there was maybe an understandable under appreciation of the value of Aboriginal rights, and maybe even an under appreciation even of the value of the 1970s Northern Flood Agreement.

So one thing I would say is now at least, and certainly since 1990, since the Sioui case, I think it can be -- it is inarguable that that the Northern Flood Agreement was actually a Treaty and, therefore, was constitutionally projected. If you look at all of the criteria that were used in the Sioui case, not just the liberal and generous interpretation, but the capacity of the parties and the various standards that they apply, I think it becomes inarguable

that the Northern Flood Agreement is a Treaty.

And I would say, while we may have had some doubts about that, after 1990 I think it is hard to have any doubts about that. Anybody who looks at that agreement, and if you look at the Sioui decision, you would have to recognize, I think, I don't see how see how you could not make a case for it being a Treaty.

So we have that, and we have the notion that Aboriginal rights are not an empty box, you don't have to show in some written form that you have them. In fact, you have to show the opposite, you have to show that they have been surrendered in order to lose them. It is a full box, it is people's, you know, lives.

So from there it is a short step, and I am one of those who argued in the early 1990's that Aboriginal title was not the source of Aboriginal rights, that aboriginal culture was really the basis of Aboriginal rights. Aboriginal title was one form of an Aboriginal right. And that view, and I would like to claim credit for it but I don't think I can claim credit for it, but that view was accepted by the Supreme Court of Canada in the subsequent Van der Peet trilogy of

decisions. It is actually Van der Peet, Gladstone and Smokehouse. And Don Plett had been a student of mine, so my students are out there getting into trouble wherever they go it seems.

In that case they now knew that Aboriginal rights were this full box and they knew that they were constitutionally protected. The Supreme Court finally had to step up and define Aboriginal rights. And they said Aboriginal rights are customs, practices and traditions that are integral to the distinctive culture of the Aboriginal peoples in question.

Aboriginal rights are customs, practices and traditions that are integral to the distinctive culture of the Aboriginal peoples in question.

And so, in effect, one of the things that that does is it raises the status of that intangible cultural heritage that Ms. Pawlowska-Mainville was talking about yesterday. Even though Canada hasn't ratified the UN convention on intangible cultural heritage, our Supreme Court has said that Aboriginal rights are there to protect the practices, customs and tradition of Aboriginal people, that are integral

to the Aboriginal people. And so we now have a definition.

And I stopped my description of Aboriginal rights kind of at that point. We have the later Haida and Taku River cases. And a lot of the -- I have been noticing in the last ten years a lot of the discussion about Aboriginal rights tends to be exhausted with the notion of consultation. So there is this sense that, well, if you have consulted, you know, Aboriginal people have the right to be consulted and that's the only Aboriginal right. In fact, consultation is one mechanism for the protection of the customs, practices and traditions that are integral to the Aboriginal people in question. It is a mechanism, it is not the full exhaustive description of what Aboriginal rights are.

And so effectively, and I said this to the Clean Environment Commission before, and I never repeat myself, I never repeat myself, but here I am, I'm going to say it again. The notion of prior occupancy is actually a cultural fact as much as it is a fact of land ownership. As a cultural fact, what it means is I think a lesson that's fairly simple but profound and important.

As a cultural fact I am from Polish and Ukrainian ancestry. I don't speak any Polish, I don't speak any Ukrainian, I practice very little in the way of Polish and Ukrainian culture. I'm a typical assimilated North American even, or Canadian. And I may bemoan that fact but it is not a global tragedy. The fact is, Polish and Ukrainian as cultures and languages are thriving somewhere else in the world. We like to have a multi-cultural mix, but not all of the multi-cultures are the same. If Inninew language disappears from Northern Manitoba, it disappears from the word. If Haida language disappears from Canada, it disappears from the world. Aboriginal peoples, by being prior occupants, it means that their cultures are not just links on the chain of cultures that we enjoy as a multicultural society. This is their culture's homeland, and when their cultures disappear, there is no other place for them to go, there is no other place for them to rely on. They are lost, not just to Canadians, but to all of humanity. That means that we both have something that is kind of a precious resource to us. And we have something that I think is a contribution, a distinct contribution that Canada

can make to humanity through the presence of its Aboriginal peoples and the cultural perspective that they can offer. And I believe as the world grows increasingly homogenous, which is something that we see in our life times, as the world grows increasingly homogenous, those cultural differences, that cultural distinctiveness actually will have an economic value, in strict economic terms. You can start selling cultural products already, because something that's different starts to have a marketable value. But I'm not talking ultimately about the marketable value, I'm talking about the humane value, what it can contribute to, let's say wisdom.

You know, knowledge is something that you can quantify. Laws are something that you can write down. Wisdom is not something that -- you know, you can't teach kids to be wise, you can show them wisdom and hope that they will acquire it. Justice isn't something that you can really define. You can have a set of laws that you hope will achieve justice. We know it when we see it, we know wisdom when we see it, but we can't actually develop any educational system that will ever be able to teach it. If we could, we would

have a lot of wise people. In fact, wise people are still relatively rare, maybe as they have always been.

So I think it is that, it is kind of like wisdom, that unquantifiable thing that we know when we encounter it, I know it when I listen to Noah, that we lose when we lose aboriginal culture.

Now, in many of these legal documents I see references to Aboriginal and Treaty rights, and Aboriginal and Treaty rights will be respected. And I see in the Partnership agreement itself there is a single clause at the very end that says Aboriginal and Treaty rights will not be affected. But it shows really a paucity of understanding of the substantive nature of Aboriginal and Treaty rights, of Aboriginal rights as the customs, practices and traditions that are integral to the aboriginal culture involved.

In my paper I argue that in the case of Northern Cree peoples, including the people of Fox Lake, including people like Noah and Ivan and Tommy, and Jack and Christine, the people that we interviewed, what is integral to their culture, and Ms. Da Silva spoke about it yesterday, is

hunting. These are called hunting cultures by the outsiders who study them, and in some ways by the people themselves who are there. Many of the practices, many of the traditions are all related to the fact that these are hunting peoples.

And again, hunting cultures are a distinctive kind of culture and a kind of culture that was systematically underestimated in terms of its value. For hundreds of years, as Europeans came into contact with indigenous peoples, they looked down upon hunting, they thought of hunting as, in the famous quote of Thomas Hobbs, a nasty brutish and short miserable way of life. And we still occasionally use the term subsistence economy to talk about hunting.

There was a kind of an earthquake in anthropological thought in 1970 when an anthropologist named Marshall Sahlins published an essay called The Original Affluent Society in a book called Stone Age Economics. And what Sahlins basically proved was that hunting cultures, if we think of wealth not in terms of money, in terms of capital, in terms of dollars, in terms of technology, if we think of affluence in terms of time especially, you know, we are here for a

limited time on this earth, the time that we have as human beings to enjoy ourselves, to enjoy our families, to think of art, to be creative, if we think of wealth in that term, he said that perhaps hunting societies, based on a wide variety of studies that he incorporated, were among the most, and are among the most affluent societies.

My point is that hunting societies haven't disappeared. I'm not talking about going back to the past, I'm talking about hunters that exist in the contemporary word, which is the people that I work with. And I should say in my work, I work in the far north, I interact and work with political leaders, but the best of my work is going out on the land with hunters and trappers and really, you know, being a novice, being be the one that they drag along. And my only good quality is that I don't complain very much. They take me and they patiently show me things, and I just learn by observing and talking to people.

That's the kind of work we did here. You asked us how many people we interviewed. And one of the things that I will say, both in my experience and in all that I have read, is traditional knowledge research, the quality that

it demands -- again, it is not a quantifiable quality, the quality it demands is trust. If people trust you, they will give you a lot of information, a lot of knowledge, and they will share their wisdom with you. And you will recognize it. Then you develop an intensive working relationship.

And the best studies, and Canada is a world leader in this field, I think, working with hunters and traditional knowledge, the best work that's been done has been with a few elders, and an anthropologist or a cultural worker, or an indigenous knowledge scholar, who spends a lot of time with a very few elders listening to their stories, going out on the land with them, watching them, observing them. And the best books that we have come from that kind of work. They come from work with very few people, but it is very intensive work.

And the situation we were in, I didn't know if this was going to work when we started. I had to myself hope that Noah was going to be here for the long run. He had to come to trust me, someone he hadn't met before last spring. We had a first meeting in Gillam, we came to the south,

and he was at a university facility.

And also, I have to thank the Social Sciences and Humanities Research Council of Canada. The technology that we use, much of it on this project, we didn't purchase from the project, I used from previous grants that I had. And it is part of their desire that I acknowledge them, so I'm acknowledging them here.

And we took them to, Noah and Ivan to a research facility. We spent an intensive week with them and gathered a lot of information. Through that process, I would say by halfway, I think we came to realize that there was a kind of magic that was circulating between us, and that we really did trust each other. Based on that, by the next time I went to Gillam, Noah had talked to other elders. And they respected his judgment. And when they said Peter is someone you can talk to, they talked to me. And I believe we respected their wishes that we used the information that they gave us, that we don't filter it, that we bring it forward here, that we share it. But I they in the end it proved to be -- I would have loved to have been able to spend more time and probe more subject areas, but it proved, in my

experience, a very rich research encounter, where I think a lot of traditional knowledge was shared, and I learned an extraordinary amount, some of which I'm sharing with you here. And a lot of it had to do with the hunting way of life, the old way of life before Hydro came in, the impact of Hydro on that and, you know, the way people are living now.

Certain things that people tell you, they tell me that Hydro employees' homes have two Hydro boxes, and I can confirmed that with my eyes and I will come back to that later on. But I do believe we built of up a relationship of trust, that we tapped into a very rich source of both knowledge and wisdom, and I think we were able to see some things and develop some perspectives that I hope will be useful here, and I believe will be useful here.

So Aboriginal rights are not just about consultation, although that's very, very important. Aboriginal rights fundamentally are about that way of life, those customs, practices and traditions. And that much of those are linked to hunting as an activity. And that's what sort of maintains the distinctiveness of the culture

and what characterizes it as a different kind of culture in the world today.

We only had about 30 or 40 years since Sahlins sort of reshaped the landscape, where we started to view hunting cultures from a more appreciative sense than from kind of a dismissive sense. And in that 40 years, one of the things we have realized is, at the beginning of the 20th century, everyone thought Aboriginal people would be disappearing. Everyone thought they won't want to hunt once they see the benefits of our so-called civilized great way of life, they will all be moving to the south, they will all want to become like the rest of us.

In fact, instead of a story of the disappearance of the aboriginal cultures in the 20th century, we have seen an extraordinary story of resistance and revitalization of Aboriginal cultures in many, many ways. And hunters still persist in the contemporary world using GPS, using high powered rifles, using motorized equipment -- one of the things that I have seen consistently in many of the communities that I have gone is how motorized equipment, even though the community centralized people, by having motor boats, by

having snowmobiles, by having pick-up trucks, people can get further out, a little bit further out on the land, a day trip from their community, so they could spread out a little bit more, and still on a daily basis go out to their trapline or hunting territory, and come back to the community.

And don't hesitate to interrupt. I will start going downhill again and talking as fast as I can. I wanted to try to finish before lunch, but when I'm talking slowly, that will take a little longer.

So that intangible cultural heritage that Ms. Pawlowska-Mainville talked about is actually I think very, very important. And I saw very little work or evidence paying attention to that intangible cultural heritage. And it is kind of like, if we can't see it, it doesn't matter. But there are ways of dealing with intangible cultural heritage, of inventorying it, and especially respecting the holders of that knowledge.

You know, I was struck and I didn't know that previously in Japan, the Japanese Government has taken a lead in this, and they actually will pay people who are traditional

cultural carriers, because they have that intangible cultural heritage. It is really about people. And my report fundamentally is about people, although I can't help but say a few things about the environment.

So let me turn a little bit to my slides. And so we start with this slide. I went to Japan in September on one of the same trips that Judy was on. It was my first time to Japan. And I went there because I had seen a chart in the, you know, Hydro information about mercury levels. And I had no idea what that chart meant. Is this a lot of mercury? Is this a little bit of mercury? What does it tell us?

So by coincidence I was invited, they paid my way, they paid me to come to Japan. And there I could see some of the main mercury experts, not just from Japan, but from Korea, from Thailand, and from Taiwan and China especially. We were the only North Americans, I think our delegation, we were the only North Americans in the room.

So I will come back to what I learned about mercury. But also there I was in Japan, I was in Minamata, I was in Kyoto, I was in Tokyo.

In Kyoto, which is the place where the major climate change agreement was negotiated, they have a number of world heritage sites, mostly Buddhist, but some pre-Buddhist temples. This is probably the most famous one, it is call the Golden Temple. So when we were Kyoto we went to see the Golden Temple. And you know, you walk in through this little path and you come across it, and it kind of takes your breath away with its beauty, with its scale, with how outstanding it is.

Go to the next slide. When I looked closely, and this is a whole landscaped environment that the Japanese have produced. This is really the landscaped environment that, you know, is hundreds of years old, and it is basically rocks and water and pine trees and spruce trees mostly. I actually felt proud to be from Manitoba. You know, this looks to me like the bush that I grew up in effectively.

The Japanese, almost the highest standard of beauty for the Japanese is we drive to our cottages, or we go into any of our little parks, or we go into those untouched areas, we see something like this. We have the privilege of seeing something like this all around us. For the

Japanese, it is a very rare and extraordinary beautiful, beautiful thing, that they prize, and so they go through great efforts to create.

And this is to show the letters here, this was not a natural landscape, this was a human created landscape. But we have the privilege of seeing landscapes like that produced naturally, not having to be produced by human beings, not having to be constantly tampered with to try and keep them.

And I'm talking a little bit about beauty. Noah and Tommy, both in their talks, they talk about the beauty of a place. And can you compensate people for the loss of beauty? Is there any document, is there any place, is there any place anywhere where you talk about the loss of beauty? When we destroy a natural landscape, we are destroying something that's beautiful more often than not.

And so this is the Silver Temple, this is another one. And I found many of these temples, the actual landscape around them is like this, you know, it is rocks and water and pine trees and very, very similar to bush country, not unlike that that I grew up in, very similar to

what Noah grew up in, the Fox Lake grew up in.

At least one of the reasons why I think this kind of beauty is important is I think that it has a healing power. Again, you can't quantify that. There is no number that will convey that. But I think it is a truth that we all know. We want to live by the river, we want to go to our cottages, we want to touch -- somehow wake up in the morning, hear the sound of water and see something beautiful. And whatever the stresses and problems of our urban life create for us, if we can do that for a few moments or a few days, I think we feel a little bit better. That's why we have parks in cities, that's why we don't entirely bulldoze every element of greenery out of life. We go through some efforts to preserve it around us, and we go through some efforts to get there when we can. And certainly in indigenous communities that I have worked with, you know, when they turn to healing from the traumas they have experienced, the most common thing for them to want to do -- when I was in Fort Simpson I wrote proposals, I got funded -- I am slowing down again -- for a bush camp. They wanted to take their troubled youth, they wanted to take people

who had substance abuse problems, take them out on the land, and have them with elders. Because the wisdom that the elders have, the beauty that that land has are probably the two most powerful things that might be able to have any effect on people, that might be able to somehow help them heal their traumas. So I think we need to think a little bit about beauty in this process.

This is off of highway 304, on the way to my home town, Bissett, where I still go. And this, of course, is Pisew Falls on the way to Thompson, off of I think highway 60. And it is a little Provincial Park, a beautiful place.

And that is where the Limestone River flows into Nelson River, and you can see the colour of the water of the Nelson River, which is what Noah was trying to show you when he showed that video of turning the Hydro waterfalls in the their building to brown versus the clear water from the Limestone River.

When you take away people's ability to wake up in the morning and hear the sound of birds, hear the sounds of rapids, look out the window and see a landscape of bush country, you are taking away a kind of healing power or healing

quality that helps people live that pimatisiwin that the Fox Lake Cree people talked about, that good life. It is hard to have pimatisiwin -- this is from God's Lake Narrows in the winter time, even in the winter time I think it looks beautiful. If you wake up in the morning and see this rather than that, it is hard to feel like you have a good life, never mind the sound -- and we will get to that if I get a moment -- of what is coming from these. It is hard to feel, somehow when you wake up and look at something like this, or you look at, you know, the poverty of your neighbours, and you look at the dumps and walls and graffiti and all of the different problems that you encounter.

So if you are living in a community like God's Lake Narrows today, and you wake up and you look at the previous slide that I showed you, even though you might not have a lot of money, you might not have the best flat screen television, the latest ipads, you can still look out your window and you have something that is actually rare in this world, and something that can make you feel good inside, and that help you deal with whatever difficulties of life you are having to go

through.

When you wake up in Gillam and, you know, these are the kinds of things that you see. This is close to the Kettle dam, and I was struck by the fact that none of these poles have barriers around them, the next child that comes along like Ivan that is curious to climb them, there is really nothing that prevents them from doing that. So that's a little side point. I'm just a bit concerned that Ivan may not be the only foolish one there, that somewhere along the way we might see another young chaps decide he wants to climb a pole. Maybe Ivan's story is well enough known that they have all learned their lesson. But I was struck by the fact that these aren't really protected from the children in any way.

I want to turn to this. I have had, you know, there are some truths that beauty has to tell us, there is some truths that ugliness has to tell us, and there is some painful stories that I have to convey to you.

After the Wuskwatim and my testimony for the Clean Environment Commission, I kind of studied up, but mostly stayed away from the Hydro issue. Then I was called to Split Lake,

Tataskweyak, in the spring of 2012. Because there had been a community uprising, and here you see they closed the First Nation office. They also closed the nearby Keeyask negotiating office. And they set up a whole bunch of signs. And I will just look through some of those signs.

You see the one on the very far right of the screen, e. coli in our water. They had found eight houses were contaminated with e. coli. There were another two houses, one of which was so contaminated with cockroaches it had to be burned to the ground. Most of the newer houses that had been built were built on plywood, the foundation of the houses were plywood. And they were basically built to last for a few years. And there wasn't really, you know, you couldn't even begin to quantify the amount of mold that was growing in a number in of the houses all through the community. Like conditions had gotten so bad that they are hard to document. And this is partly why I'm here today.

These people are suffering now. You know, this is not from -- this is after 20 years of an implementation agreement with Hydro, and this is in the midst of negotiating, you know, a

new agreement. And so there is concerns about where the money is going. It says "youth no future", concerns about where the money is going, and concerns about, you know, Treaty promises not being implemented. And this is, you know, this was the spring of 2012. And "no more lies" it says.

They set up this tent, they kept the fire burning 24 hours a day. The tent quickly became a place where the homeless of the community could gather, because people have trouble finding beds to sleep in. I brought my 11 year old daughter with me on that trip, really not knowing what we would see. But I like to travel around with her, I take her to nice places, I can take her to a place like Tataskweyak.

Inside of that tent she met a young girl, maybe 8 year olds, of course she talked to the kids. That young girl was blind. There were no braille resources for her in the school, and she was basically homeless.

And I talked to people, I talked to her teacher who said that the children are playing with mouse droppings in the classrooms right now, because of the educational facilities, which, of

course, Hydro is not responsible for, but is not going to take responsibility for.

So, I guess -- I mean, I look at this and I go, this is an urgent situation, this is the deep dark dirty secret of, you know, 40 years of Hydro development. This is not a prosperous community. This is a very sad and troubled community. And it is divided badly. We had, I counted at different points 180 different people coming through our meetings. This was just one of the pictures I took. I was there. The person most recently elected chief, Michael Garson, you know, gave an extensive presentation at that time. He wasn't on the band council. I gave a presentation.

People wanted to hear someone who was willing to stand up publicly and say, there is something wrong with what is going on here. You know, I can't even say like entirely, but I can tell you this, there is something wrong with what is going on there. And if it doesn't, if we don't do something when this, this is the shame of Manitoba. This is the legacy -- I wrote an article about a legacy of hatred, this is part of the result of that legacy of hatred, what these

people are going through right now, that these young people are being raised with. The memories that is being built in a generation of young children, these not good memories. This touch me very deeply, I have to say.

I think before we move ahead -- in the 1970s, Hydro had all of the right answers. They were the ones who knew. And even when engineers came to them and said, you know, we don't really need to flood South Indian Lake right now, we are not going to need that water for a long time, Hydro knew the answers. Hydro had the answers, fully confident, supremely confident, they knew what they were doing.

South Indian Lake was flooded and creates these kind of conditions, devastating conditions for people that people are living through today, as I speak. All the Nelson River communities were affected. We stole those children's right to swim. In Nelson House, they get on a bus and go to the swimming pool in Thompson. It is nice that the bus is provided for them. I used to swim in the lake. I was poor, but I could swim in my pants, I could swim when I wanted to. So I had one little sort of thing

every summer that I could look forward to.

The children in Nelson house had that. They don't have it. The children in Gillam had that. Landing Lake, which the elders talked about and stressed a lot, you could run to Landing Lake, you could go swimming. It is too polluted to swim in. Now you have to pay money to try to get into the swimming pool, if you can afford it, in Gillam. We are stealing children's childhood. How much do you pay for that?

I think, you know, at the end during Wuskwatim, fully confident, Hydro knew all of the answers, this is going to create prosperity. And suddenly the dam costs twice as much as was projected, twice as much. The community has debt, suddenly it is taking on more debt.

When Ms. Neckoway talked about my grandchild is born into debt, that's what she is referring to.

We hope in 20 years, if we can trust Hydro accountants, maybe they will start getting some profit. Meanwhile there is a place called the Bronx, and people who are growing up in the Bronx don't deserve to be living like that. They deserve at least dignity. You can hardly get

dignity here. They deserve a quality of life that meets some kind of a minimum standard.

I would like to say to you the Hydro communities are better off than the communities not affected by Hydro. But so far, in fact, what I can tell you, it is the opposite that's true. And I will come back to that later on. But so far, you know, what Hydro has created is widespread misery and a very few people who might enjoy some benefits.

And that's really how -- it was by talking to these people and realizing, I just can't not talk about this, I can't not be concerned about this, I can't live in this province and let this happen. That's why I'm here today. And that's why I was glad when Noah contacted me and asked me to be involved in this, I said okay, I have to try and do something.

I think if this dam is needed, why is it needed right now? Why can't we say let's wait? Let's listen to what Professor McLachlan has to say about doing an environmental impact traditional knowledge report that's better. Why can't we wait and say, let's look at the social and economic conditions in these communities and

see what we can do, based on the resources we have, to alleviate their poverty? Why can't we do something like that? Why do we have to just rush ahead with the new dam, and hope that maybe 20 years from now, maybe there will be profit, maybe people will start benefiting, and we will lose another generation.

Because Hydro can do it when they want. They build communities for themselves every day. When you go to Grand Rapids, or you go to Gillam, you see houses like this where Hydro has built communities for its own employees, large communities, large suburbs, beautiful houses that look like they could be houses from a prosperous suburb in Winnipeg. This is what Ivan is talking about.

The poverty in Split Lake is one kind of poverty, you know, where you look around and you really see a lot of misery. The poverty in Gillam is a little bit different, and in some ways it is can be even more destroying, soul destroying. Because you have poverty there, but it is right next to this, you are living right next to people who are living like this. Every Hydro employee's house has these two metre boxes.

Their Hydro rates are subsidized. Why can't the Hydro rates of the First Nations who are in poor quality housing where they are losing power, it is a mystery to me, why can't the homes of every First Nation person who is affected by hydro power have subsidized electricity the way their own employees do? Is there any moral reason? Is there any ethical reason?

If there is an economic reason, I think we have to start looking at this as cost of doing business. You want to make your billion dollar profits, then give the people some dignity. Let them know that at least their own houses are heated for free because of, you know, their rivers that were stolen from them.

If you can build these houses for your employees, with all of your infrastructure and your engineering, if this was a First Nation community, I would go around the world talking about how great Manitoba Hydro is. And I'm your friend, Manitoba Hydro, because I want to be able to go around the world and talk about how great you are. But I can't do that today. Today I have to talk about the impact on these communities is Manitoba's dirty little secret. That nobody wants

to look into these houses, nobody wants to see that next to real misery and poverty we have pockets of wealth.

You can guess, this is First Nations housing in Gillam. Guess whose houses these are? Guess whose houses there are? You don't even need me to tell you. Guess whose houses these are?

We have created an absolutely divided society in Gillam and in Grand Rapids. And you know what, it does not have to be that way. It does not have to be that way. We can take the resources, we can take the expertise. They built this nice paved road. Hydro's engineers could pave roads in Split Lake. They can give double meters, they can build this kind of housing. Why does it only go to Hydro employees and not to First Nations people?

You lawyers can give me a lot of reasons, you engineers can give me a lot of reasons, I can hear a lot of technical language.

When you grow up in Gillam as a First Nations person, you grow up as a second class citizen. Now, those are only words. What does that mean? It means as a young person you can't feel proud. The white kid in class next to you

has the nice clothes, goes home to the nice house, has the nice sandwiches. You go home to a poorly heated house, your parents are spending all of their money on electricity, you have got shabby clothes, you don't have a nice lunch, you know that you have a second class citizen. You have the worst bathing suit, you can't afford to go to the swimming pool. You start to feel a deep sense of shame, and that leads to social traumas.

Social traumas are a nice word to talk about substance abuse, even that's a nice word, addiction and a bad life. This is not Pimatisiwin, this is not that life in balance, this is not that good life. This is something very much different than that.

Okay. Guess whose house this is? Guess whose house this is? Right next, side by side in the same community. You tell me, someone stand up and tell me this is right. I would like to hear someone tell me this is right. You know, I don't think this is right. And this is what we are doing, this is the path we are on.

Once again I hear Hydro people standing up, socio-economic, it is all going to be good, it is all going to be good. This doesn't

look good to me. This doesn't look good to me, side by side, that's the prosperity that Manitoba Hydro has brought. Prosperity for its employees, prosperity for most of us, many of us in this room, not prosperity for most of the people who live there.

You know, like if you haven't been up there, take a look at it. Take a good look at it. Two Hydro boxes, all of those houses, two electrical boxes. For people like Ivan who lives with this every day, he looks at those boxes like -- it can't help but frustrate him. And the anger that he talked about is -- my being upset -- like I don't know why this can't happen for First Nations people? Why can't Hydro just, okay, we are going to bring in housing, we are going to do for you what we do for employees so that your quality of life at least measures up to our employees', or try.

The hunting way of life has been underestimated. Now, there are two kinds of poverty in the north. One is the kind of poverty that you are seeing in these communities, in the Hydro affected communities. There is another kind of what looks like poverty but that is not

poverty. And that's the poverty of the hunters. Even in these communities there are hunting people.

So I work in the Arctic. In my report I refer to Jaco Ishulutak. So this is Jaco Ishulutak. I'm sort of an early conversational Inuktitut speaker, I have been going to the Artic for a long time and I am slowing learning the language as a part of me about Inuit culture. Jaco doesn't speak English. If you were to look at Jaco's house, you would feel sorry for him, but actually Jaco is one of the wealthiest people I know. He goes out on the land, he actually drinks water that runs off glaciers, not the water from a bottle with a picture of a glacier, but water that actually comes from glaciers. He eats organic meat that he gets for himself. He is his own boss, and he is a very widely respected person in his community.

The kind of wealth that Jaco has comes in three forms. It is the wealth of actually having a community that supports you when you need help, that you can support when you need help. It is wealth that comes from his land, which is not pristine, the north has been affected by all kinds

of environmental problems, but still comparatively in healthy shape where you can drink the water and you can eat the seal meat and the fish. And especially wealth in the form of time. Jaco works hard but he does it all in his own time. There is nobody bossing him around. If he needs to spend time with his son, he spends time with his son. He does the things he needs to do. He's not on a 9:00 to 5:00 clock.

And I will tell you one thing that shocked me at one point in time. I was standing, Jaco was having a cigarette outside of his house and his son was there. And I had come in to the middle of a conversation. He was trying to convince his son to drop out of school. And you know, I'm instinctively going around talking to school, go to university, hang in there, I know high school is not so good, but if you get to university you will really find a rich learning experience. Like it is just like an instinct for me, I'm always telling kids that. It is like, you know, I am on the promote university train, I guess, because it is where I am. But listening to Jaco talk to his son, I was stunned, and I thought, you know, he is right. Like if his son

sticks in high school, what is he going to learn? He will learn a few rudimentary skills and the best he will get to be is a wage employee somewhere, making minimum wage or a very poor wage at the bottom of a social hierarchy, running around to do someone else's bidding, not happy. If he were to learn to live the life that his father lived, he would be rich in ways that we can't put a number on. It would have that pimatisiwin, the good life, that life in balance.

And Jaco doesn't live in the past. Jaco is not, his lifestyle is not, this is something that was good a long time ago. He is living today, and he is living a better life than most of the people that I know.

Even, you know, I walk around with stress and pressure and worry and all of kinds of demands on me, and I'm among the privileged in our society. I have reached a point where I feel I'm very, very privileged. But I would say quality of life, Jaco has a better quality of life than I have. I admire him and I envy him.

That's the quality of life that hunters can still have in Northern Manitoba communities. That people like Noah, there is a

reason why they are fighting for their traplines, for their last bits of land, because they know, they know deep in their hearts, they know deep in their souls that they can live this extraordinary quality of life if people will just let them.

So this is Pangnirtung, Jaco's community. I just wanted to say, this is a community, it has no industry. They live off some commercial fishing, some ecotourism, there is a national park there. They have an arts and crafts cooperative, so they can produce some arts and some crafts. There is a public sector, of course, a community government and some other Federal and territorial jobs. And that's it.

And you know what I hope for this community? I hope that no energy company finds them. I hope that no mining company makes a big strike there. I hope, if I were to pray, I would pray that they don't get developed. That's what I would pray for. Because development is not going to do them any good. That's another picture of the community.

This is my friend David Ichineli (ph) who is an elder now. There you see Agnes. I drag my students along to things that I do. So this is

in the western Arctic, in the foot of the Mackenzie Mountains. We are hunting mountain sheep and caribou and moose. This is in a camp out on the land. And this is where they have got a moose and they are butchering a moose. And this is a picture that all of the First Nations people in the room will see that it is pimatisiwin. They are butchering and cooking fresh meat out on the land.

Theresa Icheneli(ph) does not belong in the past, she lives in the modern world. In fact, she represents something in the modern world that we need, character, difference, someone who has maybe a bigger perspective on things. And she gets that from going out into the bush, from living this lifestyle based on the lifestyle that her ancestors have lived on, a lifestyle that's recognized and protected. When we recognize and affirm Aboriginal rights, when the Supreme Court says it is the customs, practices and traditions that are integral to the culture. You know, the Supreme Court has recognized these are very, very important things, and it is in the every day practice of someone like Theresa.

Now, you might say, that's fine,

Peter, that's the far north and they can still do that. This is Manitoba, this is Tadoule Lake, and Tadoule Lake was a traumatized community from being relocated. So I was there doing Treaty research. Of course, I think it was late April or early May, and I was watching a hockey game, the playoffs were on. The hockey game was over, I turned it off, I looked out the window and this is what I saw. Across the lake, in the middle of the lake, I think you can see it, there is a line of caribou there. You can see from the houses, you could see from the houses right in the community that line of caribou.

The freezer in the house that I was in was full of caribou. So every day actually I would just cut up some caribou in the morning, and let it thaw, and I would fry good caribou meat for myself. I was eating the best meals that I have had in the Province of Manitoba for a sustained period.

Nobody went out and hunted that caribou. Everyone already had their freezers full. There wasn't a Conservation officer saying, no, no, don't hunt the caribou. The community itself had enough meat. That whole herd of

caribou passed the community, there was not a single shot, not a single sound of a snowmobile. No one hunted that caribou.

People talk about the traditional mechanisms, Aboriginal people, if you give them guns, they will just kill everything in sight. Well, I saw a whole community of hunters just sit and watch the caribou go by, because everyone had all the meat they needed at that time.

There is nothing that replaces this, if you needed a caribou, you could go out and get one. You could take your ten year old child out to hunt the caribou, so they would have that experience, from your house, and get back the same day. You can go and check a rabbit's trail from your house, check it in the morning before you go to school as a little kid, and come back, and you have learned something about harvesting.

When Noah can go out by snowmobile onto his trapline and spend a day doing his patient round of checking traps, and then get home that evening, or the next day, that's a kind of irreplaceable thing.

You can't, you know, we are going to take him and move him to some other place in the

bush? Those kids went seven hours by train and then three days in order to catch some trout. Like, you know, we have to do that, if we have to do that, then that's better than nothing. I will happily and for free lend my expertise to the community about how to develop programs like that. And for God's sakes, we have to. But that doesn't replace being able to go out on a daily basis and do these kind of things.

So this is God's Lake Narrows again. I can't even remember, I think it was Treaty research that I was doing there. You know, you can look out at this in the morning. I think it is a beautiful community actually, I think it is a really beautiful community. And you know what, I hope for God's Lake Narrows, I hope that, you know, there is no hydro potential around there, really. I hope there is no minerals around there. I hope the loggers don't get there. That's what I hope for God's Lake Narrows.

And this is Poplar River where the community has decided they want to be part of creating a world heritage site. And you can swim in that river, and you can swim in the lake. The kids can just run and swim in different places.

And this is in Manitoba, and these people have decided, instead of waiting to see if dams or other things will come that they have to fight, they decided let's protect our lands with as strong protective measures as we possibly can. And they decided that the United Nations was the place to go, and they decided that they would work to create a UN world heritage site.

So, you know, you might say, well, that's good for those communities. These communities, you know, the river is almost destroyed already, the culture, lots of it has disappeared. And I would say a couple of things. There are still traplines close to that community. There are still some people who can make, on a daily basis, make their rounds. And those people are the bedrock of the community.

We are basically trading temporary jobs, a temporary job boom that will come to the community, and a whole bunch of other negative impacts, some of which I will talk about, we are trading those instead of having, if you want to use the word sustainable in a meaningful way, you know, a trapline that Noah will hand down to one of his brothers or one of his nephews, and that

will get handed down and handed down and handed down. And as long as that trapline is there, there will be people trapping on that trapline, 100 years from now. If that trapline -- let's face it, if you look at all of these impacts, quarries, Bipoles, the dam itself, the roads, the construction camps, and the influx of people, right on Noah's trapline, most of this, that trapline is going to be destroyed.

And you say, well, one trapline. And I say, one trapline might actually be equal to the value of a dam, because that trapline would be there and be used, and would help to pass on the culture. And of course, there is the trapline on the other side of the river, and other traplines that will be affected. But in my view, one trapline for the people of Fox Lake might actually have the value over the long term, the economic value even that maybe equates to the value of a Hydro dam.

Now I'm coming close to lunch. There is couple of videos that I wanted to show around this land. Should we take the lunch break and come back? I think I might have half an hour or so more.

THE CHAIRMAN: Yes, I think we should. So is this a good time to break? Okay. We will break now and come back at 1:30. And after Dr. Kulchyski is finished, we will then turn to the questioning of all of the witnesses from yesterday and today.

(Proceedings recessed at 12:30 p.m. and reconvened at 1:30 p.m.)

THE CHAIRMAN: We will reconvene in a minute.

Okay, Dr. Kulchyski, continuing.

DR. KULCHYSKI: Thank you, Mr. Chair.

I wanted to start now, there is two brief videos that I want to show you. The first speaks a little bit to what life is like inside the First Nations homes in Tataskweyak. And you know, John Spence, was very kind to let us come into his house and interview him there, and talk very frankly about his living conditions. And so we will show the John Spence video here.

(Video playing)

DR. KULCHYSKI: Just outside of John Spence's door step, you can see the beautiful houses that are lived in by Hydro citizens.

With him is his young son, who is like

a pre-teen or an early teenager, who is growing up in these conditions and is going to, you know, not see benefits for a long time in his life. And I just -- I worry about what those kids who are going through that right now, right now is when Johnny needs help, when many, many people in the community need help.

The next video I show, you know, I believe we are respecting the dignity of both Johnny Spence and Nancy Beardy. Both of them felt like they wanted their story -- people in the community know them, when they testify in the community, people know their story. They wanted their story to be told in Winnipeg. And Nancy's is a particularly painful story, but also and I think in a certain way a testament to the human spirit. She is a strong person, and her drug and alcohol counselor just told me that she has been clean and sober now for more than ten years.

She was actually born prematurely. Like she was I think four or five pounds, maybe four pounds, and they put her in a shoe box on the train to Thompson. They called her the miracle baby because she survived that. She has had extraordinary hardships in her life. When she was

a teenager, her father, who she loved, and you can see that when she talks about her early life. Her father bought her little baby ducks, and they just loved those and they raised those ducks, and they put little ribbons around them so they would see them when they came back. You know, that came from her father.

In her interview, and even whether she is telling us painful stories, sometimes you get this little glean of life in her eye. But she was sexually assaulted by Hydro workers, and she told us that story, and I quoted a little bit of it in my report, but she wanted it to be heard. She feels it is very important to be heard, and I think it is very important that it be heard, so we will play that.

(Video playing)

DR. KULCHYSKI: Thank you. We can go back to the slide show.

There is nothing that I can say -- I can say this, two things I think. One is that Nancy alludes to the fact that other women came forward afterwards and that it happened to more than just her. And my colleague, Mr. Moose, read an excerpt from a report that refers to it

happening to people.

I mean, I know everyone in this room understands that once is too much. And we also understand we can't control the whole world and prevent bad things from happening. And apparently it happened to a number of women. So I believe everyone in this room is sincere and we will do our best. And I'm going to -- I have a few small recommendations to make, and maybe you are already doing those things. I'm going to talk to my colleagues and see if we can come up with other ideas, and we will write them in, or talk to you, or do what we can to try and help to see if there is different things that we can do to try and keep this kind of thing from happening. Because, you know, I worry for those young girls that were up here today. If they are walking home alone and you have a camp with a bunch of guys who have been away from any women, or who are looking for -- and most of those workers, I come from a working family, most of them are good guys. I believe that as well, the vast majority of them are fine people. But you know, there is, undoubtedly also there is going to be a few bad eggs in the pack. And we just need to make sure that we have done,

that everybody has done everything that we can do around this.

So the other thing that I would say is, you know, Nancy has extraordinary strength. And we laughed when she was speaking yesterday in the video about how she was clocking those Hydro workers or anybody that, you know, talk about easy squaws. And it was in the same interview that she says those things, she moves from one mood to another.

In this interview she talked a little bit, you know, one of the wealth of the indigenous communities is the community itself, the support that people give each other. Like that drug and alcohol worker, that older person who helped her slowly turn the pain away from being directed inward. I think that's a community person caring for another community person, not because they are paid to, but because they live together and they value each other. And that is one of the strengths, that's a form of wealth, that is partly why these communities, in spite of the appalling conditions, people stay there. They stay there because of their intergenerational link to that place. They stay there because of the people

around them and the very close ties they have. You know, they stay there because it is where their people have always been.

One of the things, when we look at employment, we say someone will get training and then they will go to the next job. In my home town, Bissett, when the mine closed, most of the miners went to the next job. In most of the resource towns in Canada, when the resource dries up, people go to the next job.

In Aboriginal communities, the work force, the labour force doesn't behave that way. You know, a few people will go off to the next job. Noah has travelled far and wide. He comes back to his communities. There will be generations of people named Spence, named Beardy, named Massan, living in Fox Lake a hundred years from now. They will remember the outcome of this hearing, I can tell you that. They will have lived with whatever the outcome of this hearing and these processes are. And some of them, even if they get certain kinds of what we would consider transferable skills, they are not going to uproot from the place where their ancestors were, the place where they want their great

grandchildren to be, the community support that they have.

And so you know, you can't use a normal kind of labour force analysis when we are talking about Aboriginal training and employment issues, that's one thing I wanted to mention when we talk a little bit about the strength of community.

I want to, I have got -- I keep thinking that I have to ask about this slide.

My last four slides are just some art pictures. When I was in Japan, I was in Tokyo, I went to the National Gallery and I found this painting, this picture is from 1956 and it is called Moth from the Sukama dam series. I have never seen any other pictures from the series, but this is painting, I mean, in a way I feel like, I feel like it might be the kind of the weight that the Commission is bearing here. I mean, partly from all of the documents that you have to look at is going to drive you crazy, but I think it kind of points to the real ethical dilemma we are in. We are like that moth that is drawn to that flame, and we love it, we need it in a certain way, but it can also destroy us.

And I'm a user of hydroelectricity, I use power. I appreciate some of things this great system has built offers. But having seen the impacts on the communities, I also feel a bit tortured like this individual in this painting. And this is -- so it is not unique to Manitoba -- this is an experience of hydroelectric development kind of worldwide.

And you know, I think for those, like I hope all of us have some doubts and some wonders about whether this will actually work. I can't, I wish I could stand up and say, absolutely, what I'm saying is there is no doubt about it. I have doubts. I don't know whether these arrangements are the best possible arrangements and will produce prosperity in these communities well down the road. But you know, I guess I have to share that I think there is a different and a better way.

I will run through these and then I will turn to my sort of recommendations. This was an artist, Guillermo Gomez-Pena, who was a performance artist, one of the greatest living artists, he is one of the Picasso's of our time. He is a performance artist. So he came to

Winnipeg in early November and he did a performance with an acupuncturist -- there is several sites to this performance, but one of his collaborators lays on the table -- performance artists, for some reason, they like nudity, so we have to bear with that. They are artists, they get away with things that the rest of us don't get away. In the body of this person, which represents partly the body of the earth, the pins that are planted in his body are corporations that are destroying the earth. And then under the guidance of the acupuncturist, in a ritual manner, everyone in the audience -- these are some typical Winnipeg art lovers -- they get instructed and they slowly pull out some of the flags that have been planted in the body. And there in the middle -- you know, I never talked to Guillermo before he came and gave his performance. I never really told him about any of the work that I do, I respect his integrity on the artist. I guess he conducts research on the places that he comes to, so Manitoba Hydro does not get a good reputation with artists. And versions of this exhibit will go around the world, because he is a Mexican artist based in San Francisco, and is very popular

right now, and I think a profound thinker and person.

And then I wasn't going to show other artists without having some Manitoba pride, referring of course to this great painting by one of Manitoba's greatest artists, Jackson Beardy, which was used by the interchurch task force on northern flooding, you know, to give kind of a Cree perspective, an art perspective on the impact of Hydro on their communities, on their lands and waters. And I also think still, you know, there is a little cabin at the bottom there, so it is talking about the people as well in this, and I think it is a powerful and great painting, kind of about what has happened.

I want to mostly go through my recommendations in a bit of detail because through them I can touch on other things from my report. But I did want to say, you know, I have some concerns, and I talked about a section in my report, you know, called governance from the outside in. And I'm going to say here publicly, like I was very impressed with the First Nations leadership that sat on the panels that I have seen. These are very capable people who I respect

and, you know, admire in many ways. I think Ted Bland and Mr. Neepin, they were very good, eloquent spokespeople for their people. And they are, I think, admirable leaders. I don't cast any aspersion on them.

I believe they were presented with too few options. That's sort of one issue. I talked to band councillors across the north, when I was in Split Lake I talked to some band councillors. They had never sat in on a workshop about the Peace of the Braves, they had never looked at any alternative models. They were presented with one model and this is the only option that they had. So I think they negotiated the best they could, given what they were presented with.

I asked them about, you know, revenue resource sharing, and a couple of them had never heard those words before, never thought of that as an alternative.

And so, you know, a lot is made of the vote. The vote for the Wuskwatim agreement, as I understand it, had to involve a majority of the citizens. It was a higher standard than the vote standard that was used, and I couldn't get the question clearly answered, but the vote standard

by which the Keeyask agreement was passed was a majority of voters. And one wonders how few voters had to show up for that to be accepted as a legitimate vote.

So, you know, I think that there are some fair questions to ask, given the level of opposition I have seen from kind of a lot of the local leadership in the community, you know, about how much actual, you know, real on the ground support there is for these projects.

And there have been kind of various forms of outside interference. So when I hear my colleague Ivan speak, Ivan Moose, one of the things they talk about is the creation of the municipality was a huge disruption on the ability of the First Nation to manage its lands, to even get land recognized and planned. And you know, it sort of boasted about how Gillam is like the 15th largest municipality in Canada. Well, I would call that a land grab by the local, you know, the regional non-aboriginal authority suddenly gets control of all of this land around where Fox Lake citizens live. They have trouble, they have to go hat in hand to municipality to try to get reserve lands created where their people are living. That

I would call kind of outside interference in local governance.

And you know, in the report I talk a little bit about the predator consultants. And I think this is a kind of a real issue. Sometimes Manitoba Hydro has enabled that, but there are consultants who are by far more concerned with, you know, their own profit structure, I suppose, than the well-being of communities. And I don't mean to insult anybody who is in the room, I know a lot of very good dedicated consultants who put in non-billed hours and really have a concern for the well-being of people. But I also know there are consultants operating who don't operate that way, and who try and create dependency relations. So that will come up in my recommendations. I think that's a serious concern about this sort of capacity of the communities.

So let me then -- I know you heard a lot of information and I don't want to take up too much of your time, and I'm sure things will emerge in questioning, but I will go through my recommendations that are at the end of my report.

And the first one is that no dam be built. I have to respect what Noah and what Jack

Massan and Christine Massan and Tommy are saying to me. They don't want a dam to be built. I believe it is unlikely that will happen, but honestly, I think that would be the best thing. I don't see benefits coming to the community off of this agreement and this dam. I see a lot of very negative immediate impacts, and down the road I see, you know, another part of the river being destroyed and more traplines being destroyed. And for me, those are parts of long term health of the community. Those people who are there 100 years from now, you know, what will they have, how far will they have to go? Will they ever be able to be in tune with the customs, practices and traditions of their ancestors, or will they be unemployed descendants of one generation of wage workers who got to work for Hydro, finished the job, didn't get any permanent jobs, and are just left there without anything.

Honestly, as I showed, those communities untouched by development are better off, in my view, than those communities who are affected by development.

And you know, we might say, well, a lot has been lost for Fox Lake First Nation and

they don't have many choices. I would say still, those last traplines are a very, very precious resource for that community, and I think the integrity of those should be kept. I think we should look elsewhere for our dams, and we should try and help that community keep what it has got.

I asked for a full and exhaustive cumulative impact social and environmental review. It is part of, I wonder about the rush, we are rushing again. We always seem to be rushing to build these dams. And I understand that the cost of certain things are going up and the markets are changing. Right now the markets look bad, and some economists are saying it is going to remain that way for a long time, very respected economists.

So I would say, again, with respect to the developers, if we slow down, if we take the time to actually look at what are the cumulative impacts, both socially and environmentally, and how can we address those, you know, that's a deliberate, cautious and prudent way to proceed, in my view, rather than, you know, rushing into this with, you know, traditional knowledge reports that haven't been properly integrated, with still

work that's undone and, you know, this incredible hurry.

I believe that we should have a political and economic review of agreements. You know, I think the communities should all get together. I would be very curious to know what a vote would be like in a community where you offered them a Peace of the Braves and you offered them a partnership agreement. I think we might have a different kind of outcome.

Honestly, when I look at the conditions in Split Lake, when I look at the conditions of life in Gillam and other Hydro affected communities that I have been to, I think that we have to, as a province, you know, we have to stop and we have to say, all right, let's sit down and talk about this seriously. It took, you know, kind of the Premier of the Province of Quebec saying, let's cut through this Gordian knot. Let's sit down and talk face to face and think about the big issues and see what we can come up with.

So in my report, I just talk briefly about the Peace of the Brave. I could write a whole report for you but, you know, I feel that

you get a lot of paper, so I tried to be as brief as I possibly could in my report. But the Peace of the Braves offered money from the moment it was signed. And the amounts are different, you know, because Quebec, the population, the size of the projects are different. So it was $70 million a year for 50 years, which adds up to $3.5 billion, but it is all Cree communities together. And then it reopens after that 50-year period. It is not like, okay, we are done, now you have got your money, go away and leave us alone. It is like now, in 50 years inflation it will mean that money is less, so the presumption is that they will be getting more and they will negotiate another long term contract.

Whenever I talked to people from Northern Manitoba who have been to the Cree communities in Quebec, I have worked with Cree people from Quebec but I haven't been to their communities. They say it looks like paradise in comparison to their communities. And you know, one of their communities won the United Nations prize for, you know, its architectural innovation. Their communities are show cases that we can proudly show the world, you know, how well they

are doing. I don't think we can do that with any of our communities. And you know, I believe we have a responsibility to try and get there. We have to do better in Manitoba.

I have the little technical thing of changing the word "alter" to the word "diminish" in section 25.1.2 of this or future agreements. You know, our agreements right now say they will not alter Aboriginal or Treaty rights. That's a Treaty right protection clause. The word alter is there to protect Manitoba Hydro basically. It means that we shouldn't look at the agreement as a Treaty, it is not going to add on to their Aboriginal rights. So I think the word should be there to help the Aboriginal community, and it should say this agreement is not intended to diminish Aboriginal rights. And then if we take that language seriously, if we say Aboriginal rights are, you know, customs, practices and traditions that are integral to the distinctive culture, we would start treating that intangible cultural heritage very seriously. We would start looking at the hunters as a precious resource, and think even more seriously and more creatively about what we can do to help them.

I asked during the hearings about Hydro, whether it offered an apology and whether the communities thought it should offer an apology. And the two community representatives who were there both said they thought an apology from Hydro would be useful to them on their healing paths. And I think that is very important.

I recognize, you know, I think an apology can be done without invoking the legal liabilities that prevent us from -- like I think we need to talk people to people a little bit around these issues. And I think an apology should look seriously at what Hydro has done. They should take on board those impacts that are talked about in those reports. You know, you don't just stand up and say you are sorry. You go through the things that your organization has basically been responsible for, you know, in community venues and in feasts and, you know, say something sincerely. If things have changed, then I think you can stand up and say, these are the things that we did wrong in the past, and these are the things we know we have to correct, and we are sorry for the things we did wrong, and we are

sorry for the impact on the communities. I think that would be very important for these communities and for all of the Hydro affected communities. And I think that's the way you start a new relationship. I think without doing that, you are not starting a new relationship, you are just, oh, that was all in the past now, we are better than that now. Well, you haven't proven you are better than that now if you haven't taken that on board. And you take that on board by having to go through those words of saying I'm sorry.

Our Prime Minister, who is probably the last person inclined to do it, had to stand up and said he was sorry for the impact of residential schools. And that's why we know there probably won't be more residential schools, because no Prime Minister likes to have to stand up and do that. I think the same thing needs to happen here.

I am concerned about the training and employment. I am looking at the numbers in the little pamphlet that's out at the back about the Wuskwatim agreement. And you have what I have referred to here as a racially stratified work force. You have of the KCN members, you know, 220

people working as labourers. The next largest category is 150 people working as caterers. All of the other job classifications, very few or no local people.

And the point about a racially stratified work force is that very often, and it is the pattern that we have seen in the Wuskwatim dam, the workers come, they see that they are at the bottom, they are treated like they are at the bottom. It is like living in Gillam, you are a second class citizen. And other workers lord it over you. I have seen that on different projects, the other workers swagger and you are at the bottom. If that's compounded by racial difference, it means you are not going to stick around on the job very much because you have more respect for yourself, if you have respect for yourself, than being treated that way.

So we have a lot of Aboriginal people who will go for work, try and get that employment, try and look after their families, and then will walk away from it because nothing is worth the indignity that they have to suffer. And that's a structural issue. It comes from having a work force where you are at the bottom and everyone

else is at the top.

So, I don't know, if it takes 20 years to train Aboriginal people so they can be wearing the white hats, start building the dam after 20 years. And then you will actually get an Aboriginal work force that stays on the job and that gets the kind of benefits they should be getting from it.

I recommend subsidizing electricity for First Nations Partners. I don't need to belabour the point, but I think if it can be done for Hydro employees, it can be done for First Nations. Just that little thing, I know it will cost money over the long term, but if you can do it for your own employees, it is costing you money there, you can do it for First Nations citizens. And that one thing would help a lot of First Nations people feel like our river at least is giving us power, we can live here a little bit better off and use our money for our children and our families because we don't have to pay such high Hydro bills. Right now they are barely surviving trying to keep the heat going. I think it is unconscionable, you know, that the people whose lands are destroyed have to pay the high

bills in order to be able to live where they want to live.

I suggest in recommendation 8, designing camps that can be turned into sustainable local housing. And I think this might take some. But, you know, if Hydro turned its great engineering ingenuity and strength and capacities into the service of these communities, they could look like the Hydro employee communities. Hydro has the ability to build those communities for its own people. It should turn those services, we should have a period of time where it works on the infrastructure of communities, where it helps them build new schools and medical facilities and housing and roads. If it can do it for its people, I think it can do it for the First Nations people. And you know, the value of that goes beyond which you can put a dollar figure on. But many of these things should be the cost of doing business in the north. If you want to disrupt and destroy traditional Aboriginal life and the traditional sustainable economy, you should step up and pay the real costs of that. The real costs of our low power bills should not be borne by the First Nations people

living in Northern Manitoba. And I don't see any evidence that this pattern is going to change unless we do some serious things. So one of them is thinking about putting Hydro engineering at the services of communities. Thinking of those camps ahead of time, not, okay, we are done the dam, now what are we going to do? Will we bulldoze these trailers to the ground? Will we sell them to communities that might get five more years out of them? It is urgent housing situation. Why don't we design them from the start so they can end up in the communities and some of those infrastructures can go to alleviate, again, what I can't emphasize enough, the extraordinarily critical social problems, many of which are related to housing that are in those communities.

From Dr. McLachlan's report, I learned a little bit, a new term. I only think of the term "river rehabilitation," but he talks about "river reconstruction." I think a part of the cost of doing business is you should be setting aside a little bit of money to allow for river reconstruction. That we should be planning now for the time when we take down those dams, not just to decommission them and leave some hunks of

concrete across the river, but returning the riverbank to its original state as best we can.

You know, the time will come when we say, well, that is too expensive, we don't need this form of electricity anymore, a hundred years from now there will still be people living in those communities. And if we don't start now saving the money, estimating what the cost will be and putting aside that money, we will get there and we won't have the money and we will do it in the poorest possible way.

Because of my concern around the predator consultants, I recommend, and this is more for the First Nations communities, that there is an engagement in periodic reviews of First Nations consultants and legal advisers. You could use the criteria I have suggested or other criteria, but you can step back, hire someone independent, or do it yourself. I think the communities have the capacity, look at relationship with your consultants, and figure out whether you are getting the real kind of help that you need.

One of the things I am concerned about here -- and I have great respect for the legal

teams, I think you are doing an outstanding piece of work, you will show it again in your questioning of me, tearing me to shreds, you know, you are smart people. But also the First Nations' lawyers have been working very close with the Hydro lawyers, so I have to wonder about your ability to aggressively negotiate another deal the next time around.

My recommendation to the communities is, I think you need to hire a different legal team. I know this will be very unpopular, but I think it has to be said that you need a legal team for the next round of negotiations that hasn't developed, you know, such a collaborative working relationship with the legal team from Manitoba Hydro. Which you will be grateful to know, can stay in place since they do their job very well.

So I just think that, you know, the First Nations communities, some of the things that I have seen tell me that, you know, they need some outside, some really independent support in these negotiations, going down the road.

Number 11, I say develop a strategy for protection of Aboriginal women. I think we need some specific things. These things may be

being contemplated already, and if they are, I'm happy about that. And there may be other things that we can do.

You know, I talked a little bit about pornography in the camps, trying to limit how any cleaning person has to see that, especially young women who are cleaning. I talked about a poster campaign and, you know, local walk home programs. I think we have to treat this, when there is going to be these guys driving around. You know, I recommend that the young women of the community be warned ahead of time and have a walk home program like we do on university campuses to protect the young women on campuses from, you know, the people who aren't very good. But I certainly, I didn't see a lot of attention to that. I think, you know, we need to -- I don't want to see another generation of Nancy Beardy's, I guess, is the best way that I can put that. I don't want to have the students that I'm teaching and the next generation come along and have another version of that story told to them. I think we have to try and find a way, hard as it is, to do better.

Just a few more. Identify, find, secure and protect sacred sites. I don't think

enough work and attention, you know, it is not good enough when Dr. Petch, whose work I greatly respect and admire, but when she says, you know, the First Nations communities basically didn't trust us with spiritual information, so they found out about one dam from -- or a bolder from an archival record, and went to find it and couldn't find it. It turns out it is an offering stone that's at the site of Keeyask. Did she talk to local elders when they went to look for it? What other sacred stones and other sacred sites are out there?

My sense of the answers I was getting was there was not a lot of attention paid to that. One of the things in my wide travels that I have observed, in southern Canada where communities don't have the land base to work from, spirituality becomes very, very important as a connection to traditional culture. In northern communities many of the elders are Christians. Spirituality, you know, they know about the traditional spirituality, but they have had the impact of Christianity, but they are not bothered by that because they go out on the land, they know they are practising their culture, they have a

kind of confidence about their knowledge of their culture.

As the ability of people to sustain themselves off the land starts to be eroded by this project, among others in the past effects, I think those, you know, there will be a generation that becomes secular, and then there will be a generation that's not satisfied with being secular and will look back to their spiritual traditions. They won't be interested in Christianity, they will go back to their own spiritual traditions. They will seek out and look for those sites, those boulders, those other sites that, you know, they know that my great grandparents went to for power. And you know, if we find ways of protecting those now, they will be grateful to us. If we destroy them now, we are building another brick in the legacy of hatred.

The destruction that we did as a province to the footprints and to Wasagy (ph) Jack's chair through the first wave of dams, you know, I can't begin to say how much -- that's really a spiritually damaging and destructive thing. And you know, those were powerful, powerful sacred sites that we all knew about. In

fact, because it is Aboriginal spirituality, we treated it almost like paganism and we, you know, we tore out the footprints from their site, put them in the museum, moved them around. We flooded Wasagy Jack's chair. That is, I think that is to our shame as a province. That's not part of our history that I'm proud of, that we can be proud of. I believe we have to take extraordinary measures to make sure we don't do that kind of thing again. And I don't think, from what I have heard in these hearings and from what I have seen in these reports, I don't think that we have put that kind of attention into it. You know, it also may be the case this generation of leaders is not as concerned. But I know for sure that generations down the road, there will be a revitalization of those things, there will be a concern, and they will look back at the decisions that we have made now.

I talked about engaging executive employment training. I wasn't allowed to ask the question. It may be beyond the scope, but I offer it to Manitoba Hydro. I think it is time for an executive training program within the main organization of Aboriginal people. There are a

lot of capable Aboriginal leaders around this province, and I think they should be in the executive board rooms of Hydro. They will have the knowledge of the communities, they will care, they will be able to bring, you know, a weight of knowledge and discourse into the board rooms and planning meetings of Manitoba Hydro. And they will also be examples to their own people, and it will show us that we don't have a racially stratified work force, that from the top we are working to change things. I think the main organization has a responsibility to, you know, if the Canadian Imperial Bank of Commerce can do it, I believe Manitoba Hydro can do it.

Increased mercury monitoring program. I did travel to Japan specifically to look at mercury impacts. And I saw people who were suffering from Minamata disease and, you know, they were struggling to speak, gasping for air as they struggled to speak. I shook hands with those people. They had been stigmatized for a long time. People were worried that it was a contagious disease, they didn't know what it was. So it was important for those people that people like me would come up and shake hands and talk to

them directly, and give them the dignity that they deserves as a human being.

The Japanese Government didn't want to recognize Minamata disease. It knew that that would be expensive. It stayed away from that for a long time. It took a huge campaign, decades before finally the government recognized all of the science was there, and they came around to recognizing this was something that was created by negligence and, you know, had to be dealt with. And you know, eventually they did so.

I think that that's also, you know, when I talked to the Japanese scientists, there was Japanese, Korean, Taiwan, Thailand, Chinese especially, all some of the top people in the world looking at this industrial pollution. And when I showed them the charts for Manitoba Hydro, they said, well, what is a safe level in the waters? It is a huge debate. Most of the scientists were arguing that the levels needed to be lower than what's recognized. What is a tolerable level to be carried by human beings before symptoms start showing up is again a subject of debate. I don't believe in the confidence of our scientists saying we are fine

with this. So I believe we should be testing human beings. It is not expensive. But I suspect when I go up with Dr. Hanada this summer, I am already hearing a lot of people who want to be tested for mercury. I think that we should be, given the already past effects, we should be encouraging that, we should be paying for it, we should be monitoring it. Because the severity is so deeply painful.

And Kennedy's disease, which my friend Mr. Massan has, is often one of the misdiagnosed diseases that could be as a result of mercury contamination. It would be ironic if that's true, but not surprising, because Mr. Massan has lived a land based lifestyle and has eaten a lot of fish in his time. Anyway, I believe we have to take it much more seriously than we are taking it.

And finally, I suggest that if we move on to another dam, at least maybe in that case we could say maybe we need another kind of agreement, maybe for that we could have a Peace of the Brave style arrangement, where they start getting some benefits immediately, so that they can alleviate, you know, we are always told to mix our investment portfolios, maybe we should mix up our financial

arrangements a little bit so that they have one agreement that pays them some money immediately, and another agreement that with luck will pay them some money in the future.

But, if anything, I'm here to tell you, I'm here to speak on behalf of the people. And the social situation in those communities, the ones that I visited, it is dire. In Tataskweyak, I'm thinking right now of young children in Tataskweyak, I'm thinking of young children in Gillam, who are growing and watching their white neighbours prosper, and wondering if it is something wrong with them, if it something wrong with their parents? It is not, it is not something that's wrong with them, it is not something that's wrong with their parents. You know, it is the result of a past legacy that we don't want to continue. And they urgently need help and they can't wait 20 years for help, they need that help right now. That's why I don't like the form of this Partnership agreement. I don't like the community taking the few precious resources that it has, and instead of using it to alleviate the social problem -- and you know, if you knew you were getting money in a few years you

could be spending more of that 19 million in Fox Lake right now. They have to take that money, they have to borrow more, invest it in this project, hope economy gets better. You know, I hope the economy gets better, I hope we can sell to some other markets down there. I hope this dam doesn't cost twice as much to build as projected, because the last dam did. I hope we don't have to borrow more money five years from now. Hope -- you know what, I don't believe that's good enough.

I think we actually should be, if we want to have partnership agreements, we can retroactively make the First Nations partners in the dams that were built, and estimate how much money they would be owed if they were partners, start paying that now by building them proper houses, and by paying attention to the infrastructure that's there, and by caring.

And I guess that's my presentation. I'm sorry to have used your patience so much, but thank you very much.

THE CHAIRMAN: Thank you, Dr. Kulchyski. We will now have the cross-examination of all of the people who have been presented, and presenting on behalf of Fox

Lake Citizens.

Okay. Proponent? Partnership? Who is on first?

MS. SAEED: Hi, my name is Uzma Saeed, and I'm counsel for Fox Lake First Nation -- sorry, not Fox Lake, I'm York Factory First Nations, and I understand that you are the Fox Lake group, I apologize, for York Factory First Nation.

DR. KULCHYSKI: Can you say your name again?

MS. SAEED: It's Uzma Saeed.

DR. KULCHYSKI: Uzma, okay, thanks.

MS. SAEED: My questions are mainly going to be for Dr. McLachlan. And if I speak too fast, I think I have the same problem as Dr. Kulchyski, please let me know, and I will repeat them more slowly.

So, my understanding is that there are 1,100 members at Fox Lake, and of these people, about 500 live in Bird, the Gillam reserve and the Town of Gillam, and the remainder are spread out throughout Manitoba and Canada.

I'm just wondering if you could advise how large the group is for the Concerned Fox Lake

Grassroots Citizens group? I only ask because we have seen a lot of repeat amongst the people in the panel, the quotes that are in your report, and also the videos that have been presented. It seems like a small group. Is it a small group?

DR. McLACHLAN: I can respond, I mean, but it might be better if other people responded. Does the process allow for other people to add information the way that, kind of when Hydro was up, people would kind of share information. Because as I indicated, my involvement has been more recent than most, but I'm happy to respond.

DR. KULCHYSKI: I can respond to that actually. That's a question that should come to me because I have been involved.

I would say it is very small. The people you have seen are the people we worked with. There are other people outside of that network that have come up and indicated support. But we are looking at probably eight and ten people who have been active with us.

MS. SAEED: So essentially the people that we have seen here today?

DR. KULCHYSKI: There are some people who didn't appear in any of the interviews but

that we spoke with or interviewed, but only a couple, so yes.

MS. SAEED: All right. Thank you.

Dr. McLachlan, going back to you, I just want to go through your report. The start of your report you have quite a few quotations from a variety of people. And would you agree with me that when you are using a quotation, you need to be careful to make sure that you have gotten the correct context of that quotation?

DR. McLACHLAN: Generally speaking, yep.

MS. SAEED: Okay. So that way you can correctly give to your reader what the person who actually said the quote meant; fair?

DR. McLACHLAN: For sure.

MS. SAEED: And now if I look at the title of your report, you have part of a quotation that makes up part of your title. It is an interesting quotation, "Deaf in One Ear and Blind in the Other," Science, Aboriginal Traditional Knowledge, and the Implications of Keeyask for the Socio Environment. Of course the quote part is "Deaf in one ear and blind in the other."

DR. McLACHLAN: Right.

MS. SAEED: And that's a quote from Mr. Melvin Cook?

DR. McLACHLAN: It is.

MS. SAEED: And he is from TCN?

DR. McLACHLAN: I know that he participated. I don't even know where he is from, it wasn't identified necessarily.

MS. SAEED: Well, I will advise that he is actually from TCN. And I am assuming you received the quote from reviewing some of the public hearings, correct?

DR. McLACHLAN: Exactly.

MS. SAEED: And this was a Split Lake hearing that this quote actually came from, and that occurred on October 8, 2013. Did you have a chance to read the transcripts on those public hearings in completeness?

DR. McLACHLAN: I did go through many of the transcripts, yes.

MS. SAEED: Okay. And so the context of that quote, and this is one of the things is that the context of the quote is not Mr. Cook actually questioning the Keeyask project, the context actually is a conversation he is having with Mr. Chairman here regarding Aboriginal

rights. And I actually just want to go through it so we can see exactly what he meant. I will read the transcript to you. Mr. Melvin Cook gets up and says:

> "My name is Melvin Cook, I am from Split Lake."

He then says:

> "So, now what do we do?"

The Chairman responds:

> "That was very short indeed, and it is a very profound question that we could spend days, weeks, months even years trying to find an answer to.
>
> What we in the Commission will do is that we will continue to conduct our hearings. As I noted earlier, we go to Cross Lake tomorrow, and then starting in two weeks we have a number of weeks of hearings in the City of Winnipeg. When we will hear from the Partnership, members of the Partnership, we will hear from a number of participant groups, some of which are based in communities, First Nations communities in the north.

They will be coming into Winnipeg and speaking more about their views on this project. At the end of that, we think that those hearings will end in early December, then the Commissioners will spend a number of days and weeks coming to some decisions and recommendations that we will send to the Minister. We heard a lot of very interesting and very well thought out presentations today, covered a lot of very important topics. I suppose the top off the list is just the water, and the state of the water. And we heard from at least one, if not more, that water is really the daily source of life. And we all know that."

Mr. Melvin cook then says:

"I have a question for you, sir. Do we as First Nation people have water rights?"

The chairman responds:

"You know, I couldn't answer that."

Mr. Melvin Cook then says:

"I know you can't."

The chairman then responds:

"I honestly don't know, but the issue of Aboriginal rights, and First Nation people certainly have Aboriginal and Treaty rights, and considerations on how this project or any other project that needs licensing, but we are talking about Keeyask now. Considerations on how the Keeyask project might affect those Aboriginal and Treaty rights must be canvassed and dealt with by the government before a licence is issued. But that job has not been given to this Commission. That job is handled by another branch of government, and that is actually a constitutional requirement under section 35 of the Constitution, that those issues must be at least canvassed and addressed to some extent."

Mr. Melvin cook then responds:

"I have learned that people can be deaf in one ear and blind in the other."

To which the chairman responds:

"You may well be right...",

and then goes on.

It doesn't seem that Mr. Cook is actually opposed to the dam, he is asking a question about Aboriginal and Treaty rights, which is being responded to in a conversation. But to make that the title of your report and to refer to it again in the body, would you not say is taking that quote out of context somewhat?

DR. McLACHLAN: In fact, I'm glad you read me the whole quote, because I think it actually supports what I'm saying. Because to me he is speaking about something that is disconnected, that's in silos where you have Aboriginal rights that he thinks should be on the table, and he is being told that it belongs in a different silo, and that we are only about Keeyask. And in fact, he is questioning that by saying, you know, that the process isn't responsive to him. And actually that is something that, I'm sure you have read the report and you know that I spoke directly to that, the process is not a meaningful one, often it is problematic, that has all sorts of shortcomings.

And I think, number one, that that quote does reflect that. Number two, you know, it is not about the pros and the cons. My whole point through all of this was making room for different knowledge systems to interplay and not letting the western dominated style of decision making sabotage something that might benefit the community, but might also hurt the community and the environment.

So, ultimately, I would say for both those reasons that the quote is appropriately used.

MS. SAEED: Have you seen the video Our Voices prior to writing your report?

DR. McLACHLAN: Absolutely, I did. And in fact, I had screen shots from all of it throughout my presentation.

MS. SAEED: Okay. And in that, Mr. Melvin Cook also appears where he voices his support of the dam. He actually has a quote in there that says:

"We know that there will be damage but we tried to limit that damage. Our elders stood firm in our decision making and we stood behind them on

what should be done at the Keeyask dam. They were going to flood much more land and we didn't want that because of our association with the stewardship of the land and the care of the animals as well."

And he has worked, my understanding, I'm told by the Partnership, and he is a supporter of this project.

DR. McLACHLAN: Absolutely. And actually I was not very interested in whether people were supporters or opponents to the dam. I was just strictly looking for what they said, and looking for meaning. And in fact, you will see in my report many supporters of the dam who talk about how difficult the process was, the heavy hearts that they had in moving forward. And to me, having a report that has both proponents and critics of the dam together, gives it more meaning.

And so thank you for pointing that out, because I think it reflects well on the report actually.

MS. SAEED: Okay.

You indicated in your presentation

that you have not visited any of the impacted or affected communities, any of the partner communities; is that correct?

DR. McLACHLAN: Yes, that is correct.

MS. SAEED: And you also advise that most of your information is coming from reading the public hearing transcripts, hearings that I'm assuming you started reading the transcripts from late September, early October of this year, and also from speaking to a few people. And you said, I'm just quoting, you said, I spoke to Noah, Ivan and Tommy, at the start of your presentation. Is this where most of your information is coming from?

DR. McLACHLAN: And the majority of it actually came from the scientific reports from Hydro as well, but together --

MS. SAEED: Sorry, go ahead.

DR. McLACHLAN: Together, but I would say that I have had the privilege of having extended conversations with the people within our group. And then I read through whatever documentation I was able to, mostly comprising the public hearings for sure, but anything else that seemed germane.

MS. SAEED: When did you first become involved with this process?

DR. McLACHLAN: I certainly knew of it and became involved in late September, early October.

MS. SAEED: Of 2013?

DR. McLACHLAN: Yeah.

MS. SAEED: Okay. And you have had the opportunity to read all of the documents. Have you read the entire EIS?

DR. McLACHLAN: No. I said explicitly in my presentation that -- I focused most of my analysis on the terrestrial components, because that's where I have most of my own expertise. But certainly, as I indicated, my thinking was in place. And as I read things and continue to read things, even last night, it just -- so, if you will see, my presentation had quotations that weren't in the report that I've submitted, just because I have read, I have incorporated, and if anything, it is just affirmed what I have been saying.

MS. SAEED: But you personally haven't been involved over the past decade while negotiations and talks of Keeyask have been going

on between Manitoba Hydro and the First Nation partners? You just came on more recently on to this?

DR. McLACHLAN: Yes, that's the case. I mean, as I say, I have much experience working with Hydro development in terms other projects, and some of which are in Manitoba, but certainly in this case it is a recent involvement.

MS. SAEED: Certainly, I'm not questioning your background or anything along that line, I'm simply just asking right now what your involvement with this project was. And it is recent, to be fair, September, October?

DR. McLACHLAN: Yes.

MS. SAEED: You do refer to Hydro reports throughout your document. And I just want to clarify that you are referring to the partnership reports, correct, which are the response to EIS guidelines, those documents are not Hydro documents, they are the documents of the Keeyask Hydropower Limited Partnership. So we are referring to the same thing.

DR. McLACHLAN: I think through my analysis I argued, you may disagree, that there are two tracks. So when I speak to the Hydro

track, I'm speaking to the science and technical based information, which frankly the only people that I have heard explicitly talk to thus far have been kind of Hydro, or Hydro consultants.

MS. SAEED: So, the response to EIS guidelines, you do know that the EIS itself, the four First Nation partners did have final review and final say on the EIS? Did you know that?

DR. McLACHLAN: Again, I do know that that's what is claimed. Some of the comments that I encountered through the public hearings, I referred to it as a shortened, truncated process. I know much of the language is very technical and scientific, and there were lots of comments just about how inclusive the engagement and consultation process was. But that is something that is claimed for sure.

MS. SAEED: Well, you talk about the process, on page 5 of your report you actually state, and I'm quoting you:

"Consultation was in at least some cases rushed and did not provide community members adequate time to make sense of technical information, much less respond."

But did you know that this consultation has been going on for over ten years, around 12 is what I have been told, certainly over a decade?

DR. McLACHLAN: Again, depending on the different components, I know that some of the components have been coming out very recently in terms of April and June of this year. And so, of course, I do know that other processes have been ongoing. And so I don't see them as precluding one another. I'm sure that engagement of some sort has been long term and ongoing, and others have been much shorter and truncated.

MS. SAEED: Did you know that it took nine years for the Joint Keeyask Development Agreement to be negotiated, a nine-year process for one agreement?

DR. McLACHLAN: That's great. I didn't know, and that's great, and that reflects well on that part of the process.

MS. SAEED: Now, on page 6 of your report, which is the very next page after the quote I read you, you also have another line which is:

"People also commented on the endless number of meetings and workshops where

concerns often went unaddressed, agendas were often set ahead of time, with little or no community input, and where these under attended meetings were often passed off as adequate consultation."

Now, the page before you said things were quite rushed. The next page you say were quite slow and there was an endless number of meetings. They seem to be in conflict with one another. If there is an endless number of meetings, certainly there is some effort, wouldn't you agree, to have consultation, to meet people? Whether or not they were properly attended, there was certainly some effort there to get community involvement. Would you agree with that?

DR. McLACHLAN: Yes. Again, it is a multi tier process, and I don't see them as being mutually exclusive. You can have many meetings that virtually no people attend, or you can have one meeting that many, many people attend.

Again, as I indicated in my presentation, I didn't see any convincing data that showed who attended and what different interests they represented. Certainly, what I

heard again and again through, and if you have read through the public hearings, you yourself know this, is that many people found the quality of the consultation to be inadequate and, in fact, people weren't involved in meaningful ways, their ideas weren't listened to.

So I think it is a very complex process. I don't see those as being mutually exclusive. You can have something that is ongoing. I think it reflects well on Hydro that they had consultation at all, but should we accept that? I would see that as a very low bar, just having meetings.

MS. SAEED: Okay.

You also state in your report at various points that you would feel, from reviewing the documents, that western science superceded Aboriginal traditional knowledge, ATK, and that ATK was not properly represented, that the western science took precedence.

Now, I'm not sure if you know this, but ATK oftentimes, from the very start of this process, from what I'm told, guided the scientists. And I'm going to give you a couple of examples and just let me know if you knew about

this prior to writing your report.

I'm told that it was ATK and the First Nations Partners, and elders of the First Nations, who advised scientists where to look for the sturgeon, that scientists didn't know, they went up there, they sought out Aboriginal traditional knowledge, and they went looking in those areas. Scientists also received advice from elders who advised them where caribou were on the islands. This was something that was not known to the people who went up there.

So throughout the process from the beginning, what I'm told is that ATK did have an input and did guide the western science.

Did you know about this prior to writing your report?

DR. McLACHLAN: Absolutely, and I think it is great that it happened in bits and pieces, stops and starts. Certainly, I quote an example of, I think it is Noah who kind of pointed out where some calving habitat for caribou was, and then the consultants went out with their cameras and were excited to take part in that. I would say, as someone who has vested most of his career in collaborative science, again, that's a

first step, but it is only one of many, many steps. And so they could have gone much further. They could have made it much more explicit. I gather from what I've read and, again, I haven't read everything, is that the questions were often set ahead of time by scientists, and they needed local knowledge in the absence of information to focus their questioning. But the priorities, you know, the agendas were all set as scientific beforehand.

And then I also pointed out, I think in my report, especially around the mammals, is when in some of the cases where some -- very, very few cases where there was actually explicit mention of that traditional knowledge within the report, that it was second guessed and ultimately undermined by that scientist who was writing up the report.

So, again, it is a multi tier complex process. I spoke to some of it. I couldn't have spoken to anything -- but ultimately at the end of the day that process I saw as wanting.

MS. SAEED: You've pointed out, or made an issue of plants. And you basically have said that elders weren't consulted regarding what

are important plants, culturally important plants for food or medicinal purposes.

DR. McLACHLAN: Sorry, I don't think that I said that.

MS. SAEED: I thought -- maybe I misunderstood -- were you saying that they were consulted properly?

DR. McLACHLAN: I pointed out today to the traditional workshop where, in fact, there was that engagement, but it was run by a Hydro employee, it was chaired by a Hydro employee, objectives ostensibly were set by a Hydro employee. There were two consultants that came from outside, botanists effectively, or plant ecologists, who were hired by Hydro.

So, at first glance, yes, it is consultation. But the quality of consultation, again, I would say is wanting and can be criticized as being inadequate.

Again, that's all from my arm's length perspective and I wasn't there, and I would be happy to find out that this wasn't, didn't characterize all the consultations, didn't characterize all of the engagement. But certainly in that case that you brought up plants, and the

consultation did happen, but York Factory refused to do any of the mapping exercises, ostensibly because they didn't find the process to be adequate.

MS. SAEED: Well, I have a few questions that come out of that. First of all, there was more than one workshop, you probably know that there were four. Did you know that the workshop, it was the Cree who asked Hydro to chair it? It wasn't a situation where Hydro forced themselves upon it, they were requested to chair it.

DR. McLACHLAN: That's great, I didn't know that. But, again, it doesn't change necessarily very much.

MS. SAEED: You talk about rat root or wihkis in your presentation a little bit. Did you know that the Aboriginal traditional knowledge that was given by the elders to the scientists was in that project footprint area, there was no rat root? That was what they were told by the elders.

DR. McLACHLAN: That's fine, but the sampling that I referred to was not restricted to the project site. In fact, you know, they found no rat root populations. And when you look at the

size of the, you know, the sampling zone, I would be astonished if there were no rat root populations in the larger region that they were examining.

MS. SAEED: Well, but in the footprint, the project footprint region which was what the focus was at the time, the information that Hydro received, I'm told anyways was through Aboriginal traditional knowledge, was that there was no rat root there. But if it is in larger areas, I'm not here to comment on that, I am not a scientist myself.

You just made a comment about York Factory not participating in the mapping activities. I have been told that York Factory actually did attend. They were invited to attend, and they did participate. They chose not to do the mapping, but they were there and they were participating. They chose to speak during that time as compared to actually doing a map.

DR. McLACHLAN: Absolutely. And so I don't deny that, but they didn't participate in the mapping exercise. Who knows, I haven't spoken to anybody, why. But to me as someone who does a lot of this kind of work, that would be a red flag

and perhaps indicates that there is a problem with the process if one of the three groups refuses to participate in a mapping exercise, which is fundamental for the collecting the kind of information that in this case Hydro was interested in collecting.

MS. SAEED: Now, the technical reports, the EIS or the response to EIS guidelines, which are the Partnership reports, but you have kind of referred to them as Hydro reports. They are draft in a certain way as far as sections and chapters that focus on certain areas. And I'm assuming that you know this, but they are drafted that way due to regulatory requirements?

DR. McLACHLAN: Absolutely.

MS. SAEED: And that the proponent, which includes the four partners, the four First Nations Partners, must respond to these guidelines in order to get a licence, and that certain questions must be answered. You do know that, correct?

DR. McLACHLAN: So I also in my report indicated that that points to a shortcoming of the CEA in that it demands scientific basis approaches

to regulation. We are not restricted to that. We can have, number one, science that engages with traditional knowledge the way that I suggested. And two, we can have science that's conducted by communities for communities, that then gets reflected in the process. And I saw very little of either of those occurring.

MS. SAEED: Now, you speak about VECs and how the VECs were chosen. Basically, my understanding, and you can correct me if I'm wrong, is that you are saying that the First Nation communities were not properly involved in choosing of the VECs?

DR. McLACHLAN: No, I don't think I said that. What I said is that, at the end of the day when you look at the selection of the VECs, that there were none that represented only ATK priorities. And so it is a question mark for me how meaningfully involved they were.

Certainly, I found at least one remark pointing out to the shortcoming of the VEC process in saying that it didn't adequately reflect kind of Cree worldview. But outside of that, I can't really speak to the details of that engagement, no.

MS. SAEED: But speaking of the Cree worldview, isn't it contrary to the Cree worldview to be choosing certain elements of the environment and to focus on those? I thought it was more of a holistic worldview?

DR. McLACHLAN: Again, it depends how it was presented. If it was me, I would spend time within the community asking what species that people used most extensively, whether they would like to see the cumulative impact evaluations occur with those species. And perhaps those might be ones like wihkis that have no kind of larger ecosystem function, no regulatory significance, but just represent community priorities. And if the question was presented that way, I think you would have a lot of engagement and you would have species coming out, you know, like the fur bearers, for example, that are pretty much excluded from the VEC process, that people's livelihoods are dependent upon and species that they would like to see those cumulative impact evaluations undertaken on as well.

MS. SAEED: Okay. I'm going to ask you a few questions, and some of these questions are about the individuals that you quoted, and

actually I'm going to ask you some questions about Mr. Massan. I know he is sitting next to you, but I'm only asking you about what you knew prior to writing your report, and if you had this information. I'm just trying for -- you know, I am just trying to find out what you knew prior to writing your report.

Did you know that -- now, Mr. Massan, I should state, has been quoted several times in your report, about eight times. He has appeared here today and has spoken yesterday.

Did you know prior to writing your report that Mr. Massan himself had extensive involvement with this process? He has been involved for years and has known what has been going on and has been consulted by Manitoba Hydro. Did you know about that involvement?

DR. McLACHLAN: Yes, I did, and I would feel more comfortable if he was able to respond to his involvement rather than me. That seems appropriate.

MS. SAEED: I'm just asking if you knew that there was involvement?

DR. McLACHLAN: Yes.

MS. SAEED: Yes.

DR. McLACHLAN: Which makes sense because it is his trapline which is kind of going to be subject to the primary adverse impacts of this Keeyask dam.

That said, I know he has been also very frustrated by the process, from the beginning to end as well. So, yes, I do know he was involved.

MS. SAEED: Fair enough.

I'm actually going to ask you about something else. You mentioned in your report, at page 39 actually, that there is a disparity between, I guess what you are saying is the participants and the proponent. And you talk about budgets, et cetera, of how much money people have to spend in this process. And you actually use a term that the participants present today are operating on shoestring budgets.

Did you know that the funding for this project, in order to get it for the participants, they were to provide a work plan and budget and ask for a certain amount of money. Did you know how that's how the funding came through?

DR. McLACHLAN: Absolutely, I do. I also know, or I have heard, I haven't visited, but

I heard of this room downstairs full of Hydro employees that vet every word that's spoken up here, that I have heard stories about how kind of ways that people respond should be -- is communicated from the room, we call it the war room downstairs. And we have no such war room of our own.

MS. SAEED: But you do know that how you get the money is you put forward a work plan and budget, correct?

DR. McLACHLAN: Absolutely.

MS. SAEED: Okay. Did you know that concerned Fox Lake Grassroots Citizens group actually received more money than they even requested?

DR. McLACHLAN: Sorry, can you repeat that again? I can't multi-task at all.

MS. SAEED: That's totally fine, I can't either, so I understand.

Did you know, prior to writing your report, that the Concerned Fox Lake Grassroots Citizens group --

THE CHAIRMAN: Can I ask the relevance of that question?

MS. SAEED: Yes. There is an argument

in the report that says that these sides are not equally weighted, that the proponent has larger budget and, therefore, has the better ability to represent themselves in this process.

And all I'm trying to get is that there is a method for funding for all of these groups, and if they request an amount -- they are responsible for requesting the amount they think they need to properly represent themselves.

THE CHAIRMAN: I am very well aware of the process. I still don't understand the relevance of it.

MS. SAEED: I will move on to a different question.

DR. McLACHLAN: Can I respond in one way since the question was asked, Mr. Chairman?

THE CHAIRMAN: If you wish.

DR. McLACHLAN: I know that Agnes asked for additional funds to pay for, what is it four times, three times, how many -- three times, three additional times, and those funds weren't made available. So, certainly, the comment rests standing.

MS. SAEED: At page 26 you discuss, or you give some recommendations, and you indicate

that restoration, a recommendation regarding restoration you state:

> "Another reproach, especially relevant to Keeyask, given that the involvement of the First Nations partners is to ground this restoration within a larger process of social assessment whereby affected communities are involved in goal setting and the evaluation of socio environmental problems, the conducting of these restoration activities, as well as evaluation of any underlying causes and possible solutions."

It is a good recommendation, and actually I'm not sure if you know, but there was a letter that went out on October 17th of this year from Manitoba Hydro, and it actually has already been filed as, I believe it is KHLP exhibit number, exhibit 70, which basically goes along with your recommendation saying that we all need to work together. I don't know if you have had a chance to see it. I have a copy for you if you would like to look at it.

DR. McLACHLAN: Sure, I'm happy to see

it. And now, again, I've indicated all the way through I am interested in this three-track approach. And if the communities are involved in generating the science, as well as providing the ATK, that would make me even happier. But certainly the letter is a step, and I would be interested in seeing the outcome of that. But that in itself is -- it is important if it is something that is directed by the affected communities as opposed to something that is directed by Manitoba Hydro or the consultants. And I don't know if any of that information or the process by which the priority setting and the actions that are conducted will be undertaken, as reflected in that letter, because I haven't seen it. But that's certainly a step in the right direction and I'm happy to see that.

MS. SAEED: Well, as I said, I don't have an issue with letting you -- we have copies here for you to see it.

DR. McLACHLAN: Wonderful, I would love to see it.

MS. SAEED: Maybe what I will do, it might help, is I can read in part of the letter so we can see if you agree with the approach that

they are taking.

DR. McLACHLAN: Okay.

MS. SAEED: As I stated, this was a letter to the four Partner First Nations:

"The Keeyask Hydropower Limited Partnership and Manitoba Hydro as a general partner are committed to ensuring that the environmental protection program for the Keeyask Generating Station is comprehensive, substantial, and respectful of the importance of both Aboriginal traditional knowledge and western science. In order to do so, the KHLP recognizes the need to work together as partners, gathering, sharing, utilizing and applying ATK and western science in the ongoing planning, development, operation and stewardship of Keeyask. There is a reciprocal commitment among the partners to work collaboratively with the necessary support and financial resources to ensure that the project effects, anticipated and unanticipated, are

understood, mitigated and managed. Without abrogating any existing rights or agreements, it is recognized that each of the Keeyask Cree Nations has a role and responsibility in relation to the environmental protection program for the Keeyask project. Each of the KCNs will develop and implement community specific monitoring programs. It is understood that in giving their support to the Keeyask project and the EIS that the Keeyask Cree Nations are relying upon these programs having meaningful support and reasonable funding from the Keeyask Partnership."

It goes on to state:

"This letter will confirm our agreement on behalf of KHLP and on behalf of Manitoba Hydro to the following: We shall provide reasonable funding during the life of the project to each KCN for the development and implementation of a community specific monitoring program,

consistent with the statements contained in the response to EIS guidelines and relevant to the current phase of the project. We shall respond meaningfully to information and recommendations arising from the ATK monitoring program reports and ensure that the information and recommendations are given equal weight to western science and decisions made regarding the KHLP's environmental protection program, consistent with the provisions of chapter 8 of the response to EIS guidelines, and any conditions or relevant licences and authorizations. It is acknowledged that it will be beneficial to all parties if the KCNs and their respective elders and other KCN knowledge holders are able to collaborate with one another sharing the methods, observations and findings of the respective monitoring programs and making joint reports and recommendations based upon the

information derived therefrom. We agree that in addition to participating with and providing reasonable funding to each KCN with respect to their respective monitoring programs, we will participate in and reasonable fund each KCN's participation in a process to develop a mechanism satisfactory to all KCNs by which they can collaborate on monitoring and resolve conflicts and disputes that may arise with respect to such programs."

And it goes on. But that is essentially what you are recommending, correct? It seems to be in line with what you are recommending, the collaborative process?

DR. McLACHLAN: It is. Again, I saw a lot of the same language reflected in the draft plan for the monitoring to take place. There was nothing in either the mitigation or the rehabilitation plan, as I showed, it was just a paragraph, so there was an absence of that kind of information.

Again, without being able to get into

detail, but I heard what you said, it seems to me a lot of the responsibility and the actions on the part of the Partner Cree Nations is really around the ATK, which of course is appropriate and important. But that's not -- that's still a two-track model. So what I have advocated all the way through is there has to be kind of an equitable balance and ideally cross-cultural approach where the science gets to merge and to be strengthened by the ATK. And if that information is only being passed up the chain to say, kind of decision-making bodies that are trained in western science, then I would see that as a problem.

So there is nothing in that document that you just read out that indicates that it will be an equitable process, or how disagreements will be resolved if they occur, how contradictory observations will be reconciled between science and ATK, or for that matter, how communities, as I have kind of argued in my recommendations, if they are interested in further developing capacity and science based monitoring, how that might unfold and -- but in and of itself, it is an indication that there is potential there. It is not all that different from the documents that I was quite

critical of in my presentation and in my report.

And so I appreciate that the process is only beginning, and we might be all surprised by how positive and productive it is. But at this point there is nothing that indicates that, again, it is tangibly different from anything else that I have seen. And so, yes, it is a first step, but I guess we just have to wait and see.

MS. SAEED: Okay.

MR. MOOSE: That document that you are talking about, it is a draft for what?

MS. SAEED: No, it has been sent.

MR. MOOSE: Is that the draft you just came up with from all the nine years that we have been negotiating, you finally come up with something, or is that what you saying took you nine years?

THE CHAIRMAN: Mr. Moose, it was a letter that was put into evidence, I can't remember, a week or two or three ago, in these hearings.

MR. MOOSE: But it seems like it is a draft that they are willing to move forward. All I'm asking is, it took nine years to get that?

THE CHAIRMAN: Agnes will have a copy

of it.

MR. MOOSE: I am just wondering why it took so long.

DR. McLACHLAN: I have heard this kind of thinking characterized as a plan to have a plan. And if we can find solace in having a plan to have a plan, I guess it is a good thing.

MS. SAEED: I don't know if you were here for all of the hearings, but Victor Spence had testified earlier that there will be training programs that will develop, that are going to be developed for the Cree that will ultimately allow the Cree to do a lot of their own monitoring. Did you know about that, or did you read about that?

DR. McLACHLAN: I have. The question would be, is that only ATK? And absolutely that's essential, important, but does it also involve science to allow for that cross-cultural third track process?

MS. SAEED: I can probably answer that. It is not -- what he testified to was that it was not just for the ATK, but also for the western science component. So the Cree would be monitoring everything. That's the goal. I'm not saying it happened, I'm saying that the goal is

there will be training programs put in place so that can be done. Did you know about that?

DR. McLACHLAN: I did not know about the science component. Again, I think we can all acknowledge that it is very early in the process, and if it unfolds the way that people hope, and if there are tangible benefits for community members in the kinds of ways that Ivan Moose was kind of speaking about as being more or less absent from previous projects, that would be great. And I would welcome the opportunity to see that unfold.

MS. SAEED: Okay.

Now, you yourself, Dr. McLachlan, are a professor at the University of Manitoba and you work at the environmental conservation lab?

DR. McLACHLAN: Exactly, yeah.

MS. SAEED: Now, in your position as a professor, and with your educational background, I would assume that sometimes you are approached by individuals, groups, I don't know, maybe companies, and asked for your professional opinion?

DR. McLACHLAN: Absolutely.

MS. SAEED: And I'm assuming that sometimes, I don't know if all of the time, but

sometimes you might be paid for providing this professional opinion?

DR. McLACHLAN: Very, very occasionally, yes.

MS. SAEED: Fair enough. Other times you simply just provide the opinion?

DR. McLACHLAN: The huge majority, 99.9 -- I don't know if Peter can agree with this, but it is very rare that I get paid.

MS. SAEED: That's fair enough. And I am assuming that regardless of whether on those rare occasions you get paid, which as you are testifying the majority of time you don't get paid, it doesn't matter, your professional opinion is your professional opinion, it is not going to be affected by who you are working for or who pays you?

DR. McLACHLAN: I'm careful with that for the most part. I don't accept industry funding because of the problems around that. The literature and my own experiences show that who funds the project often influences the outcomes of the project.

That said, I'm happy when the community funds projects that I'm involved in, and

certainly I'm involved in a lot of advocacy research that supports what I see as being under-represented and marginalized voices.

MS. SAEED: All right. Fair.

Even when you are not being paid, let's just go with the situation that you are not being paid, when you are providing an opinion, you usually have some form of engagement in the sense that someone has come to you and asked you to give an opinion? You are working with a group in general?

DR. McLACHLAN: Most of the work that I'm involved in is longstanding, kind of close and supportive collaborative relationships. And so I'm, myself as a professional, I'm more involved in that kind of work than I am with providing expertise generally in a wide diversity and number of cases. Even though occasionally it does come up, yeah.

MS. SAEED: But I'm assuming that regardless of this situation that you are working for, be it that you are involved in a collaborative or a long-term commitment group, your opinion would be your professional opinion based on your knowledge, education, it would be an

unbiased opinion?

DR. McLACHLAN: No. I'm involved in advocacy research, so I support the goals and the missions of the people that I work with. And I'm interested in ways that that information can be at once credible and peer-reviewed, and help support these groups that I work with? And so you used the term unbiased, and we could spend hours and hours talking about what that means and whether anybody is unbiased. But I think as long as you make explicit kind of what the intent of the research, credible research can be advocacy based and kind of work towards biased ends.

MS. SAEED: So -- and maybe I'm misunderstanding, but are you saying that sometimes your research or your opinion that you give is biased, because you are influenced by the group that you are working with?

DR. McLACHLAN: No, no, it has got to be defensible. You know, I will provide, much like the consultants that work with Hydro, I will provide information that's constructed in a way that it can be used more effectively by the groups that I'm working with and working for.

MS. SAEED: But the information would

be truthful and correct?

DR. McLACHLAN: Absolutely. And you know, if it can simultaneously serve those communities' needs and priorities, and be peer-reviewed, again, by my peers, then that's great, that's important.

MS. SAEED: Okay. In the present situation, would the opinion, the report that you gave, would that be something that you say has been influenced by your involvement with the Fox Lake group that you are here with?

DR. McLACHLAN: Absolutely. I care about the people that I've met that said, as I've indicated through my report, I have kind of quoted people who are explicitly kind of championing this project, and so I don't see them as working at cross-purposes at all.

MS. SAEED: Okay. Now, you make comments in your report regarding the people who worked on this project, specifically some of the professionals, the consultants, the scientists, the social scientists who provided work. And you say the issue is that they are either hired by someone, or that they are employed by Hydro. So you are basically saying that they are biased

because of that?

DR. McLACHLAN: I'm saying that in the absence of any other information, if all of the funding is coming from Hydro, then that's problematic. And that's why ideally you have an equal amount of information that's coming from the other interests that are at play that reflect their priorities and -- but, again, as I said, I don't see that as happening because of the disparity and resources that are available. You know, 99 per cent of the scientific information that I have encountered thus far has been either generated by Manitoba Hydro employees or by the consultants that Manitoba Hydro hires. And so, it is -- it becomes biased if there is an absence of balance. And I guess I'm pointing that out.

MS. SAEED: So these consultants, which some were employees of Manitoba Hydro, some are hired by either one of the Partnership to do work, these would be independent individuals that are hired or independent companies, you are basically accusing them of being biased, or potentially being biased in your report, because of who their employment is through, or because of who their funding is. Do you have any actual

evidence or proof that there is bias in their work?

DR. McLACHLAN: No. Sorry, I think you are mischaracterizing what I'm saying. I'm saying that there is an imbalance that takes place when 99 per cent of the resources come from Hydro to support Hydro actions, if in the absence of science in this case, or perhaps other kinds of advocacy research that's being done for another, for other actors that are involved. So I'm not saying that these people are bad scientists. I'm just saying that that's the nature of the funding cycle. And as I indicated in my report, that's why most academic medical journals require that people who are funded by industry, for example, around medical research, indicate the nature of their funding. Because studies, what we call meta analysis have shown that everything else being equal, if you are funded by a proponent, that you are more than likely to come up with results that are supportive of that proponent than otherwise.

You know, I know of some of the scientists. I do know, for example, that if I was a scientist working, as a tangible example, around the sweet flag or the wihkis example, that if I

was working for communities and for elders within those communities who wanted to document the nature of the impacts, if any, on those medicines, you know, on those populations of priority plants, as the project calls them, that I would have had a very different design, and a defensible design, that would have tracked that. And so I think at some point it does make a difference where your funding comes from. In the end of the day, if science is science, and we can agree to disagree, but I do think it is important.

MS. SAEED: Just to go back to my original question, though, you use the term, you know, I think the funding can affect, I think -- I'm just wondering in this situation, you are implying that there is over 150 people that worked on this project, okay, and a lot of them are professional who are bound by their own code of ethics which says that regardless of your employment, you must give honest and correct opinions. I know the engineers have these. I have actually seen their code of conduct that's referenced.

Do you have any proof, any material evidence, any solid facts to show that any of

these people were willing to put their own integrity and their own reputation at risk by providing, I don't know if you want to call it biased or influenced or incorrect reports? The statements that you are making seem to imply that that's what they have done.

DR. McLACHLAN: Again, I'm not saying that they are bad scientists, I mean, some of them I work with and I know are good scientists. But I think the reality, and that's why you have arm's length research, why you have independent research, that's why I -- I knew if someone could argue, because I get my funding from all of the three of the government tri-councils that my funding is biased towards government, you know, but thankfully it is an arm's length relationship, it is not an overseeing body. I have the privilege of being a professor that I have tenure and I have academic freedom that is written. So I can follow the questions wherever they take me. So that's one thing, I think the leash, if I have -- the credibility leash that I have is a lot longer than most people who work for industry or directly for government. And there are lots of examples how that takes place.

The other thing that I spoke to in the report that I think is important is that it is also, if you like, an optics issue or a credibility issue. If communities question the validity of the science because they see this cozy relationship between consultants and Manitoba Hydro, for example, then it doesn't matter how good the science is if people question it, fundamentally, because they see it as being biased. Then that's a problem. And so that's why I suggested in my report that it would be good somewhere in the process to have an arm's length body made up of multiple stakeholders that could oversee research that was then seen as being unbiased. So for me, those are the two intertwined issues. But I would never question the ethics or the values of any of the individual scientists that are in play here.

THE CHAIRMAN: Ms. Saeed, it is past time for an afternoon break. If you have just one or two questions left, we will continue. If not, we will take a break now and --

MS. SAEED: I have actually just three questions left, which can be combined into two, which shouldn't take me very long.

THE CHAIRMAN: Let's finish off.

DR. McLACHLAN: I will try and keep my responses curt as well.

MS. SAEED: All right. So these are the final few questions.

You would agree with me that the First Nation Partners here are both proponents of the project, and they are also very affected by the project because it is in their community; correct?

DR. McLACHLAN: Absolutely.

MS. SAEED: And would you agree that the First Nations Partners, because of the nature of this project and where it is, are deeply vested in the interests of avoidance mitigation remediation and rehabilitation of the project side effects?

DR. McLACHLAN: Yes, I agree with that premise.

MS. SAEED: So they would, in theory, you would agree with me, try to take steps to make sure that their interests are protected?

DR. McLACHLAN: To the degree that they are able. Again, throughout the report I've talked about the privileging of science, which is firmly grounded, as I see it, in the interests and

priorities of the majority proponent, majority interest proponent, Manitoba Hydro. And so I don't know to what degree the communities are able to influence decision making and priority setting around impact evaluation, especially as it relates to science. But in an ideal world, I agree that they are most vested because they pay the ultimate price, as we have shown again and again over the last two days.

MS. SAEED: Okay. And hopefully, this is supposed to be my final question, so I am hoping that nothing you say makes me ask anything else.

So at page 39 of your report, you say that the First Nation Partners are not at the main table where the most influential decision makers sit. I just wanted to clarify, looking at this, this is a partnership, there is one table, it includes the four First Nation Partners and Manitoba Hydro. It is a partnership.

So what exactly, I mean, I just want to make sure that you do understand that this is a partnership when you make that comment?

DR. McLACHLAN: Again, if the veneer of the situation indicates that it is an equitable

partnership, and if it is, if the veneer is actually substantial enough to bear the weight of that, then I'm happy. Everything that I found, and as I continued reading, kind of indicated that not only is the science privileged in its position, but Manitoba Hydro in terms of having 75 per cent, I think, of the interest and the influence is also privileged in its influence, and that worries me.

That said, I think that people can find optimism. And I have heard that throughout, 25 per cent, if it is 25 per cent, I don't know what it is, is better than nothing, and some influence is better than no influence. So people find optimism in that.

I would be more comfortable if it was actually equitable and if it was even in terms of the influence, but not much that I documented indicates that.

MS. SAEED: Just to answer your question, it is 25 per cent. But those are all of my questions for you, I believe, with the caveat that some of the other people at this table may have questions for Dr. McLachlan or for some members of this panel.

THE CHAIRMAN: Thank you. We will take a break until 3:35.

(Proceedings recessed at 3:21 and reconvened at 3:35 p.m.)

THE CHAIRMAN: We will reconvene. Okay. Mr. Bedford?

MR. BEDFORD: Good afternoon, Dr. McLachlan.

After all of these weeks, you know who I am, of course, and you know that my function here is to represent the Keeyask Hydropower Limited Partnership.

You feature on page 9 of the presentation that you walked us through this morning a quotation from Councillor Conway Arthurson from Fox Lake Cree Nation. I'm sure a lot of us remember it. I know that Councillor Arthurson's comments were spoken when this Commission sat at Split Lake. I know that because I was there. I know, of course, that you were not personally there.

I conclude, please confirm, that you are aware of what Mr. Arthurson said because you read the transcript?

DR. McLACHLAN: Yes, I'm aware of what

he said.

MR. BEDFORD: Now, were you here on Monday, October 21, 2013, when Chief Walter Spence spoke?

DR. McLACHLAN: No, I wasn't.

MR. BEDFORD: But I assume that you have had an opportunity also then to read the transcript of what Chief Walter Spence said on October 21?

DR. McLACHLAN: I have read through a lot of the transcripts and certainly I have had the opportunity to do so.

MR. BEDFORD: I will remind you or reveal to you, whichever the case may be, that Chief Walter Spence made a point of telling us all about the independence of thought that was exercised by each of the First Nations in their decision-making with respect to the Keeyask project, including the community which he currently leads, Fox Lake Cree Nation.

Now obviously there is some inconsistency in what Chief Walter Spence told us and what you have quoted that Councillor Conway Arthurson said.

Reading your paper, I understand that

you advocate a third track approach, which I understand is a method that succeeds in reconciling different perceptions and points of view. So perhaps you can now demonstrate for all of us that third track approach and reconcile for us what Councillor Conway Arthurson said and what Chief Walter Spence has said in the course of this hearing?

DR. McLACHLAN: I'm happy to do that, but I haven't actually read what the Chief spoke to. And if you could provide a copy for me, or make it available, then I would be happy to look at it. That said, often there are contradictions among parties, and so it wouldn't surprise me that there were differing -- there was a differing opinion. But to go beyond that, I would need to take a look at the transcripts of his presentation.

MR. BEDFORD: Well, I'm pleased to help you. Is it not also true in many walks of life that there are also misunderstandings?

DR. McLACHLAN: Yes.

MR. BEDFORD: And I concluded when I saw you repeating what Councillor Arthurson said at Split Lake and when I heard the concluding

remarks and representations that you made at the end of your presentation, that the logic or purpose of you reminding us of what Councillor Arthurson said was to illustrate that some have a perception that my other client, Manitoba Hydro, has tried to control the process and dictate or muzzle what some First Nations people have wanted to say about the project. Now have I captured that intent on your part reasonably well?

DR. McLACHLAN: Certainly, there was indication that the Councillor made explicit that there was limitations in terms of publicly what people could say, whether it was scripting by Manitoba Hydro. I think he, if memory serves, explicitly indicated that the chief was scripted in terms of what he could say or couldn't say as well, or whether it is confidentiality agreements that, yes, that he, as well as others, indicated there was restrictions in terms of how forthcoming they could be.

MR. BEDFORD: Well, let's you and I, and all who are listening in, pursue my suggestion to you that some times in life misunderstandings lead us astray. Were you present at this hearing last Thursday, late in the afternoon?

DR. McLACHLAN: Probably not. No.

MR. BEDFORD: Well, many of us here were, so I will tell you that Mr. London extended a public invitation to everyone in the room last Thursday, including the Commissioners, to attend a holiday function that the Pitblado law firm, of which he is a member, was hosting in this same hotel. I will tell you as well that the Commission publicly thanked him for the invitation, but observed that they would be unable to attend such a function due to the appearance of conflict of interest that their attendance at the function would create.

DR. McLACHLAN: I did read that transcript, yes.

MR. BEDFORD: And no doubt through the course of your attendance at these hearings you have observed, as I have, that the Commissioners don't join any of the participants or the proponent for lunch. You have seen that too, have you not?

DR. McLACHLAN: I have, yes.

MR. BEDFORD: And you do understand that the reason that they do that is because they don't wish anyone to draw a false assumption that

because they are participating in lunch with one or the other party, or because they are accepting an invitation to join one of the parties at a holiday function, that they are showing some sort of bias or favoritism to that party; you do understand that?

DR. McLACHLAN: Yes, I do.

MR. BEDFORD: Now I'm wondering if it crossed your mind --

DR. McLACHLAN: Thank you, yes, sorry about that.

MR. BEDFORD: That's all right. I'm wondering if it crossed your mind that when this Commission sat in Bird on this project, whether or not perhaps Councillor Conway Arthurson, well intentioned and anxious to have a conversation with one or more commissioners, moved to sit down with them, perhaps over sandwiches. And would you not then agree that if that was in the process of happening, good advice from a lawyer or someone else to Mr. Arthurson and to the commissioners would have been for him to avoid doing that for fear of leaving a perception that the Commission might be showing some favoritism to a Councillor of one of the partners for this project, and is it

not possible as well --

DR. KULCHYSKI: Mr. McLachlan's expertise is not in conflict of interest, and I'm not quite sure where this is going.

MR. BEDFORD: This is going to what happens, Dr. Kulchyski, when misunderstandings arise in life. So I'm just about finished. I have to finish one more sentence. It is not possible, therefore, that even Councillor Arthurson may have misunderstood well-intentioned and appropriate advice about the perception that could unfold with conflict of interest?

DR. McLACHLAN: Anything is possible. That said, I was moved by this young councillor, and when he talked about how -- the struggle that he had because he also felt an accountability to his community, that he felt an accountability to the environment. And there is no doubt in my mind having read that transcript, that it was a difficult process, and he went and he consulted with his ancestors, and he went and consulted with elders within his community and other community members, and decided that his track, which arguably is one that's culturally grounded in his worldview, didn't allow him to follow the

instructions of this western style legal process. And I was moved by that, because to me that spoke of bravery and concern that the process has gone awry.

The other thing is that it is not just a question of an individual here and an individual there. In fact, kind of -- Noah Massan just told me that he and a number of the members of our Grassroots Group went and participated in that same dinner that you spoke about. And so I don't think that you necessarily have to choose between the two options always, and ideally this would be truly a collaborative process where people could work across their differences. But in this case -- and perhaps that took place in that party or not. But in this case, what you had was someone who felt disadvantaged and marginalized, one person, but in addition to that there were many, many other accounts of similar kinds of experiences where people didn't feel that the process was open or transparent or inclusive, and felt marginalized and silenced. So it is not just a question of one individual's experience, to me it is something that's systemic and problematic.

MR. MOOSE: Can I ask you a question?

THE CHAIRMAN: No, that's not how the process works.

MR. BEDFORD: Dr. McLachlan, it is on page 27 of the presentation you gave this morning, that you introduced to this hearing the fact that pipes located where the old Sundance community was located, pipes have been left in the ground. Now when I heard you say that, obviously in a context that connotes disapproval and dismay that those pipes were not removed once that construction camp was dismantled and decommissioned. I concluded that immediately you personally are clearly unaware of the fact that the Fox Lake Cree Nation asked that those pipes be left in the ground. You weren't aware of that, were you?

DR. McLACHLAN: Maybe I will defer to the other community members that are here from Fox Lake who can speak to that? Can you ask that -- sorry, can you ask that for Noah?

MR. BEDFORD: Mr. Massan, Dr. McLachlan, in his presentation this morning, brought in to the picture here that the pipes at the Sundance construction camp have been left in the ground. And I put it to him, I think correctly, that Dr. McLachlan was personally

unaware of the fact that those pipes were left in the ground at the request of the Fox Lake Cree Nation. And while you are contemplating that, the next question was going to be whether or not --

DR. McLACHLAN: Can you give him an opportunity to respond to that before you proceed?

MR. MOOSE: I will answer that. When Sundance was closed, we did, he is right, we did ask for the pipes to be left in. And that land in that area, Sundance, be held for I can't remember the number of years. And thinking, planning ahead for Sundance that we were going to claim the land to use it for healing centres or something like that, and that's the reason. I don't see how he would know, maybe you should ask us questions about Fox Lake and not him.

MR. BEDFORD: Thank you, Mr. Moose, that's exactly the additional facts that the Partnership wanted to be sure that the Commissioners were aware of.

DR. McLACHLAN: Perfect, thank you. Again, that in this case the community requested that, and Hydro obliged reflects well on Hydro, and the community, certainly there are other kind of examples where people saw damage that they

wanted to see cleaned up, that wasn't kind of mitigated or where the land wasn't rehabilitated. And if you want, I'm sure that Noah and Ivan can speak to some of those examples as well. That was the intent that I communicated, that clean up in at least in some cases didn't occur and that offended people. So are you interested in hearing some of those experiences?

MR. BEDFORD: What I was interested in was the confirmation now received that that particular example is not a good example of my client, my other client, Manitoba Hydro, simply through neglect or some other reason not cleaning up. Those pipes were left there, as Mr. Moose says, because that particular site was identified by Fox Lake Cree Nation as a treaty land entitlement selection. And the long term vision of Fox Lake Cree Nation, exactly as Mr. Moose has told us, was to develop a centre there to be used by the people of Fox Lake Cree Nation.

Moving along, I did hear your observation, Dr. McLachlan, with respect to the caribou in the vicinity of the Keeyask project. And the fact, at least in your opinion that the men and women who work for Manitoba Conservation

and Water Stewardship don't recognize those caribou at this time as boreal woodland caribou. Your observation was that they are showing "complete arrogance" in not recognizing the caribou as boreal woodland caribou. So accordingly, using --

DR. McLACHLAN: Sorry, the individuals? I would say not necessarily so, but certainly the system that allows for those opinions to exist is arrogant, yes.

MR. BEDFORD: So using what I think is your logic, and reminding you that my client, this partnership, and the scientists who work particularly on the subject of boreal woodland caribou and caribou generally, having listened to what First Nations people were telling them, approached for this project their assessment of these caribou as if they were boreal woodland caribou.

Now given that, and using your logic, would it not be fair for you to say that in this instance with respect to this species, the scientists and consultants who worked on this project showed "complete respect" for the views of First Nations people?

DR. McLACHLAN: Again, I can't speak, but Noah can speak to that and then I will follow up from Noah.

MR. MASSAN: Hello. About four years ago or five years ago, I got a helper, my brother's stepson. He saw the caribou there. He said he seen about 20 of them, might be 21, on the lake there. And then he was all excited, he come to my house. He said, grandpa, he says, I killed something over there. I know how caribou is in Churchill, he said they are small, but this one is bigger. And right away I said that's woodland caribou because I shot some there maybe 10 years ago, I shot two there. And the following year my cousin in 304, Larry Beardy's son shot one in Butnau Lake. He knows too the caribou was bigger. He didn't know what it was. But his dad told him that's a woodland caribou. Because as a user, I get to see stuff there, you know. So you can't prove -- you have to be there to see these things. But next time I kill a caribou, I'm going to bring it to you, if you are around. I will take pictures of it. Thank you.

DR. McLACHLAN: Just as a follow-up, I think what I was speaking to is the parallel

speak, if you like, that Mr. Berger used by -- for the rest of the document, calling them summer residents rather than the Woodland caribou that clearly Noah and other people from the community had indicated that they saw there. And again, what I was saying is that was, by using that parallel speak, he wasn't being sensitive to what people were saying in contrast to what the EIS claimed.

MR. BEDFORD: My parting question to you harkens back to an answer you gave Ms. Saeed when she was questioning you a short while ago. I understood you to say that in your choice of selecting quotations from First Nations people, you were personally indifferent as to whether they supported the project or did not support the project. And I heard you use the word "many" as your recollection of the number of persons that you had quoted who live in First Nations communities who support the project.

Having heard that, I will reveal to you that I did have the opportunity to revisit your presentation. I counted quotations from 15 different individuals. Mr. Bland, of course is a proponent of the project, and Charlotte

Wastesicoot is a member of the Tataskweyak Cree Nation. I know that she is one of the signatories of the Joint Keeyask Development Agreement, so she is a known supporter of the Keeyask project. That's two out of 15. I counted ten names of individuals cited in your presentation, whom everyone who has been here for the last two days would quickly recognize that we have heard from repeatedly and that they are not happy with the project, if not opposed. And in fairness, I will tell you I identified three of the 15 beside whose names I put a question mark. One of the three I know to be sitting, as one says, on the fence.

So my parting question is I suggest to you that that was not a balanced approach, that is not you quoting many supporters of the project. And indeed you were quite selective in quotations you chose, and you chose to quote a significant majority of people who are clearly upset or unhappy with respect to the project.

DR. McLACHLAN: Is that a question?

MR. BEDFORD: Yes, that's a suggestion that I, as counsel for the Partnership, put to you in challenge of your statement to Ms. Saeed that you were indifferent and tried to be balanced in

your choice of quotations.

DR. McLACHLAN: I don't think that I said I was indifferent. I said I just didn't know. And so what I did is I went through and looked for people who talked about concerns about the environment that they had seen, kind of impacts that they had seen, concerns about the process. And I just documented those, and it wasn't -- it really -- I had no insight and no real interest ultimately whether or not they were proponents or not. I was gratified to see that some proponents actually made it through to the report, not only proponents, but champions of the process. That said, the other thing is that I had the deepest and most meaningful conversations with the people who are part of this group, and whether it is Noah or Tommy or Ivan, I had the richest kind of documentation of the interviews that they provided. So I think in that case, if you look at the richness of the information, that inevitably you had people who showed concern about the environment which I was documenting, and also people from this group who showed concern. And whether or not there was an imbalance was secondary to me. I wasn't counting heads. What I

was doing was just looking for meaning where I found it, and it is those stories I reflected, regardless of their position.

MR. BEDFORD: Those are my questions. Mr. Regehr has a few.

MR. REGEHR: Thank you, panel. Thank you for being here today. All of my questions are going to be directed at Dr. Kulchyski. Dr. Kulchyski, can I assume that you read the entirety of the Joint Keeyask Development Agreement?

DR. KULCHYSKI: No, I wouldn't say so. I looked through it, and was specifically looking for, you know, areas that in my view overlapped or were important Aboriginal rights assessment.

MR. REGEHR: And did you read the environmental impact statement?

DR. KULCHYSKI: I read the environmental impact statement. Again, I didn't read all of the reports, but I looked at, and now it has been quite a while when we first received it, yes.

MR. REGEHR: The reason I asked is just I noticed that a lot of the other expert witnesses have put into their presentations exactly what they looked at, whether it was a

particular supporting volume and that type of thing. And I'm trying to clarify with you what you looked at.

DR. KULCHYSKI: It is like in my attendance at these hearings, I attended a considerable part of the hearings, but not all of it, and I can't even remember if you ask me a specific day, I would have to look at my calendar to see if I was here. I know I read a lot of material around the process, the environmental assessment, the agreement, some of the supporting reports, and I have heard a fair bit of testimony around it. I mean, honestly I would have to tell you I wish I had looked at more material. I had read some transcripts from days that I wasn't here. But again not as many as perhaps I would like to.

And so, I have read a lot of stuff and there is certainly, you know -- for example, when I gave you the example of the woman protection in the camps. I qualified that because you may have material there and I might have missed it. So there are places where I made recommendations where you may have some very good ideas that I missed and I acknowledge that. I still offer the

suggestion in case you hadn't, you know, anywhere gotten to that level of detail or made those sorts of proposals, so --

MR. REGEHR: I don't want to interrupt you, but I just wanted to know what you had read.

DR. KULCHYSKI: I'm telling you in as much detail, and giving you examples.

MR. REGEHR: I'm going to turn to your paper, on page 3 of your paper you state:

"We know that the power produced is not now needed by Manitobans. We know that export markets may not need the power they will produce for some time."

How is it that you know these things, as opposed to raising the possibility that it may be true?

DR. KULCHYSKI: Let me just find the page first.

MR. REGEHR: It is in the second paragraph towards the top of that paragraph.

DR. KULCHYSKI: I remember writing it but -- yeah. Well, I know that export markets are not doing as well as we anticipated they would do. We know that the economy took a nose dive, we can say, or had a crisis, and that it has yet to

recover from that. And that the markets partly depend on the overall industrial activity, and that that industrial activity sort of hasn't recovered and, you know, the economists, some of them that I read, Paul Krugman and Joseph Stiglitz, and even Larry Summers now has been saying that the economic circumstances that we are in may actually be the norm. That we have been in various bubbles and sort of a low growth economy may be the standard. And so I would say there is some judgment that, you know -- and we also know that there has been an increased production of natural gas through fracking, so I guess what I read from different experts in the field is that the export market is not what it once was.

MR. REGEHR: But you haven't included any evidence in your paper to support this conclusion? I looked at it. There is no footnotes, there is no social science citations, or anything like that.

DR. KULCHYSKI: No. I gave you my information. I would have to say -- well, no, I will leave it at that.

MR. REGEHR: In any event, you understand the difference between this process,

the Clean Environment Commission process and the NFAT process under the Public Utilities Board; you understand the differences?

DR. KULCHYSKI: Yes.

MR. REGEHR: And it is the NFAT process through the Public Utilities Board that will look at the economics of the project, you understand that?

DR. KULCHYSKI: That's correct.

MR. REGEHR: On page 4 of your paper you begin what appears to be your analysis of certain cases involving Aboriginal and Treaty rights. You do understand that an environmental assessment is not required to assess the potential effects of Aboriginal and Treaty rights, and that the ultimate responsibility for this lies with the Provincial and Federal crowns under section 35 of the Constitution Act of 1982; you understand that?

DR. KULCHYSKI: Yes, that's correct.

MR. REGEHR: And that those processes are separate from this process, and that neither the Federal nor the Provincial Crown has delegated that responsibility to the Partnership or this Commission?

DR. KULCHYSKI: I both understand

that, and nevertheless think that these issues are important and broad enough, like my colleagues, I guess, I have some problems with the silo approach to approving these things. And I believe this information is relevant to this Commission in terms of thinking about, you know, specific areas of recommendation. I think this is useful information, particularly because, you know, my ultimate point is to try and argue about the value of a trapline. I think I need to slowly walk through an Aboriginal rights review of the scholarly literature around hunting in order to frame that, so that people understand it is not just me saying this, the Supreme Court is saying this based on its interpretation of the constitution. I also did not quote or cite any of the Supreme Court material around consultation here, because I really want to focus on the notion of culture, practices and traditions, that are integral to the distinctive cultures from the Van der Peet decision, and I think that that in a way brings in the issue of intangible cultural heritage, which Ms. Pawlowska-Mainville was talking about, as sort of a part of the legal reality that we are faced with. And I think to

try and emphasize, you know, using the legal arguments to kind of emphasize how our society at large has really undergone a kind of see change, and begun to appreciate the value of aboriginal culture, and its importance to our society as a whole.

MR. REGEHR: Did you have an opportunity to read the terms of reference?

DR. KULCHYSKI: The terms of reference for the --

MR. REGEHR: Clean Environment Commission for these hearings?

DR. KULCHYSKI: Yes.

MR. REGEHR: I'm going to read a paragraph in the terms of reference. Manitoba's licensing process will provide an opportunity for First Nations, Metis and other Aboriginal communities to advise of any concerns about potential adverse effects of the project on the exercise of Aboriginal and Treaty rights. While eventual licensing decisions pursuant to the Act will consider the results of consultation --

DR. KULCHYSKI: Actually you are going to have to put that in front of me because you are reading almost as fast as I talk, and I'm not able

to --

MR. REGEHR: I will slow down.

DR. KULCHYSKI: I would like to see it if you are going to cite it, it sounds fairly legal, so I should probably have it in front of me.

Thank you so much. You can continue.

MR. REGEHR: I believe it is open to the page that I'm referring to.

DR. KULCHYSKI: Yes.

MR. REGEHR: Well, actually you have it there, you have the real thing, why don't you read the paragraph to --

DR. KULCHYSKI: Manitoba's licensing process will provide an opportunity for First Nations, Metis and other Aboriginal communities to advise of any concerns about potential adverse effects of the project on the exercise of Aboriginal and treaty rights. While the eventual licensing decision pursuant to the act will consider the results of the consultation process, Crown Aboriginal consultation is a distinct process from the public review process, including hearings to be conducted by the Commission. As such, the Commission is not being called on to

conduct a Crown/Aboriginal consultation process or to consider the appropriateness or adequacy of the consultation process for the project. The Commission also need not assess whether identified impacts may constitute an effect on the exercise of Aboriginal and Treaty rights. Is that as far as you want me to read?

MR. REGEHR: Yes, thank you. So you would agree with me after reading that paragraph that this is not the correct venue to discuss issues such as Aboriginal and Treaty rights?

DR. KULCHYSKI: Absolutely not, I totally disagree with you. Let me read the first sentence to you again. Manitoba's licensing process will provide an opportunity for First Nations, Metis and other Aboriginal communities. I believe the Concerned Fox Lake Grassroots Citizens represents an element of an Aboriginal community, the last time I looked. To advise of any concerns about potential adverse effects of the project on the exercise of Aboriginal and Treaty rights. I believe that our group is giving that advice. The rest of the paragraph goes on to say that there will be a Crown consultation. It goes on to say that the Commission also need

not -- it doesn't say they may not, it says they need not assess whether identified impacts may constitute an effect on the exercise of Aboriginal or Treaty rights. I urge the Commission to take into account what I have said to you about Aboriginal Treaty rights, and about the impact of this project of those treaty rights. And I believe they are fully within your mandate to do so. Thank you, Mr. Regehr.

MR. REGEHR: Now, between pages 5 and 13 of your paper, it appears that you engage in a legal analysis of the impact of the JKDA on the four Keeyask Cree Nations Aboriginal and Treaty rights. One of the first things I noticed was that you suggest that article 24.3.1, and this is at page 12 of your paper, middle of the page, you have quoted the section --

DR. KULCHYSKI: Yes.

MR. REGEHR: You are suggesting that it was buried far into the document.

DR. KULCHYSKI: That's correct. I'm familiar with -- I have done a lot of work in the far north with modern treaties, with comprehensive land claim agreements, with social impact benefit agreements, which in some way parallel these. And

usually the Aboriginal rights clauses are very near the beginning of those agreements. So when I see it very far to the end, I'm thinking about this from the perspective of a First Nations person who is reading the agreement, and no average First Nations person is going to get to 24.3.1 if they are reading through the agreement. If it is article one or two or three, there is a chance they will actually see it, and this would be something that would be a concern to people. So when I say it is buried in the report, I mean it is there in the index, it is there in the title. Someone like me knows it is going to be there and looks for it and finds it. But I think a lot of regular folks who are looking at this agreement would have trouble finding it.

MR. REGEHR: You are suggesting that the average First Nations person couldn't read this agreement, couldn't read through this and find this; is that what you are suggesting?

DR. KULCHYSKI: I believe that I am suggesting that. If you talk to an average First Nation person who has actually sat through and read this agreement, I will absolutely happily -- I would eat my shoe.

MR. REGEHR: With our without ketchup?

DR. KULCHYSKI: I would probably ask for ketchup as a small favour. It still wouldn't be a very tasty shoe.

MR. REGEHR: So are you suggesting that the placement of this section was intended to hide it from public view, and that only your digging was able to unearth this? Is that what you are suggesting?

DR. KULCHYSKI: Not at all. All I'm saying is that for the average member of the public, it is not so apparently easy to find. I have seen many other agreements where actually Aboriginal and Treaty rights clause is right at the beginning of the agreement. This is a very small point that I make. It is actually a side clause, that I said buried very far in the document. It is not my main point and I just make that as a little clause, but I will stand by that. It is not at the beginning of the document, it is not highlighted and it is not something that a casual and many First Nations readers would come across if they are looking at the agreement.

MR. REGEHR: You then suggest that by using the word alter rather than diminish in the

article, that there are two legal consequences; one, that the JKDA will not be taken as a Treaty in the matter of the Northern Flood Agreement; and two, the language is an absurdity because the JKDA cannot alter Aboriginal and Treaty rights inasmuch as it will have an impact on the cultures of the signatory communities. Am I to understand that based on your knowledge of the law, that the JKDA might be considered a treaty?

DR. KULCHYSKI: If it didn't have this language in it, I would say it would be eligible to be considered a treaty. If we look at, from the Sioui decision of 1990, the Supreme Court of Canada, what the court had was really a scrap of paper with about two lines written on it that said that the Huron people had the right to pass freely and not be harmed under the new military regime of British control. And it said that they could continue to practice the exercise of their religions. The Federal and Provincial governments basically said that scrap of paper did not constitute a Treaty, and if it did constitute a Treaty it wasn't eligible in modern times. The court looked at that piece of paper and they said first of all, who signed it? General Murray. He

replaced General Wolfe as the leading British commander. He had the capacity to sign the treaty. They looked at the capacity of the parties, he had the capacity -- the Huron leaders were leaders of the people, they had the capacity to sign the treaty, if they had the capacity to sign the treaty, the terms of the document were far reaching. They said we need to apply a liberal and generous interpretation of what is a treaty and therefore they said that piece of paper is a treaty. I would say short of a document, a major document being signed by a Crown party, a government party and a First Nation party, unless it has explicit language saying it is not a treaty, these days I think governments know it can well be taken as a treaty. So unless you have something that clearly indicates it is not to be read as a treaty, at some point in time it can well be taken as a treaty. When the Northern Flood Agreement was negotiated in the mid 1970s, no such language was included partly because that happened before the constitutional intrenchment of Aboriginal and Treaty rights. So no one was thinking, for example, the James Bay and Quebec agreement they didn't have a clause in that

agreement saying this is not a treaty, and subsequently it became recognized to be a treaty. So it has happened is various places in Canadian history, and it is partly why language like this exists now to make sure that that certain documents do not get mistaken for treaties. So I would say yes at some point in time in the presence of such language, a document like this could be interpreted to be a treaty.

MR. REGEHR: You will agree with me that neither the Federal Crown or the Provincial Crown are parties to the JKDA?

DR. KULCHYSKI: I agree with you.

MR. REGEHR: You understand this is just a business deal, don't you?

DR. KULCHYSKI: No, I don't understand that. This is not just a business deal, and I actually take exception to that. It is not just a business deal. It is a deal about the future of the communities, the future of the river, the future of the people who are up there. So, well, from, I don't know, a Hydro perspective as a member of the Partnership, you know, it is like a contractual arrangement that they would have with other people. At least four of the parties to

this agreement are First Nations governments basically. And unless there is something, as there is, that says it is not a Treaty, you know, the original Treaties could be called just business deals, and in some senses maybe were taken that way by some people, but the First Nations insisted they are more than business deals. This has a clause that says it is not to alter Aboriginal or Treaty rights, which therefore means it is not to be taken as Treaty. If it did not have that clause in it, I would be surprised if somewhere down the road, if there were a disagreement between partners, as often happens, someone wouldn't come forward and legally argue that it should be treated as a Treaty, which is what happened with the Northern Flood Agreement, as you are well aware.

MR. REGEHR: But if this was a Treaty, there wouldn't be any need for the section 35 consultation processes which are ongoing with the Provincial and Federal Governments right now?

DR. KULCHYSKI: No, I wouldn't say that. If it was a Treaty, a consultation process would still be, I think, likely required.

MR. REGEHR: Now, on the

differentiation between using the words alter and diminish, I would suggest to you, to the contrary of what you have said, that in fact Aboriginal and Treaty rights are neither altered nor diminished by the JKDA, that they remain in full force and effect as historically determined. I further suggest to you that informed consensual agreements between a First Nation and a third party to allow impact on its land and waters for purposes it deems beneficial is, in fact, the clearest form of the exercise of their Aboriginal and Treaty rights.

So would you not agree that the right actually remains intact and that the consent is an expression of that right?

DR. KULCHYSKI: I think it is more complicated than you are suggesting. Because if that were the case, every development agreement would be understood not to alter, or not to diminish Aboriginal rights. The first thing I want to say is the distinction that I drew between the word diminish and the word alter, and for people in the room, you know, the language now says nothing in this JKDA is intended to alter Aboriginal or Treaty rights. That means it

doesn't change Aboriginal or Treaty rights, it doesn't add to them, it doesn't take away from them. I'm arguing, given the huge enormous impact of this agreement on the hunting rights, the trapping rights, the harvesting rights of the local people, I use the word it is an absurdity. Of course, it is going to alter the exercise of Aboriginal and Treaty rights. Furthermore, the word alter is there I believe to protect Manitoba Hydro as one of the proponents. It is not going to mean -- it will mean that this agreement is not taken as a Treaty, it is not adding to Aboriginal or Treaty rights, as it might be taken to. If we had the word nothing in this JKDA is intended to diminish Aboriginal or Treaty rights, that would make it clear that the purpose of the agreement is not to take away from Aboriginal or Treaty rights, and may in fact be interpreted at some point as meaning to enhance them, whether or not it can succeed in doing that.

MR. REGEHR: Now, on page 13 you suggest that there is some significance to the use of the term Keeyask Cree -- well, you said Keeyask First Nation, the term is actually Keeyask Cree Nation in the JKDA, and that it purports to merge

the four distinct nations into a single unit.

Would you agree with me that the use of short descriptors and acronyms in agreements is commonplace, particularly in business agreements?

DR. KULCHYSKI: I don't know. I'm not an expert on business agreements. What I will say is that -- and I thank you for the correction, it is absolutely true, I said Keeyask First Nation instead of Keeyask Cree Nations. I don't believe that Keeyask Cree Nations exist, I don't believe there is such a thing as Keeyask Cree Nations. And I believe that Fox Lake Cree Nation itself under my cross-examination said they did not like that term. They proposed replacing that term or not using that term. And I so mentioned it here out of respect for, that's the community that our Concerned Fox Lake Grassroots Citizens comes from, and out of respect for them I made their point that they don't like the use of that term.

I don't know anything about common business practices. Sadly, I'm not a very particularly competent businessman, and business law and business agreements are even further afield from my expertise in that area.

MR. REGEHR: Sorry, just to jump back

to page 7, but you speak about the wrong document being signed by the chief of Split Lake during the Treaty 5 adhesion; is that correct?

DR. KULCHYSKI: That's right, yes.

MR. REGEHR: I note that you provide no source for that information?

DR. KULCHYSKI: That's incorrect. I refer to, the last sentence that's on the beginning of page 8, I say it can be easily adduced from a reading of Frank Tough's, As Their Natural Resources Fail. In fact --

MR. REGEHR: That's your source then?

DR. KULCHYSKI: That's the source.

MR. REGEHR: Thank you.

DR. KULCHYSKI: Frank Tough is a credible, you know, he's in the faculty or school of Native Studies at the University of Alberta. He is originally from Manitoba. This, his first book, As Their Natural Resources Fail, is a global history of First Nations in the 20th century. And it took me about, when I was traveling to Split Lake I thought I would review it quickly, it took me about I would say ten to 15 minutes to find this very interesting fact that Tataskweyak leader was handed the wrong document. And Tough, and I

can send you the reference, if you look at his citations, he has archival citations, they handed the chief the wrong document during the Treaty ceremony, an individual adhesion rather than a group adhesion. They only discovered that error when they got back to the south, and there are various memos and correspondence around it, they were worried about it, they were thinking of going back and getting a proper signature, but they never did that.

Consequently, and this is very, very important, I think it is important to the province and important here, it is important in two ways. Tataskweyak has not surrendered its Aboriginal rights, titles, or there is an inadequate or an unfulfilled process in its adhesion to Treaty 5. And that would potentially be an extraordinarily valuable thing.

As it happens, I work with Dene in the Northwest Territories, who supposedly signed Treaty 11. There were a number of irregularities with the signing of Treaty 11 in the Northwest Territories and the western Arctic. And that has eventually lead the government to negotiate agreements in the value of $70 million or more,

with three of the five Dene groups that are all in the geographical area of Treaty 11, because of irregularities in the Treaty signing.

So the two points about this that I think are significant, one is that people from Tataskweyak are largely unaware of that. Of course, they wouldn't be aware from Ottawa. Indian Affairs would never tell them, you may not have properly signed the Treaty, for a long, long time. It strikes me as a little bit surprising that the many consultants and lawyers engaged by the communities have been repeatedly producing documents that say, in 1908 Tataskweyak signed an adhesion to the Treaty. It took me 15 minutes to find that there was at least a problem with the adhesion to the Treaty.

People getting paid a lot more than me have been working for a long time with that community, and haven't informed the community of this potentially very significant valuable, important in this context in terms of thinking about the construction of this dam on territory that they may still have unsurrendered Aboriginal title to. So it both to me points out that there has been in some cases perhaps some inadequate

advice given. And in and of itself, it is an important historical fact. And I would be happy actually to have more discussion or to send you the citations for this if you are interested in it. You can find it yourself fairly easily.

MR. REGEHR: So, I just wanted to know what your source was, and that's Frank Tough's book?

DR. KULCHYSKI: I told you my source.

MR. REGEHR: You certainly did.

On page 9, you speak about the protection of hunting and related activities, and you also relate hunting to videos of Cree culture. Now, the KCN Cree Nations have submitted documents which consistently expressed their identities and the tie to the land, including activities such as hunting. Isn't that correct?

DR. KULCHYSKI: That's correct.

MR. REGEHR: In fact, the Partnership has acknowledged the importance of instituting measures to protect cultural heritage, traditional activities, safety, and the protection of sacred sites, among other things. Isn't that correct?

DR. KULCHYSKI: That's correct as well. Although, again, as someone who worked in

the field for a long time, it is my job partly to speak to the adequacy of those, to what has been lost as well as how the mitigations are working. But, yes, that's correct.

MR. REGEHR: And the adverse effects agreement offer replacement opportunities for food and traditional activities, and programs to enhance the transmission of language, culture and knowledge. Isn't that correct?

DR. KULCHYSKI: Those are quite fine words, that's correct. And I have some, I think, reasonably legitimate concerns about how effective those will be under the circumstances.

MR. REGEHR: These programs were actually designed by the Keeyask Cree Nations, and they would know best what they need. Isn't that correct?

DR. KULCHYSKI: Not necessarily. People don't necessarily know in a particular region, you know, what the alternatives are and what is available to them. Again, there can be a blindness from, if you are within a particular jurisdiction, you know kind of what examples that you see around and so you use those examples to help you. But, you know, when you are like me, if

you are as fortunate as I am, or if you work with people who are fortunate, who go outside and look at different jurisdictions, you might find different kinds of programming, you might find which sorts of programs work, which don't work. And you might find, you know, get a better sense of the value of what can be lost.

So, certainly, I don't want to diminish the local leadership's knowledge and ability to make judgments, but I can't also entirely have blind faith in them. Leaders get elected and rejected and replaced, and elected again, and rejected and replaced, and stay and get re-elected sometimes. Sometimes those leaders have good knowledge and particularly value the life ways, and sometimes there are leaders who don't. So I can't simply take it on face value that a particular group of leaders will at any given time, you know, know absolutely the best kind of programs to use, particularly if I don't necessarily trust the advice that they have been given.

So all of these things, I would say generally I like to trust the local leadership, and I would say in the final analysis they are the

people who have to make the decisions, and partly those decisions can depend upon what sort of advice they get, what kind of broad perspective they have seen, whether they have seen other programs that work and don't work.

MR. REGEHR: If these programs were designed at the community level, they would know what is best for themselves, or are you again saying they don't know what is best for themselves?

DR. KULCHYSKI: You know, if you don't tell the community, for example, about the Peace of the Braves, then they can come forward and say the Partnership agreement is the best thing since sliced bread. At the community level, when you say the community knows what is best for itself, well, how does it know what is best for itself if it doesn't have a range of options before it? So it is not to diminish the respect I have for the knowledge of the local people. It is to say, I don't know what knowledge base in terms of what they see is available that they are acting on. And I think that that can be a concern.

Having said that, I will say, you know, I think that under the circumstances they

have developed some very interesting programs. I would be happy to work with them myself, when this is done, in thinking of ways of designing those programs so they will be as effective as they possibly can. And I believe, having heard from some of the leadership, that they care about maintaining their culture and trying to mitigate the best ways possible. I respect that. However, I don't think in the end those things, you can't replace being able to get up, leave your house, go meet some place nearby, hunt, trap, fish, come back to your home the same day or the day after on a regular basis. When we are talking about children traveling a day's travel, and then another few days travel to catch a trout, I mean, if that's the best you can do, of course do that. But if you don't have to, I would say there is something to say about, you know, thinking about whether that will actually mitigate the loss.

MR. REGEHR: Now you would agree that identity and culture are fluid and are able to respond to new technologies, developments and realities?

DR. KULCHYSKI: Sure.

MR. REGEHR: And as a result of those

new technologies, developments and realities, I would suggest that you would agree with me, but it would seem that don't agree with me, that the Keeyask Cree Nations themselves, their communities, are the ones that are best able to determine what is useful and what it is they wish to adopt?

DR. KULCHYSKI: I mean, again in broad perspective, yes. But people have to be shown the options that might be available to them. And if you don't know what options are out there, then it is hard to make a wise decision. Your decisions are based on the information that you have. If you have lived in one area, if you have only seen examples from one area, then you may not be in the best position to know what kind of programs are the best or not, what the best way forward is or not.

MR. REGEHR: Mr. Chair, it is 4:30, I'm not sure what you want to do?

DR. KULCHYSKI: I have to say that at least Mr. Nepetaypo and some of our traditional speakers, we booked them for today. I don't know if there are going to be questions for them, but some are scheduled to leave early tomorrow.

MR. REGEHR: I have no questions for anyone other than Dr. Kulchyski.

THE CHAIRMAN: And how much more do you think you might have, Mr. Regehr?

MR. REGEHR: Well, I have been trying to track this, and based on the amount of time we have gone so far, and the number of pages I have gone through, quite a bit more.

THE CHAIRMAN: Okay, thank you.

Mr. London?

MR. LONDON: Just in terms of timing, Councillor Neepin at the beginning laid out the Fox Lake perspective. It values the dissent and the challenges, and it doesn't have any questions for this panel at all.

THE CHAIRMAN: Thank you.

DR. KULCHYSKI: Could I suggest if any of the partner groups have questions for the traditional harvesters, we do those, and then I can be here as long as needed. So I am happy to come back and answer Mr. Regehr's or any other questions.

MR. MOOSE: I have one comment. We are not a dissenting group, we are adding information.

THE CHAIRMAN: It is okay, Mr. Moose, we are not debating.

Ms. Craft or Mr. Williams, do you have questions for any of harvesters?

MS. CRAFT: Being conscious of time, Mr. Chair, we would have approximately 15 minutes of questions for the harvesters, if possible.

THE CHAIRMAN: Okay.

MS. PAWLOWSKA: Noah Massan and Ivan Moose can come back tomorrow. The only individuals that are leaving, so if there are any questions you can ask Judy Da Silva and Tommy Nepetaypo. So those are the two individuals that are open for questions at this time.

THE CHAIRMAN: Okay. Thank you for that, Ms. Pawlowska-Mainville. The problem is that we have a scheduled event tomorrow with a group from, another group from out of town, so I'm not sure whether we will have time to continue this cross-examination tomorrow.

Ms. Whelan Enns, do you have any questions for the harvesters, or just for the two expert witnesses?

DR. KULCHYSKI: I'm going to say three expert witnesses, we can make

Ms. Pawlowska-Mainville an expert witness.

THE CHAIRMAN: Of course, we know she is going to be here, she has been involved every day.

MS. WHELAN ENNS: Yes, Mr. Chair, I have questions for most of the speakers. For the original panel, you know, it is a small handful each, and for Drs. Kulchyski and McLachlan, more.

THE CHAIRMAN: Okay. The ones we are concerned about right now are Mr. Nepetaypo and Ms. Da Silva.

MS. WHELAN ENNS: And yes, I do. Not many.

THE CHAIRMAN: Okay. Ms. Craft, do you have questions for either of those two specifically?

MS. CRAFT: Mr. Chair, neither of those two.

THE CHAIRMAN: Okay.

Ms. Whelan Enns, I am prepared to stay for about half an hour. If you can ask your questions of those two witnesses only, and we will find a time, some time to slot in the others on another day.

DR. KULCHYSKI: If I could just

quickly add, Dr. McLachlan has child care issues so he has to leave immediately.

THE CHAIRMAN: We are not going to be asking further questions of him today, so we can excuse him right now. The two that we are going to ask questions of are Ms. Da Silva and Mr. Nepetaypo.

DR. KULCHYSKI: Mr. Nepetaypo, if you could ask the questions of him because he has to leave soon actually.

THE CHAIRMAN: Okay.

MS. WHELAN ENNS: Thank you, Mr. Chair.

I wanted to ask Mr. Nepetaypo, and I'm sorry on pronunciation, I will work on your name. You have told us a fair bit about working on a different Hydro construction sites. You made mention of others, that is workers on those sites from other First Nations, in your words. Could you identify for us, and I know this is a question of memory, but could you identify for us then which First Nations the people you worked with are from?

MR. NEPETAYPO: Fox Lake.

MS. WHELAN ENNS: Yes. My

understanding of your words in your presentation was that there was a reference to people from other First Nations also working on those Hydro projects, those sites that you worked on. Did I hear you correctly?

MR. NEPETAYPO: You heard me wrong.

MS. WHELAN ENNS: All right. Thank you.

Just a second question then. I heard a reference in your words about Shamattawa. So my questions for you would be, if you had an ability to go back in time in terms of all of the steps involved in the Keeyask Generation Station discussions, engagement and planning that involve Fox Lake, your community, would you have recommended or wished that Shamattawa was also part of those discussions?

MR. NEPETAYPO: No.

MS. WHELAN ENNS: Thank you.

Quick question then for Ms. Da Silva. Would you recommend to the CEC that a hair sampling program to detect mercury in persons' systems be put in place for the First Nation communities in Manitoba affected by Hydro development?

MS. DaSILVA: Yes, I would, but more deeply than just hair samples, because hair samples are not a reliable source of testing for mercury, because people change. Like they are dyed during seasons, or you lose your hair, or like it grows out. So it would have to be more deeper than just hair sampling, it would have to be like a really good survey of the people in the community.

MS. WHELAN ENNS: So your recommendation would be beyond hair sampling and other testing methods, but for the community members where their community has been affected by Hydro development. Am I understanding you correctly?

MS. DaSILVA: Yes.

MS. WHELAN ENNS: Thank you.

In your presentation you mentioned a fairly significant time gap between the work undertaken in the 1970s, in your community, in your region in terms of mercury poisoning. And then a jump to, you mentioned 2004, 2007, 2010. Is the data and the results of all of the study, and data collected from your community in particular, it is now all available?

MS. DaSILVA: Yes, it is.

MS. WHELAN ENNS: Was there a period of time where the Federal Government information was not available?

MS. DaSILVA: No, these contaminant studies were community lead, they are not government lead. So that's why they are available.

And like when I talked yesterday, I said that in 1997 a Health Canada official came to Grassy and he said that there is no more mercury in the water. And that's what made us do these community lead studies in our water, and then we found out there was mercury in the water.

MS. WHELAN ENNS: Thank you.

Going back to the 1970s, were there any Health Canada or Federal Government studies in your community, in those early years?

MS. DaSILVA: The only one that Trish Sellars found was done in 1985. There was a sediment study done. And for the other, like for government, I think they were doing like ongoing hair sampling. And that's when in 1997, the Health Canada official came and said that there was no more mercury in the water, because of the

testing that they are doing on the hair samples was showing no more mercury. And I think that's the study that they are doing. I have never seen an actual, how do you call it, like an actual conclusion to their study. And when we have asked for information of mercury levels in people, they said we would have to go to each individual person, and there is like some kind of process where you get their medical reports, and it takes months to get that one person's report. So that's why right now we are in the process of doing a door to door survey again, to update like our -- the illnesses that are in Grassy Narrows. And the last one that was done was in the early 1990s, and that was lead by like the reserve, like the chief and council. So we want to update that medical information to 2013.

MS. WHELAN ENNS: Thank you.

The Clean Environment Commission has made a recommendation that is within their report from the Bipole III hearings, that ended in March 2013, for a regional cumulative effects assessment with respect to the Hydro system, if you will, in the north and in the Nelson River region.

Would you expect then, when that regional cumulative effects assessment is done, that it include steps to in fact test for cumulative effects of mercury in the communities affected by Hydro developments?

MS. DaSILVA: Yes.

MS. WHELAN ENNS: Thank you.

And thank you very much, including for those who travelled. That's it, Mr. Chair.

THE CHAIRMAN: Thank you, Ms. Whelan Enns. So I think -- I was wondering, does anybody have any questions for Ms. Neckoway? Proponent? You said you had no questions other than for Dr. Kulchyski and Dr. McLachlan?

MR. REGEHR: That's correct.

THE CHAIRMAN: Ms. Craft? No. Ms. Whelan Enns, did you have any questions? Did you have very many? Okay. I think we should do those now and then we can excuse Ms. Neckoway?

MS. WHELAN ENNS: Thank you, Mr. Chair.

Ms. Neckoway, I heard you make references to the kind of split that happens in Hydro impacted communities, First Nations communities. And I think I heard you also say

that there is no reconciliation yet?

MS. NECKOWAY: I think that's what I said.

MS. WHELAN ENNS: Well, do you have any recommendations for the Keeyask CEC panel in terms of steps for reconciliation?

MS. NECKOWAY: Because I'm a student, and listening and hearing and going through, you know, just in the process of starting to go through some of the documents and go through some of the literature, at this point. When I was talking about reconciliation I was talking about the Province of Manitoba and Hydro itself to come into the communities and somehow try and reconcile, something similar to the TRC, you know, because the stories that have come, that I have heard of and have heard directly, I might suggest are on the same magnitude as some of what we have are starting to learn about with the TRC and with the residential schools. And you know what, I think you need to go to the communities themselves and ask how that process might be undertaken.

So, at this point, you know, just acknowledging that, yes, there have been, you know, atrocities committed up in that territory up

where the dams are, and up where the construction and the activity took place. But I would say go to the communities themselves and ask, you know, how that might look, how that might come about.

You know, I sit up here, I sit up here only as one person that's kind of been able to hear a little bit about what was going on. But I think the approach that's being taken right now is not kind of moving in that direction towards reconciliation.

So, the short answer is no, I haven't really thought about it on a big picture, but, you know, I think I'm still seeing -- this process is kind of repeating itself again from the '70s, to what happened with the last round. And I'm not sure that I'm seeing a balance really in the process. So the short answer is no, I haven't thought about it.

MS. WHELAN ENNS: Thank you. I think you are thinking about it, for sure.

One remaining question. We hear, and we have heard in the hearings since October, references to there being a difference with the energy that is generated by Wuskwatim now and would be generated by the Keeyask Generation

Station. That difference includes First Nation business partners, and is often referred to as new green energy, and has been referred to that way here in the hearings.

So the question that I would like to ask you is, do you consider, do you believe that the impacts from the generation stations built in the 1970s, well actually 1960s, '70s and '80s, that the impacts, environmental, social and economic, continue today?

MS. NECKOWAY: Say that again?

MS. WHELAN ENNS: Sorry, try again.

Do you consider or do you believe that the impacts from the generation stations built in the '60s and '70s and '80s in your region of the province, that the impacts being social, economic and environmental, that those impacts continue today?

MS. NECKOWAY: Absolutely.

MS. WHELAN ENNS: Thank you.

THE CHAIRMAN: Thank you, Ms. Whelan Enns. Thank you, Ms. Neckoway. Thank you, Ms. Da Silva for your participation. Although he has left already, for the record, I would like to thank Mr. Nepetaypo for his participation in the

last couple of days. We will -- yes, Mr. Massan?

MR. MASSAN: That question you asked us when Jack London asked us to come to his party, we did go. I respect that, Jack. He invited us. I got to eat your pickerel cheeks, and first time I eat the buffalo. But I was there, me and Agnes. So thank you for that. Egosi.

THE CHAIRMAN: Earlier this afternoon, Mr. London said that he thought he might invite us to come next year, however, the hearings might still be going on.

So, I'm not certain when we will -- we will leave it with the Commission secretary and Ms. Pawlowska-Mainville to work out when the four, I guess, four remaining witnesses are available, five including Ms. Pawlowska-Mainville, and when we have time for it. I'm not sure when that might be. It might be in the next day or two, it might not, but we will work something out.

I think we have some documents to register.

MS. JOHNSON: Okay. The Fox Lake youth group, their presentation will be WPG 008. Dr. McLachlan's report will be CFLGC 09, his presentation will be number 10. Dr. Kulchyski's

report is number 11, his presentation is number 12. And we have some left over from last week, which we thought was on record, but wasn't. The Manitoba Lake Sturgeon Management Strategy, which will be KHLP 091, the Hydropower Sustainability Assessment Protocol and excerpts from that will be KHLP 92. And we have some undertaking responses from the MMF, the first one is MMF 009, that's in response to undertaking number 14. Response to number 15 is MMF number 10; 16 is MMF 11; 17 is MMF 12; and they have also supplied the reference to the document that CAC is looking for regarding sampling, MMF 013.

(EXHIBIT WPG 008: Fox Lake youth group presentation)

(EXHIBIT CFLGC 09: Dr. McLachlan's report)

(EXHIBIT CFLGC 10: Dr. McLachlan's presentation)

(EXHIBIT CFLGC 11: Dr. Kulchyski's report)

(EXHIBIT CFLGC 12: Dr. Kulchyski's presentation)

(EXHIBIT KHLP 091: Manitoba Lake Sturgeon Management Strategy)

(EXHIBIT KHLP 092: Hydropower Sustainability Assessment Protocol excerpts)

(EXHIBIT MMF 009: Response to undertaking 14)

(EXHIBIT MMF 010: Response to undertaking number 15)

(EXHIBIT MMF 011: Response to undertaking 16)

(EXHIBIT MMF 012: Response to undertaking 17)

(EXHIBIT MMF 013: Reference to document re sampling)

THE CHAIRMAN: Thank you. So, again, thank you to all of you for your participation, some of you so far and some of who will be traveling home. We will adjourn until 9:30 tomorrow morning.

(Adjourned at 4:55 p.m.)

OFFICIAL EXAMINER'S CERTIFICATE

Cecelia Reid and Debra Kot, duly appointed Official Examiners in the Province of Manitoba, do hereby certify the foregoing pages are a true and correct transcript of my Stenotype notes as taken by us at the time and place hereinbefore stated to the best of our skill and ability.

Cecelia Reid

Official Examiner, Q.B.

Debra Kot

Official Examiner Q.B.