

MANITOBA CLEAN ENVIRONMENT COMMISSION

LAKE WINNIPEG REGULATION REVIEW
UNDER THE WATER POWER ACT

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Transcript of Proceedings
Held at Black River School
Black River, Manitoba
TUESDAY, FEBRUARY 10, 2015
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APPEARANCES

CLEAN ENVIRONMENT COMMISSION

Terry Sargeant - Chairman
Edwin Yee - Commissioner
Neil Harden - Commissioner

Cathy Johnson - Commission Secretary
Joyce Mueller - Administrative Assistant
Bob Armstrong - Report writer
Melissa Hotaine - Community Liaison

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1 TUESDAY, FEBRUARY 10, 2015

2 UPON COMMENCING AT 10:00 A.M.

3

4 CHIEF FRANK ABRAHAM: We will get
5 started.

6 (Opening prayer)

7 (Ceremony water song)

8 CHIEF FRANK ABRAHAM: (Ojibway spoken)

9 First of all, I want to welcome everybody here to
10 our community of Black River. As I mentioned in
11 our language, if we don't use our language, we
12 lose it. We are not like the Europeans where if
13 you lose your language, the French, the Germans,
14 the Asians, if they lose their language here, they
15 can easily go back to their home countries and
16 regain their language. For us, once we lose our
17 language here, we have no place else to go. So it
18 is always important for us to make certain that we
19 speak in our language first, and then the second
20 language, which is the English language for us.

21 I want to welcome Neil Harden, and the
22 chairman, Terry Sargeant, Edwin Yee, and I have to
23 look at name plates, Bob Armstrong, I forget the
24 lady's name there, Cecelia Reid. I want to --
25 they are here to come and listen to our concerns

1 in regards to the lake water of Winnipeg.
2 Manitoba Hydro is putting a proposal for a
3 permanent licence to control the lake water of
4 Winnipeg. And so they are here as the Commission
5 to listen to our concerns.

6 I also want to welcome Chief Evans
7 from Norway House, who has come down to listen to
8 our concerns. There is other chiefs that we
9 asked, I understand that Hollow Water is having a
10 band meeting today is why they can't make it. And
11 of course in Sagkeeng too, they are going through
12 the election process where they are starting their
13 campaign process, and we understand their reasons.

14 But we do have an agenda before us
15 where we are going to have our youth that will be
16 doing a presentation. Our elders will be the
17 first ones to do the presentation, and then our
18 youth, and then the women will do a presentation.
19 Then after that, we will open the floor for a bit
20 for anybody who wants to do a presentation. And
21 then the Chief and Council will do the
22 presentation at the end.

23 I'm going to ask Chief Evans if he
24 wants to say a few words before we get started.

25 CHIEF EVANS: Thank you, Chief

1 Abraham. I somehow -- I'm glad to be here, I just
2 want to thank the elder for the opening prayer. I
3 want to thank you, Chief Abraham, and your council
4 members for inviting us to come here and be here
5 at this time. I'm happy to be here, to travel
6 with some of my members from my political and
7 administrative team, and from my community.

8 I will acknowledge the elders that are
9 here, as well as the young people. The citizens
10 from this community, I just want to say thank you
11 for inviting us. To the Clean Environment
12 Commission, I'm looking forward to see how this
13 process works. I know that you have yet to visit
14 my community. Hopefully, we will be able to
15 confirm a date in the next short while. But
16 nevertheless, we are here to come and support,
17 come and show our support for this community as
18 well, and support your leadership, support your
19 community. The concerns that you will be raising
20 are, without any doubt, the same concerns that we
21 too will likely bring to the Clean Environment
22 Commission when it is our turn to present. And
23 hopefully, you know, the concerns that are raised
24 will be concerns that will be taken seriously and
25 addressed in a way that really addresses our

1 issues in what is happening with our environment.

2 The environment is something that's
3 very near and dear to us. Climate change, that
4 seems to be, it is going to be the issue of our
5 time, as has been stated by some celebrities
6 already, so we are no different. We know that in
7 Ontario, the leadership in Ontario, if you have
8 followed the news, they are taking it very
9 seriously now with their lands. You know, they
10 are willing to say that they are willing to die
11 for their land. So, again, it is very important
12 that we deal with this together, not just as First
13 Nations, but together, because we live on the same
14 planet.

15 And again, the challenge is always to
16 look for balance, you know, how do we move forward
17 at the same time finding that balance? Hopefully,
18 you know, things that we raise will be addressed
19 in the near future that will ensure the survival
20 of all of us.

21 CHIEF FRANK ABRAHAM: Miigwech.

22 Opening remarks by CEC.

23 THE CHAIRMAN: Thank you.

24 Good morning elders, Chief Abraham,
25 Chief Evans, ladies and gentlemen. My name is

1 Terry Sargeant, I'm the chair of the Manitoba
2 Clean Environment Commission, as well as the chair
3 of the panel conducting this particular review.

4 At the outset I would like to
5 acknowledge that we are holding these hearings in
6 the traditional territory of the Black River First
7 Nation, a Treaty 5 First Nation. I would like to
8 thank the leadership of your community for
9 accepting our invitation to host the Commission in
10 your community, so that we may hear from as many
11 of you as wish to share your thoughts or stories.

12 I would like to introduce the other
13 members of the panel who are with me today. On my
14 right is Neil Harden, on my left is Edwin Yee. In
15 addition we have some staff traveling with us
16 today; our Commission secretary, Cathy Johnson,
17 our Commission administrator, Joyce Mueller, our
18 community liaison person, Melissa Hotain, as well
19 as our technical staff, Bob Armstrong, our report
20 writer, and Cece Reid, the recorder.

21 We are here today because in 2011 the
22 Minister of Conservation and Water Stewardship
23 asked the Clean Environment Commission to provide
24 a forum to hear evidence from the public about
25 impacts of Manitoba Hydro's regulation of Lake

1 Winnipeg. We were asked to hold meetings in
2 communities around both the north and south basins
3 of Lake Winnipeg, as well as in the City of
4 Winnipeg. This is our fifth week to date. We
5 have been in communities in the north, in the
6 central Interlake, on both sides of the south
7 basin. Tomorrow we are off to Berens River and
8 Friday we are back up in this neighborhood to go
9 to Sagkeeng.

10 While we recognize that Lake Winnipeg
11 Regulation is a key part of the overall Manitoba
12 Hydro system, we have not been asked to look at
13 other parts of that system beyond Lake Winnipeg
14 Regulation. We have been asked specifically to
15 review the reasons why Lake Winnipeg Regulation
16 came into being in the first place with the
17 issuance of the initial licence in 1970. We have
18 been asked to look at whether or not Lake Winnipeg
19 Regulation has succeeded or failed in meeting
20 those goals. And we have also been asked to look
21 at effects and impacts of Lake Winnipeg Regulation
22 since its first operation in 1976.

23 We try to make these community
24 meetings as informal as possible to encourage as
25 many of you who wish to come forward and have your

1 say. Our recording -- our hearings are recorded,
2 this is a requirement of the Environment Act. We
3 produce a verbatim transcript within a few days
4 and it will be posted on our website.

5 Because we are recording, we would ask
6 that if you want to say something, you either come
7 forward to a mic, or probably more conveniently we
8 will pass around our handheld mic. Anyone who is
9 present and who wants to share some thoughts, ask
10 questions, give us your opinion, is more than
11 welcome.

12 What we would like to hear, we want
13 you to state your name, tell us how Lake Winnipeg
14 Regulation has impacted you and/or your community.
15 Tell us your views on whether or not the project
16 has been good for the province as a whole, and
17 tell us what decisions you would like the panel to
18 make.

19 You are more than welcome to make your
20 presentation in your own language. I would only
21 ask that if you do so, that you or somebody else
22 translates so that those of us who don't speak
23 Cree will understand.

24 There are also options to an oral
25 presentation. You may make a submission in

1 writing, and that need not be much more involved
2 than a letter or email sent to the Clean
3 Environment Commission. The address is available
4 on our website.

5 I can assure you that any written
6 submission receives the same amount of attention
7 as what we hear in our community hearings. It
8 becomes a part of the record and we read all of
9 the written submissions.

10 Those are my opening comments. So now
11 we turn to the video.

12 CHIEF FRANK ABRAHAM: We are going to
13 show basically the Black River video. There was a
14 (inaudible) that came out here and did some
15 studies on the Anishinabe people within our area,
16 and we are going to show that.

17 (Video playing)

18 CHIEF FRANK ABRAHAM: We showed this
19 film basically to just sort of give you idea on
20 some of the things that we used to use in order
21 for our survival.

22 The sturgeon itself was very crucial
23 to our way of life, but today that's something
24 that is outlawed, something that we can't go out
25 there and fish like we used to, or consume. It

1 was part of our daily diet. And just to show you
2 some of the things on how our survival was in
3 regards to how we survived on this land, the house
4 that you seen there, basically that was before the
5 housing program ever happened here in the
6 community. Our people were quite resourceful in
7 their ways. The elder that was doing the
8 presentation, Edward Harry that was doing the
9 presentation there, this is his daughter there,
10 Myrtle Abraham.

11 THE CHAIRMAN: Is that you in the
12 film?

13 CHIEF FRANK ABRAHAM: No, that is her
14 sister.

15 MS. MYRTLE ABRAHAM: My sister.

16 CHIEF FRANK ABRAHAM: The person that
17 caught the fish too was one of our ex-chiefs,
18 Russell Starr, which is her brother. He is the
19 one that caught the fish. And that was basically
20 up by the third rapids there, which we do have
21 other rapids here in the community but it comes
22 and goes, some days it is there and some days it's
23 not there, not like before, it used to be quite
24 evident that it used to flow.

25 Before I do my presentation, I'm going

1 to turn it over to the elders, and the one that's
2 going to do the presentation for the elders is
3 Myrtle.

4 THE CHAIRMAN: Chief, before we do
5 that, I would just like to note that I made a
6 mistake earlier when I said Cree instead of
7 Anishinabe or Ojibway. I knew that, but my brain
8 just sort of skipped a beat. I apologize for
9 that.

10 CHIEF FRANK ABRAHAM: Apologies are
11 accepted. Myrtle is the elder who is now going to
12 speak.

13 MS. MYRTLE ABRAHAM: Okay. As you
14 know now, my name is Myrtle, and I grew up in
15 Black River. I was originally from Fort Alex
16 First Nation, or Sagkeeng, whatever you want to
17 call it, but I moved to Black River when I was 10
18 months old and I have been here since then and I'm
19 72 now.

20 So I have seen a lot of changes in
21 Black River as I grew up. It started way back,
22 our river was good, we were able to swim in there
23 without worries, use it for cooking, washing,
24 everything. But then a few years down the line
25 the river started to change. I know part of it

1 was even before the Hydro, that dam that they
2 built there to destroy our water. It started
3 before that and it was by the Abitibi Pine Falls
4 mill at that time. I have seen this with my own
5 eyes. They emptied their sewage right into the
6 water in Sagkeeng. I think there is somebody here
7 from Sagkeeng that might have seen that. There
8 was a big round thing like that, and the raw
9 material was going into the water. It went
10 throughout Sagkeeng, the river. And since we are
11 the nearest, we were hit pretty hard with that
12 water. That's when the water started to change.

13 We couldn't drink it anymore after a
14 few years, or even today. The kids can't even go
15 and swim in the lake anymore. That's how bad the
16 water is. The water destroys everything in our
17 community. There is land erosion all along the
18 banks of Black River. Where I lived there, there
19 used to be a good piece of land, now it is falling
20 in. My daughter's house and my son's, they are
21 very close to the water. And also our elder,
22 Ernest, he lives close to the water, and he
23 jokingly said, "one day I will wake up in the
24 water." That's how close his house is. Because
25 the water is building up, it comes in, raises very

1 high. It was never like that in my younger days.
2 There was so much that we used the water for. We
3 can't now.

4 The erosion is a very, very sad thing
5 because Black River had many good areas. Black
6 River had good beaches, everything, but since the
7 Hydro came up, that's when we went downhill with
8 our water in the community. Now we don't even use
9 that water to make tea. It just goes dark black,
10 so we can't use it. We have to rely on the water
11 that comes in from the water plant. Because it is
12 just not too long ago when we had running water.
13 We never -- I never had running water as I was
14 growing up, nor did I ever have electricity in my
15 house. But now it is different, we have those but
16 in that -- especially with the water to get to
17 that. It is good to have these things, but I know
18 the community would still like their river. But
19 it comes and goes. It gets so deep, it goes right
20 up to near the houses. Some houses, water got to
21 them about a year ago, coming from the river
22 because the water was just so high, it went over
23 the bump into the house, because the house is in a
24 low area. Which was never, ever, ever a problem
25 in Black River. People built their houses

1 anywhere they desired. There was no problems.
2 Now if they built too close to the river, nine out
3 of ten, it is going to wash away, and I believe
4 that. Especially sad for our summit area and our
5 church. Our summit area is very, very close to
6 the water now, all because of Hydro. We know
7 that. People in the Black River community know
8 the changes. The older ones, they knew how it was
9 like. The younger ones, as they are growing up
10 they see the changes. It affects everybody in the
11 community, young, old, it affects everybody.

12 I have seen a lot of other places that
13 the water destroys. And I know, I have my own
14 eyes to see that the water is the cause of this
15 land erosion. We used to have beautiful beaches.
16 I never go down there anymore, but I've been told
17 that there is not much of a beach out there
18 anymore, because the water is too high, it is
19 under water.

20 So I hope you hear my concern on the
21 community. Don't just throw it away. It is the
22 life of our young people that we are going through
23 this route. We want it to be better for them, as
24 we are living through it, we are trying to make it
25 better for them, to have something that we had

1 long ago, but it is slowly, slowly being cut off
2 from it.

3 So do any of the other elders want to
4 say anything? You have a chance to speak up here.
5 Mabel, do you want to say something?

6 MS. MABEL STARR: I guess so.

7 Good morning. My name is Mabel Starr.
8 I was actually born in this community. And I saw
9 a lot of changes -- I have been away for some
10 years, but I came back and I moved back here. My
11 great grandfather was -- not my great grandfather,
12 but my grandfathers were from here too, John Bird
13 and also Richard Harry, he is a brother to Edward
14 Harry that you saw in the film.

15 And it is so sad to see how much
16 pollution there is in the water. Because I
17 remember just in the early '50s, it used to be so
18 clear you could see the bottom. Sometimes it
19 seemed like it was shallow, because I remember
20 jumping in the water one time, I thought it was
21 shallow and it went over my head. Anyways it has
22 done a lot of damage. It is too bad that our
23 children and our grandchildren and great
24 grandchildren don't enjoy what we have enjoyed in
25 the past. We can't even swim in it anymore. It

1 causes -- some get affected by rash. I too was
2 affected by that, even just from bathing, even
3 though we had that water system there cleaning it.
4 I know I'm not the only one that got a rash from
5 that. And I know some children too that have --
6 that got a rash from there. And like I said, we
7 can't really drink it anymore, can't use it the
8 way we used to use it.

9 And it helped too with all of the
10 plants and medicinal plants and trees, and now you
11 see the changes, we don't have any more wild rice
12 or we don't have any more Weekis that was used for
13 medicine. You can't use it any more, it is so
14 polluted.

15 And the other thing too, the animals
16 drank from there, and we used to hunt, not hunt,
17 but I know they used to hunt deer and moose, and
18 some now say that they can see how that wildlife
19 has been affected. We used to trap -- not trap,
20 but I remember going to, my sons would go and
21 snare rabbits. And they are not that old, they
22 used to go when they were teenagers, and when they
23 used to skin the rabbit we couldn't eat it because
24 there was too much boils on there, sores. So that
25 stopped.

1 So it is really affecting us. We used
2 to eat good before, we never used to have no
3 sickness, but nowadays you see all kinds of
4 sickness that it caused. It caused like diabetes,
5 I have diabetes, and it caused cancer and all
6 kinds of different illnesses. My grandson one
7 time got a cut on his leg, and he went swimming
8 and it really got infected, he had to be
9 hospitalized for almost two weeks. First they
10 thought it was that flesh eating disease. I told
11 him, no, because he is was okay before and it was
12 just that one spot on his leg where he had got a
13 cut, and it really affected him when he went
14 swimming, so he had to be hospitalized at the
15 Children's Hospital. These kind of things our
16 children go through. Like they can't swim in
17 there anymore. That's why we were hoping that we
18 could get a recreation centre with a swimming pool
19 where they can go safely swimming.

20 I can't remember anything else. I
21 know I have a lot of memories, good memories.
22 Like out in the beach there we used to pick wild
23 berries, saskatoons, and even those nuts and
24 strawberries and blueberries, they used to be
25 plentiful out there. Now there is nothing.

1 Plums, we used to pick plums too. Now there is
2 nothing, they are all gone, they are all affected
3 by the pollution.

4 And I know the majority of it has to
5 do with Manitoba Hydro. Because they just did the
6 thing in the '70s, that agreement that was '76,
7 but it happened before then, because I remember
8 when we used to walk across where the dam is now,
9 that bridge, they were just starting to build it
10 in the early '50s. And that's when, after it was
11 built, that's when we should have noticed the
12 pollution that was going to cause -- our fish,
13 sturgeon, I know can't swim up there anymore.
14 They used to be plentiful out here, I remember
15 bringing in sturgeon before, used to hang it up
16 and fix it.

17 There is a lot of -- I noticed a lot
18 of major changes. I know other factories or
19 others have caused this pollution, but the
20 majority I believe is Manitoba Hydro, because you
21 can see the effects that was created from the dams
22 that were built.

23 And that's it, that's about all I can
24 say. I would like to thank you for listening, and
25 miigwech.

1 CHIEF FRANK ABRAHAM: Next we are
2 going to have two presenters from our youth, April
3 Kent and Shandy Clark. If you want to do the
4 presentation from there, you can.

5 MS. APRIL KENT: Hi, my name is April
6 Kent and this is my partner, Shandy Clark, we are
7 the presenters for the youth.

8 These are our photos taken in the
9 early '90s, this is how it used to look. So as
10 you can see, the beach was clean at one time, and
11 there is absolutely no erosion, no black sediment,
12 no algae floating on top of the water. It is
13 shallow, the water levels are low.

14 I'm sorry, this thing doesn't want to
15 operate right.

16 Okay. This picture shows -- this
17 picture was taken just last year. As you can see,
18 the water levels are very high, the water is, it
19 looks really dirty, you can't see the way it used
20 to look. And the background -- we are the people,
21 we are sitting in the first picture, there is now
22 like green weeds growing there and it just stays
23 there now. And there is a lot of pollution,
24 erosion as you can see.

25 And this is another one going back to

1 the same date, the early '90s, and it's at the
2 same place, Black River beach. And it shows how
3 clear the water used to look. And the kids used
4 to be able to swim in it without it giving them
5 rashes. And the water levels are pretty low in
6 here.

7 And there is the same picture from
8 last year on the other side of the beach. As you
9 can see, there is a lot of black sediment and wood
10 drift that has been washed up to shore.

11 And then this is a picture again
12 showing this woman, she lived out here too for
13 most of her years. And this is the rock from the
14 same picture of -- well, the picture shows that
15 the waters are really low in this picture. And
16 this is the same picture again.

17 And this is another picture. As you
18 can see in the background, those rocks in the
19 background, those are no longer seen, those are
20 covered now. It is flooded and it remains that
21 way. This picture was taken probably in the late
22 '80s, close to the early '90s, and right here,
23 this was taken in the early '90s. And as you can
24 see in the corner part there where the lake is
25 washing up to the shore, that's where we started

1 noticing the black sediment washing up on the
2 shore, and it is staying there. And it is like
3 black coffee grind when it settles in.

4 This is a picture showing by the river
5 bank. In the background, those are the houses
6 that -- those people have been living there most
7 of their lives. And I know -- I used to live down
8 that area too when I was around 9 years old. And
9 for the first time I remember I seen that area, it
10 was so flooded, our whole dock area, that part was
11 flooded. And it scared me, like I had never seen
12 it that way before.

13 This is a picture of one of the
14 families that do live -- this is her backyard as
15 of last year. And then she states that her yard,
16 along with the other families too that live close
17 to the river bank, they state that their backyards
18 are getting smaller and smaller, it is like their
19 yards are sinking into the water.

20 This is a picture of the bridge area,
21 like our river, this is how low our water levels
22 used to look, used to be, and how narrow it used
23 to look. And if you can look at that rock there
24 in the background, you can see how high, it shows
25 how high the water levels reach at some point.

1 And it remains, it sits like that for a long
2 period of time. Sometimes you can't even stand
3 where that woman is standing, it floods that high.

4 And this is a picture of how wide the
5 river has gotten. It used to look narrow, like
6 way narrower than that.

7 THE CHAIRMAN: April, can I ask you a
8 question? On that picture on the left, is that
9 sort of steps off the bridge into the water?

10 MS. APRIL KENT: No, it is the
11 picture -- no, it isn't steps, this is the bridge,
12 she is standing in the middle of the bridge.

13 THE CHAIRMAN: Is that water in the
14 bottom corner?

15 MS. APRIL KENT: No, that's just a
16 flash.

17 THE CHAIRMAN: Okay, thanks.

18 MS. APRIL KENT: Okay, I'm going to
19 read out my paper here.

20 "Changes: We know people used to be
21 able to drink out of the river. Now
22 it is unsafe to do so. Our beach used
23 to be clean and inviting. Families
24 would take their children swimming and
25 enjoy a day at the beach. Now the

1 beach is not inviting at all. Algae
2 floats on top and black coffee
3 grind-like sediment is along the
4 shoreline. Children and families are
5 reluctant to swim there anymore.
6 People used to be home for a lot of
7 game, hunting was common activity.
8 Deer, moose, rabbit were common food
9 sources for families. Now game is
10 becoming scarce. Traditional
11 sustenance is no longer readily
12 available and we pay the high cost of
13 store-bought meat to feed our
14 families. We used to fish a lot and
15 fish used to spawn up the river,
16 sturgeon used to be in abundance
17 nearby and elsewhere on the territory.
18 They no longer are. High water levels
19 and warmer waters have altered
20 spawning habitat. Fish are not as
21 plentiful, therefore, fish as food for
22 our tables is not plentiful.
23 Economic impacts of Lake Winnipeg
24 River: The destruction of spawning
25 areas affects fish populations which

1 impacts on the ability for the
2 community to re-engage in commercial
3 fishing as a means of livelihood.
4 Visible impacts of Winnipeg River:
5 Trapping equipment has been lost to
6 high water. The land and banks where
7 people could once set traps locally is
8 now being eroded and washed away. The
9 high water levels force people to
10 move, affecting families, potentially
11 disrupting their lives. High water
12 affects plants and medicines. It
13 appears to people that with each
14 passing year the lake becomes less
15 clean, less usable and less inviting.
16 Cultural impacts of Lake Winnipeg
17 River: Knowledge and economy, people
18 used to know how to use medicinal
19 plants that were readily available
20 locally. We used to know the
21 teachings that go with the picking and
22 preparing them. Now we are losing
23 these plants and knowledge that goes
24 with these medicines. Also knowledge
25 and teachings of how to use animals

1 used to be passed down. For example,
2 we use all parts of the sturgeon, even
3 to make and shape a material similar
4 to glass which was stronger than glass
5 and very useful. Now that knowledge
6 is lost to the younger generation.
7 Only half of the group has experienced
8 trapping in their lives, and most of
9 them only once or twice. None go
10 regularly. It is understood the loss
11 of culture and loss of habitat are the
12 reasons that young people don't trap
13 regularly. Young people don't speak
14 the language of their grandparents or
15 ancestors. This loss of language,
16 this erosion is partly due to Hydro
17 projects that have gradually moved
18 into our land.

19 Concerns for the future: What are the
20 long term effects of high water due to
21 Lake Winnipeg River? How are future
22 generations going to be impacted by
23 the cumulative effects of Hydro
24 activities?

25 Compensation: Black River residents

1 should be compensated in some way. We
2 deserve just and fair remuneration for
3 the use of our land. We ask for no
4 more than honesty and even-handedness
5 in this matter. One form of
6 compensation would be to offer us a
7 reduced Hydro rate. Each month we pay
8 Hydro for using our land, and it
9 should be the other way around. All
10 members would benefit from lower Hydro
11 rates, and it is reasonable to expect
12 that we be given eye for eye
13 consideration.

14 An important characteristic of this
15 community, like all others, is the
16 need for education. We need to see
17 Hydro inject money into the
18 development of programs, courses and
19 resources to help the youth. We need
20 a regrowth in our traditional ways.

21 The gradual loss of our language,
22 traditional hunting grounds and
23 cultural lifestyles, due to the
24 project such as this, needs to be
25 recognized and needs to be

1 compensated. We would like funds to
2 re-establish what has been lost, to
3 rekindle some of the lost ways of our
4 people, to help educate our children
5 for the future that faces them.
6 Hydro can help repair what they have
7 destroyed. Almost all children and
8 adults benefit in their local towns
9 and communities from centres that
10 offer sports activities. Looking
11 around Black River, you can see we
12 need an arena, a recreational centre,
13 a swimming pool or some comparable
14 facility. Hydro would be doing the
15 right thing by helping to see we get
16 one or more of these wonderful
17 facilities.
18 Employment and profit sharing
19 opportunities: There is talk of
20 another Hydro transmission line
21 through the territory. What are the
22 employment opportunities for Black
23 River members? How long will these
24 jobs last? What type of workplace
25 injury or retirement benefits would

1 employed members be entitled to? Is
2 Manitoba Hydro willing to entertain
3 long-term profit sharing agreements?
4 How will the community benefit in long
5 term from continued Manitoba Hydro
6 activity affecting Black River lands
7 and waters?

8 Okay. Also I have done research on
9 environmental impacts on dams, and I found that
10 environmental consequences of large dams are,
11 "...numerous and varied, and include
12 direct impacts to biological, chemical
13 and physical properties of rivers, and
14 riparian or stream side environments.
15 The dam itself blocks fish migration,
16 which in some cases and with some
17 species completely separates spawning
18 habitats from rearing habitats. The
19 dam also traps sediments which are
20 critical for maintaining physical
21 processes and habitats downstream of
22 the dam.
23 Another significant and obvious impact
24 is the transformation upstream of the
25 dam, from a free flowing river

1 eco-system to an artificial black
2 water reservoir habitat. Changes in
3 temperature, chemical composition,
4 dissolved oxygen levels and physical
5 properties of a reservoir are often
6 not suitable to the plants and animals
7 that are involved with a given river
8 system. The alteration of river flow
9 and sediment transport downstream of a
10 dam often causes the greatest
11 sustained environmental impacts. Life
12 in around a river evolves and is
13 conditional on the timing and quantity
14 of the river flow. Disrupted and
15 altered water flows can be as severe
16 as completely dewatering river reaches
17 and the life they contain. All of
18 this can unravel the ecological web of
19 a river system."

20 Thank you.

21 CHIEF FRANK ABRAHAM: Okay. Before we
22 ask the next presenters to come up, which is the
23 women's group, we will break for lunch. So before
24 we break for lunch, I will ask Olga to say a
25 prayer for the meal.

1 (Prayer)

2 (Hearing recessed for lunch)

3 CHIEF FRANK ABRAHAM: Is everybody is
4 ready? We will get started. Speaking for the
5 women is Pat Mitchell.

6 MS. PATRICIA MITCHELL: Terry, are you
7 ready?

8 THE CHAIRMAN: Yep, any time.

9 MS. PATRICIA MITCHELL: Okay. I just
10 wanted to welcome our visitors to Black River
11 First Nation. I was asked by the women to voice
12 some of the concerns that they had, so I wrote a
13 little bit down just for myself to follow.

14 My name is Patricia Mitchell, I'm from
15 the Black River First Nation, and I would like to
16 take a few minutes to speak about the impacts that
17 Lake Winnipeg Regulation has had on our First
18 Nation, coming from Anishinabe Kwe's perspective.

19 Can you hear me? Okay.

20 As an Anishinabe person, water is very
21 central to our belief system. In our culture it
22 is the responsibility of the Kwe, which is the
23 women, to take care of the water. As life gives
24 we must protect the water for future generations.
25 We must keep it clean and pure so that it can

1 continue to offer us, offer gifts of life to
2 everyone on mother earth.

3 As we have shown, our perception of
4 water differs in that I grow to learn the vital
5 importance of water. For example, I learned that
6 as human beings we consist mostly of water, and
7 that water covers 70 per cent of the planet, and
8 without water there would be no life. And slowly
9 but surely, water is being taken for granted and
10 is now greatly polluted.

11 In our community, the once pristine
12 beaches of our childhood are now covered with
13 green algae and are disappearing. I remember
14 drinking water from the lake as a child, and today
15 this is no longer possible.

16 The women of Black River First Nation
17 would like to remind the CEC that there have been
18 attempts, to no avail, for the past 40 years to
19 address these issues. We have signed a BCR from
20 the Chief and Council from the 1970s, expressing
21 our concerns about the Lake Winnipeg water
22 regulation. Today's hearing might be the only
23 chance that Black River First Nation has to
24 present its concerns regarding the regulation of
25 Lake Winnipeg.

1 Over the last couple of presentations,
2 you have heard how our people used to work
3 together, how our agricultural fields were full of
4 horses and cattle, and how everyone had a garden.
5 Gardens were fertilized with the cattle and horse
6 manure mixed with some plants gathered from the
7 muskeg. The women would help clean and process
8 the net loads of fish each spring for the
9 commercial fishery. Women used to snare deer,
10 rabbits, prepare moose hides. The community
11 members used to be able to fish off the beach for
12 domestic consumption and for recreation. Women
13 worked along side men in the local saw mill
14 operated by Brown and Rutherford, until it shut
15 down in 1956.

16 In the late 1950s, our community was
17 relocated from the lake to where it is now. This
18 resulted in changes to our former independent way
19 of life which we believe was due to relocation
20 from the lake. Relocation is suspected to have
21 occurred in the anticipation of the Hydro
22 activities, which is continued today by the
23 regulation of Lake Winnipeg.

24 After relocation, reliance on welfare
25 began. The hayfields are now under water. People

1 are no longer able to keep cattle and horses,
2 there is not enough land in our present area.
3 Very few people keep gardens anymore. Knowledge
4 of muskeg plant and fertilizer is being lost.
5 There is very little sharing and hunting, so women
6 cannot pass the skill on to the young women. The
7 spirit of corporation and community is diminished
8 because the need to work together on the land is
9 gone.

10 The visible erosion and flooding is
11 caused by the Lake Winnipeg Regulation. We can't
12 see how a natural flow would actually flood the
13 land unless it is being diverted, unnaturally
14 diverted. Several homeowners have lost land to
15 the river, ranging from a few feet to over six
16 feet and big chunks breaking off. Some of us have
17 had our driveways under water. There have been at
18 least three high water years, community floods in
19 the last 20 years. The erosion seems to be
20 coming, we are getting worse with each passing
21 year. One of our sacred sites that is located at
22 the mouth of the river is slowly getting under
23 water as well.

24 There has been mention for
25 compensation. Compensation, we believe, should

1 address shoreline erosion, identify prevention
2 measures. There should be shoreline land studies
3 and monitoring. Water sampling from different
4 sites throughout the lake in and around Black
5 River should be taken at a cost to Manitoba Hydro
6 or the government. There should be a plan in
7 place that addresses the impacts from the new
8 invasive species that are being released into Lake
9 Winnipeg, i.e., zebra mussels. It was only last
10 summer, I believe, that the zebra mussels were
11 found in Gimli and we don't have that resource
12 here for anybody to go and check for zebra
13 mussels. I'm not even sure that people know what
14 zebra mussels look like.

15 One other concern with invasive
16 species like that is they harm the water treatment
17 systems. And my question that I want recorded is,
18 who is going to pay for that if those zebra
19 mussels are harming our brand new water treatment
20 system? Is it going to be the Manitoba
21 Government? Is it going to be Manitoba Hydro?

22 Some of the other recommendations that
23 Black River First Nation is recommending is that
24 the CEC recommend the Manitoba Government grant --
25 because we all know they are going to grant it --

1 a shorter term, preferably ten years versus 50
2 years. And during that time that a plan be put in
3 place to properly manage the shoreline erosion and
4 the effects of all of the chemicals that are being
5 diverted into Lake Winnipeg.

6 Recommendation two; that Manitoba
7 Hydro be recommended to address and offer proper
8 mitigation plans to address the erosion of
9 shorelines and the health of the lake water.

10 Three; that Manitoba Government or
11 Manitoba Hydro offer a mitigation plan that
12 includes the monitoring of new invasive aquatic
13 species found in Lake Winnipeg, and the effects
14 those are going to have on the First Nation people
15 that are living around the lake. And that the
16 Manitoba Government include a First Nation
17 representative's voice at the International Water
18 Stewardship Board. I think there is a stewardship
19 board that's in place that is lacking the voice of
20 the people where the water system is being drained
21 into. And that the Manitoba Government and
22 Manitoba Hydro be held accountable for the damages
23 inflicted upon the people of Black River by the
24 continued approval of the regulation of Lake
25 Winnipeg. And that the Manitoba Government and

1 the Federal Government formally apologize to the
2 people of Black River for infringing upon our
3 traditional livelihood and offer some type of
4 compensation package to address this.

5 I shortened my presentation, only
6 because there was a few women that went ahead of
7 me, but I hope that I managed to capture a lot of
8 what is going to affect Black River today and
9 tomorrow. Because nobody knows what is going to
10 happen in 50 years. And I really hope that the
11 government takes this serious. They can't offer
12 another licence for 50 years and not be held
13 accountable to the impacts.

14 There are a couple of pictures here
15 I'm going to reference. This picture right here
16 is a foot bridge that was created by our people
17 when we got relocated. Right? So we built that
18 bridge. And you can see right now how close that
19 river is today, and that bridge is no longer
20 there, it got washed away. There has been a lot
21 of erosion.

22 And this is a picture from our beach,
23 and you can see that island there in the back, it
24 is actually connected. And today that little
25 island is almost all under water, I don't even

1 believe that you can walk there anymore. It is --
2 I mean, if Manitoba Hydro says there is no impacts
3 and there is no damages, and there is no flooding,
4 they are preventing flooding in Winnipeg, but at
5 whose expense? That water is being diverted
6 somewhere, and that island that's getting under
7 water I think is proof of flooding that's
8 happening to our area.

9 And that's another picture of one of
10 the islands. That's -- I don't even know if
11 that's there anymore, but I think our Chief is a
12 little bit older so he could probably speak to
13 that.

14 So that is my presentation. I hope I
15 captured a lot of what the women had to share
16 today. Thank you.

17 THE CHAIRMAN: Thank you, Patricia.

18 I can address one of your concerns
19 right now, the others will sort of go into the mix
20 when we have our deliberations after the hearings
21 are over. But the issue about the term of the
22 licence, what Hydro is applying for right now is
23 called a final licence, it is not permanent, and
24 it will actually only carry through until 2026, so
25 11 years from now. And starting in about 2020,

1 Manitoba Hydro will have to apply for another
2 50-year licence. So there is lots of time, and
3 perhaps coming out of our report there will be a
4 call for a lot of research that should be done
5 before the next licence comes up. But it is also
6 an opening for you and your community and other
7 communities all around the lake, around the lake
8 and downstream of Jenpeg, to push for the research
9 that's necessary.

10 So this isn't a 50-year licence, this
11 is in effect a 11-year one. But there will be,
12 and there will be 11 years in which to try to get
13 all of your concerns addressed before the next
14 licence comes along.

15 MR. RYAN DUPLASSIE: Hello to the
16 Commission, my name is Ryan Duplassie. I'm from
17 the University of Manitoba today. I was hired by
18 Black River First Nation as a coordinator for
19 these presentations today. And I was asked by the
20 Chief and Council to speak to my experience as
21 somebody who came on board to learn of the
22 community's concerns and to learn about the
23 process with the Clean Environment Commission
24 itself, and what it is that I learned and what it
25 is that I observed through this process. So I

1 will just take a few minutes to speak to that.

2 So, obviously, we are dealing here
3 with, as you mentioned, Mr. Sargeant, a Treaty 5
4 community on the lower basin of Lake Winnipeg,
5 which you have acknowledged. However, you know,
6 when we spoke about, initially today, the Clean
7 Environment Commission's mandate to try to
8 understand the original reasons why Lake Winnipeg
9 Regulation came into effect and the building of
10 the control structures and of Jenpeg, and that it
11 is your mandate to see whether or not Manitoba
12 Hydro has fulfilled those reasons adequately.

13 One thing I would say about that is it
14 appears that, regardless of what the findings are,
15 that that final licence is almost all but granted.
16 So a question that I would have to Commission is
17 what the purpose of these community hearings are
18 when, in fact, they may have little to no effect
19 on the application for a final licence by Manitoba
20 Hydro?

21 One of the things that I noticed in my
22 getting to understand the history of Manitoba
23 Hydro and Lake Winnipeg Regulation is supported by
24 the large binder that was issued by Manitoba Hydro
25 for the purpose of Lake Winnipeg Regulation. It

1 is very detailed for what it gives, and there are
2 several sections. Actually, the bulk of the
3 information that was given for Lake Winnipeg
4 Regulation has to do with the nature of the entire
5 lake system itself being used as a reservoir for
6 Hydro, and that there can be little separation
7 between Lake Winnipeg Regulation itself and the
8 Nelson River, the lower Nelson, and the dams up
9 there, as well as the Churchill River Diversion.
10 In other words, it is all one system. And when
11 you look at the water coming in from lake Manitoba
12 as well at Grand Rapids, that's all of one system.
13 And when you look at the water coming into Lake
14 Winnipeg from the Winnipeg River, and the six
15 generating stations there and other control
16 structures that are up, that's all of one system.
17 And so it is clear, and the Commission has
18 admitted that it is clear that, as Lake Winnipeg
19 functions as a basin and as a reservoir for Hydro
20 activity, it is all of the system.

21 And yet for these Lake Winnipeg
22 Regulation hearings, it has been noted by the
23 Commission that you are of the view that the lower
24 basin of Lake Winnipeg is not, or at the very
25 most, very little affected by Lake Winnipeg

1 Regulation. And therefore they would be --

2 THE CHAIRMAN: Excuse me, Ryan, could
3 you expand on that a little bit? I'm not sure
4 that we have ever said that.

5 MR. RYAN DUPLASSIE: Well, Councillor
6 Brian Henderson and community member Patricia
7 Mitchell, and Cathy Johnson was there as well, CEC
8 coordinator. When we were invited to speak about
9 the possibility of a shared historical study with
10 Sagkeeng First Nation, and then we were talking
11 about the possibility of some substantial, at
12 least meaningful funding for that. And we got
13 into a discussion as to whether the Commission
14 felt that Little Black River First Nation was
15 affected by Lake Winnipeg Regulation or not, and
16 it was mentioned that the reason that Cross Lake,
17 or Pimicikamak was granted almost 40 per cent of
18 the entire budget for Lake Winnipeg Regulation
19 hearings was because they were severely affected,
20 and yet these other communities, especially at the
21 basin of the lake were little, if at all affected,
22 I believe was the actual verbiage that we heard
23 that day. So that said --

24 THE CHAIRMAN: I would just like to
25 address that. I think what we said was if you

1 were going to bring that case, you had to
2 demonstrate actual damage caused by Lake Winnipeg
3 Regulation to be within our terms of reference. I
4 didn't dismiss it out of hand, but we said that
5 would be -- the onus on you was to demonstrate
6 that somehow. Anyhow, we have heard testimony
7 today to that effect.

8 MR. DUPLASSIE: And I thank you for
9 that. One of the ways that we understood the onus
10 would be on us is that we would have to consult
11 our elders and other types of technicians and
12 professionals to try to make that case. And
13 indeed, the meeting that I'm speaking of at the
14 moment was an invitation by the Clean Environment
15 Commission to come and conduct a historical
16 shoreline study, which would help us to make the
17 case that, in fact, Lake Winnipeg Regulation has
18 had deleterious effects on the shoreline and
19 culture, et cetera. We received notice a week and
20 a half to two weeks ago that, despite a near
21 assurance that we would be given some funding
22 along with Sagkeeng to do a joint community
23 historical shoreline assessment, all of the
24 funding was denied. All of the funding was
25 pulled.

1 And so when the Clean Environment
2 Commission makes a statement such that it is the
3 onus of the First Nations to make a case and to
4 prove their point, but yet they consciously in
5 some manner withhold the funding to conduct such a
6 study, one wonders how it is that an impoverished
7 First Nation would go about conducting an
8 intensive historical study as to the effects of
9 shoreline and culture due to Lake Winnipeg
10 Regulation, without any funding.

11 THE CHAIRMAN: Mr. Duplassie, we are
12 not here today to attack the processes of the
13 Clean Environment Commission, particularly process
14 matters that take place outside of our hearings.
15 I don't think it does your cause, and by extension
16 this community's cause, much good to be attacking
17 us for processes that you don't like. We had a
18 limited amount of funding. We made some funding
19 available to this community, we made some funding
20 available to Sagkeeng, but we didn't have a big
21 bag full of money to hand out. So we used our own
22 judgment to determine how best it might be spent.
23 I think you should move away from attacking us on
24 process, because it won't help you or your cause.

25 MR. DUPLASSIE: I thank you for the

1 sentiment and I apologize if you feel as though
2 you are being attacked. What it is, and these
3 aren't personal attacks, these are observations as
4 a coordinator to try to understand how it is that
5 a community that has indeed been affected by Lake
6 Winnipeg Regulation would go about stating its
7 case. One avenue that they were given, and it
8 must be stated again, as we stated that day also,
9 is that one of the only avenues, if at all, that
10 have been given to the community and I'm sure
11 others, is through the Clean Environment
12 Commission. And I think that it was quite well
13 known by the Commission that the communities would
14 have to make every effort that they could within
15 whatever it was, whatever largess would be granted
16 by the Clean Environment Commission so that they
17 could make a case.

18 So, yes, this is to say that of course
19 the community was disappointed at the withdrawal
20 of funding for a shoreline mapping project, but
21 this is something, again, so this will bring me to
22 ways that the Clean Environment Commission could
23 indeed partner with communities like Little Black
24 River First Nation.

25 One of the recommendations going

1 forward is, as you mentioned, Mr. Sargeant, the
2 final licence under which the Lake Winnipeg
3 Regulation hearings are undergoing right now will
4 be finished in 2026, so 11 years from now. About
5 five or six years prior to that there will be
6 perhaps a longer and more thorough sort of
7 interrogation or investigation as to what the
8 effects have been, mitigation measures, et cetera.
9 One of the recommendations that I, as somebody who
10 has come from maybe a third party perspective and
11 come into this process with eyes open on all
12 sides, what I would really -- what I have come to
13 understand would be really beneficial to
14 communities such as Black River is to be given the
15 opportunity to conduct a thorough long-term study
16 of the effect, the total effect of Hydro
17 activities on the community's shorelines and
18 culture.

19 And the reason why I think a
20 historical study is necessary is because, again,
21 we cannot separate Lake Winnipeg Regulation from
22 all of the others, although that separation has
23 been made artificial for the purposes of this
24 Commission, and given the limited budget, as I
25 understand it, the Commission has been granted by

1 the Province to conduct these hearings. So,
2 again, we understand that you have a limited
3 budget with which to work, and you made your
4 budget allocations according to what you felt
5 would be most useful to the Commission. And I
6 understand that and I appreciate that.

7 But a longer term study, for example,
8 it was in the early 1900s, over 100 years ago now
9 when Manitoba Hydro first began to set up its
10 control structures and its generating stations on
11 the Winnipeg River, which severely impacted the
12 sturgeon fishery, for example, which we saw in the
13 video, and other notions of livelihood and
14 subsistence for the community and cultural
15 longevity and continuance. If a community such as
16 Black River, that has so obviously been affected
17 by Hydro over the years, what might the Commission
18 recommend to the Province and/or Manitoba Hydro as
19 to how it is that a community such as this can
20 finally get a full hearing as to its concerns?
21 Not only is that probably widely recognized as a
22 human right, it would be an Aboriginal right, and
23 if we may go there, it is a Treaty right.

24 Although I think that Chief Abraham
25 may speak to a little bit later, about the fact

1 that the very signing of the Treaty in this area
2 has been dubious. In other words, Manitoba
3 Hydro -- well, there is an existing land claim,
4 and I'm sure that Chief Abraham will speak to this
5 a little bit, this area is a site of an existing
6 land claim because of dubious Treaty signing. In
7 other words, it is up in the air whose
8 jurisdiction it is to operate on these waters.
9 And that is something that Manitoba Hydro has
10 never considered, and I think that's something
11 that the Clean Environment Commission needs to
12 consider were it to move forward constitutionally
13 and ethically in the future.

14 And I appreciate your comments to
15 Patricia Mitchell, Mr. Sargeant, when you said
16 there will be an opening in a couple of years, at
17 the application for that next 50-year licence, for
18 communities such as this to come forward and make
19 their cases known. I would hope that the Clean
20 Environment Commission would make a strong
21 recommendation to the Province and to Manitoba
22 Hydro and other partners to consider having
23 affected communities around the lake undergo a
24 very thorough historical impact assessment,
25 cultural, environmental, ecological, and legal as

1 well. I think that all of these questions are
2 very, very important. And I think that it is at
3 the behest of the Commission to be able to make
4 those recommendations and we would hope that they
5 would do so. So I will leave that for now. Thank
6 you very much.

7 THE CHAIRMAN: Thank you,
8 Mr. Duplassie.

9 MS. SHERRY DUFFNEY: Hi, I have never
10 been accused of needing a microphone before. My
11 name is Sherry Duffney, I'm a nurse here at the
12 Black River Health Centre, and I would like to
13 talk about the human impact.

14 I have worked up north in many
15 Hydro/First Nation communities, South Indian Lake,
16 Cross Lake, Nelson House, Lac Brochet right down,
17 and I have seen the human toll in terms of
18 poverty, in terms of health. I have seen the
19 whole physical part of it. Somebody was talking
20 about children being able to swim without getting
21 impetigo, I don't have anything statistically, but
22 I can assure you that over the years that -- my
23 colleague has concurred that over the years the
24 incidence of rashes and skin lesions are on the
25 rise.

1 Ecologically, this gentleman presented
2 very well, I mean there is no -- there is
3 statistics to say that migration of birds,
4 fishing, and that has such an impact on people's
5 emotional, physical, community well-being. And I
6 want to say that I have seen that in the last 15
7 years that I have worked in First Nations
8 throughout Manitoba, that it is there.

9 And I appreciate that you've come to
10 listen. And I really welcome the people to talk,
11 let them hear your story, it is important. And I
12 just want everybody to know that. Thank you.

13 MS. VALERIE VANDAL: Hi, my name is
14 Valerie Vandal. I'm going to mention a little bit
15 about land erosion. I live across the river on
16 the riverside, my house is there. I have lived
17 there for about 14 years. About seven or eight
18 years ago we used to have a barbecue, a fire pit,
19 and we were able to sit right at the shore. We
20 can no longer do that because we have lost a lot
21 of land into the water. The last couple of years
22 we have had the water level come up to where we
23 are. If it doesn't stop pretty soon, my house is
24 going to be in the river. So there is something
25 going on. We used to swim in the river, and we

1 hardly swim there anymore because of the green
2 algae coming into the river. Thank you.

3 MR. DAVID BIRD: Bonjour, (Ojibway
4 spoken).

5 My name is David Bird, my real name is
6 (Ojibway spoken). I speak my language because
7 that's who I am. I borrow your language so you
8 can understand what I just said. And I think
9 about, I think about a lot of things with our
10 people, the suffering they are going through. I
11 think about a lot of things about our children, my
12 grandchildren. And I go back in my memories, I
13 remember that I used to sit there, listen to the
14 old men talk. There is going to come a time when
15 you are not even going to be able to speak up for
16 yourself. There is going to come a time when they
17 are not even going to listen to you. There is
18 going to come a time when you will just be locked
19 in place and not be able to go anywhere. And this
20 is happening. This is happening today.

21 Our people have tried and tried over
22 the years to get their point across on what Hydro
23 is doing. When you look at our lake, our Lake
24 Winnipeg here, you look at it, you see the
25 pictures there, proof, the way it was. And I use

1 that past tense because that's how it is today. I
2 don't know if we will ever get that back. But
3 when you look at the river systems that flow into
4 Lake Winnipeg, that's the basin, it flows from the
5 Precambrian Shield down into Lake Winnipeg. It
6 flows from the Rocky Mountains down to Lake
7 Winnipeg. All of the garbage it picks up along
8 the way, how is that lake going to clean itself
9 when Hydro is blocking the drainage system up
10 north? How is that lake going to heal itself?
11 How is it going to clean itself?

12 Our people have tried to get your
13 people to understand that we live off the land, we
14 live from the water. That's who we are.

15 You heard this young lady say the
16 majority of our body is water. Now, you think
17 about that. You put all of these dams in place --
18 not you, but you know what I'm talking about --
19 they put all of these dams in place and they stop
20 that water from flowing naturally. It can't clean
21 itself.

22 I used to think that it is not true
23 when people talk about fish in their nets with
24 lots of boils and scabs and whatnot. Last summer
25 my brother was fishing, he set a net at the mouth

1 of the river right here. He pulled some pickerel,
2 those pickerel had scabs on them, because that
3 water is not clean anymore. Lake Winnipeg is
4 endangered. It is even on the endangered list.
5 What do we do? How do we get these people to
6 listen at what they are doing? And what
7 recommendations are you going to make that's going
8 to make a difference for our people?

9 Apologies don't just cut it for me,
10 they just don't. We have to work together, and
11 working together means listening to each other.
12 That's the bottom line. All Hydro wants, money,
13 money. There was a time one of my teachers was
14 talking and he talked about that. The animals are
15 going to leave, even the fish are going to leave,
16 and the last one that's going to leave us is that
17 fish. Then we wouldn't have nothing to eat. What
18 are people going to do? What is Hydro going to
19 do? Are they going to eat their money? That's
20 what that old man told us.

21 And like, I appreciate you guys coming
22 out to listen, but my question is, how far does
23 your jurisdiction run? Because that water comes
24 from the Rocky Mountains into Lake Winnipeg basin,
25 also from the Precambrian Shield it flows down

1 this way, picking up all of this garbage. And you
2 are going to licence, and they are going to
3 licence Hydro to build some more dams where Lake
4 Winnipeg drains into the ocean.

5 I leave you with that question. Thank
6 you for listening.

7 THE CHAIRMAN: Thank you, Mr. Bird.
8 Just before we hear from the next person, I will
9 just address your question a little bit. And as I
10 said at the outset and it has been mentioned other
11 times today, our mandate is limited to the
12 regulation of Lake Winnipeg. Even though it is
13 part of a big system, it isn't an artificial
14 divide, it is identifiable by engineering and
15 scientific means as a separate entity.

16 We will almost certainly make
17 recommendations about that licence, but something
18 else that the Clean Environment Commission does a
19 lot, in fact, we do it in most of our major
20 reports, is we make non-licensing recommendations,
21 and they will apply to things that are outside of
22 our terms of reference. And it is very possible
23 that we will make recommendations on some of the
24 matters that you talked about just now, Mr. Bird.
25 I can't promise you that we are going to fix

1 things up over night, or even in the next five or
2 ten years, but if we can turn things in a positive
3 direction -- it took a long time to mess up this
4 lake, it will take a long time to fix it -- if we
5 can turn things in the right direction and start
6 making slow steps towards fixing the lake then I
7 think we will have succeeded. So thank you for
8 those comments.

9 MR. WARREN BIRD: (Ojibway spoken). To
10 what I said here in the language about land
11 erosion, when I compared this recent photo to the
12 1959, the land was intact here already, or still
13 intact anyway a bit. And then this recent photo,
14 all of this eroded except for the little island
15 there. And when I used to talk to my uncles,
16 because they grew up in the region here, right at
17 the mouth here, grandpa had over 100 head of
18 cattle, they used to jump across this river here.
19 And they used to make their hay over here for the
20 cattle and the horses that they used to have. And
21 now everything is going to be under water here. I
22 did some cutting here a few years ago for the
23 horses and cattle that I had. Now everything is
24 under water. Probably in the near future, all of
25 this will be under water, just parts of this will

1 be left.

2 We also have a historical site here.
3 Even that has eroded and it is in rock. There is
4 the whole rock there that broke away due to the
5 rise of the water in the late fall when the ice
6 would break, when the winds would blow, and in the
7 springtime also again when the winds would blow,
8 they would crash into that site.

9 I guess that's all I have to say. And
10 I hope that you understand, or take into
11 consideration with Hydro, I don't know what --
12 anyway we will -- miigwech.

13 THE CHAIRMAN: Thank you. Could you
14 just identify yourself for the record, please?

15 MR. WARREN BIRD: It is Warren Bird.

16 THE CHAIRMAN: Thank you.

17 CHIEF FRANK ABRAHAM: Anybody else?

18 MS. BRENDA MORRISSEAU: Good afternoon
19 everybody, my name is Brenda Morriseau. I work
20 here in this community, but my home is Sagkeeng
21 First Nation. I feel an urgency to talk about my
22 concerns, and I would like to thank the Chief for
23 the opportunity to says those concerns.

24 My concern is the drinking water
25 issue. I have a daughter who recently moved to

1 Winnipeg to attend university. And a couple of
2 weeks ago, the water in Winnipeg was not
3 drinkable. They had to buy their water. And I
4 see the urgency, people flocking to the stores and
5 buying all of that water off the shelves. There
6 was not enough to go around. And I got the
7 impression it wasn't going to be shared, and that
8 was my concern. What are we going to drink when
9 there is no more water that's good to consume?
10 That really frightens me for my grandchild who has
11 to still grow up.

12 And I'm emotional about this because
13 my dad was a fisherman, a trapper, a hunter, he
14 picked wild rice, he did all of the kind of things
15 to live off the land. At one point he told me,
16 when I was a baby, he raised me eating muskrat,
17 rabbit and beaver, and I was so surprised to learn
18 that, but he always said about the land, it was
19 his great concern. He was a councillor for many
20 times in Sagkeeng. And he said that the spawning
21 areas for fish are being wiped out because of the
22 dams, there is too many dams. They can't lay
23 their eggs anymore and they get washed away. He
24 told me that, and I am proud to speak up his words
25 today to say that.

1 His name was Henry Courchene, and I
2 was very proud of him for teaching me about these
3 things that are a passion for me now, to speak up
4 and say that it is a fear for me for the future.
5 Look at that, whenever that happens, how the
6 urgency, how people get greedy and push to be
7 first. But I think we have to come with this idea
8 of protecting and preserving what we have now,
9 before, so we don't have to end up like that,
10 fighting for water to drink. That's my greatest
11 concern.

12 Miigwech for letting me speak.

13 THE CHAIRMAN: There is one other
14 there.

15 MS. PAULA BIRD: Good afternoon, my
16 name is Paula Bird. I'm originally from Nelson
17 House but I have been a resident here in Black
18 River for the past 15 years. I'm a mother, a
19 grandmother, an active communist, an active
20 traditional medicine picker.

21 And I would like to speak a little bit
22 of the changes that I have seen in the short time
23 that I have been here. Since I have come to Black
24 River, I have spent a lot of time on the waterways
25 canoeing, and I have observed many changes in that

1 short time. I know further up river in the place
2 that they term the third rapids is actually a
3 falls. And I know beyond the falls the water is
4 relatively -- the water levels are relatively
5 unchanged. But from the lake to the falls, I know
6 that the water has risen, and I believe it is
7 directly related to the water levels of Lake
8 Winnipeg.

9 I've seen those things with my own
10 eyes because I have been up and down the river
11 many, many times. I also live on this shore of
12 Black River, and I know that down the bank from my
13 house probably a foot of the land has gone under
14 water. And having that land in the water, I know
15 releases chemicals into our water system. The
16 Black River is where our drinking water is coming
17 from. And I know over the years, having worked at
18 the health centre, and with my own experience, I
19 know that the water is being affected. And since
20 August, I know that the kind of chemicals being
21 used in our water treatment have been changed to
22 probably something stronger. I've been suffering
23 with a skin condition on my hands since August,
24 and I think it has a lot to do with the chemicals
25 that are needed to clean the water because of the

1 added things that are flowing into our drinking
2 water system. And I hope that somehow over time
3 we can remedy that.

4 I believe that our community needs
5 some sort of compensation for the damages that
6 have occurred, but I also believe and pray that at
7 some point these dams can stop, because our water
8 systems can't recover at the pace things are
9 going. We need to stop and let nature recover
10 from the damages that have happened.

11 I mentioned that I'm a traditional
12 medicine user, and I know when I first came here
13 my late mother-in-law had taken me out on the
14 river to pick medicine. Today I can't do that
15 because the water levels are too high and those
16 medicines are not growing anymore, because the
17 water is just too high for them to take root and
18 do what they need to do. Also, the quality of
19 those medicines are not what they used to be
20 because of the added pollution into the system.
21 So I'm almost scared to harvest and use them for
22 treatment for anyone, because I might actually
23 make them more sick with the garbage that's in
24 there.

25 And I would like to have all of that

1 stuff taken into consideration, all of the words
2 that you have heard here, the impacts that have so
3 obviously happened and that are directly related
4 to the regulation of Lake Winnipeg. I know that
5 there are impacts, and although I can't physically
6 prove things, I think there is -- with pictures
7 and words and stories and history we are able to
8 show that there are things happening and we are
9 being affected, regardless of what science might
10 say.

11 Thank you.

12 CHIEF FRANK ABRAHAM: Anybody else?

13 We wanted to put this on the screen
14 for everybody to see but -- however, we don't have
15 the technology. This is a piece of our land
16 that's basically broke off from this area here.
17 One of these areas here, a big chunk of our land
18 broke off, and basically that's what they are
19 seeing. It is about the size of, a quarter the
20 size of this building, and there is two pieces of
21 land that have broken off. The area that we are
22 making reference to, that used to be the homing
23 grounds for muskrat. There used to be plenty of
24 muskrat within this area here. And it is
25 basically this area here, right there, there used

1 to be plenty.

2 As mentioned by Warren, the 1959 map
3 and how that island used to be part of our land
4 before, today it is like this. We anticipate with
5 the Hydro development that has taken place with
6 Hydro, this area here will become an island within
7 the next 10 to 15 years. These houses here, and
8 I'm going to show you some of the -- we are going
9 to show you some pictures on some of the impacts
10 that is waiting to happen on our community.

11 This basically is in my yard here.
12 The water comes right up to this area here, and it
13 has come up to about two feet to my house. There
14 is my daughters there playing in the water, and
15 you can sort of see where the water line should
16 be. And this is a house not very far from my area
17 where we have water. This guy, he has water
18 coming in from the back, because the water comes
19 in from this area here, comes back this way, and
20 you have water coming in from both sides. And
21 these are some of the houses within our community
22 that are basically impacted by the water, the high
23 water levels that come and go every now and then.

24 Now, I know Hydro has said there is
25 very little impact to Black River, but they don't

1 live here, they don't see what we are going
2 through. We asked them several times for people
3 to come and view the erosion that has taken place
4 in our community. And this is the road that goes
5 right across to the church over there, and my
6 house is on the other side of that. But this is
7 what happens every now and then. And this is just
8 most recent, within the last I would say about six
9 years, even less, that this has been happening.
10 And it has been becoming a more and more regular
11 occurrence.

12 So what is going to happen to our
13 homes on this side, some of the people who live on
14 the west side of Black River, and of course some
15 on the east side too are going to be impacted.

16 In 1959, the community was basically
17 at the mouth of the river. In the early -- I
18 should say before that -- in the early years this
19 is where our community used to be, right in this
20 area here, right along the riverside. Back in the
21 late 1950s, the Department of Indian Affairs got
22 the community to move out.

23 Like, let me give you a history of
24 Black River first of all. Black River has been
25 always self-sufficient right until probably 1960,

1 '62, '63, right around there, the community was
2 very self-sufficient. As a matter of fact, before
3 signing Treaty, our community were adapting to the
4 change, that they began farming, they began cattle
5 ranching within our area, and that red mark where
6 it has the E area, those were the hayfields, and
7 they went right up to Sand River that way, with
8 the cows so that they would have grass, the
9 ability to feed on.

10 And then we -- well, it becomes a
11 question whether our Treaty is legitimate or not,
12 because of how it was signed and where it was
13 signed. The Chief that we had was Isaac Passage,
14 but the signers were not Isaac Passage, it was two
15 or three other council members that signed, and
16 that was James Sayer, James Bird, John Sayer, and
17 Isaac Sayer. They were the signers of our Treaty,
18 but they had scratched out Chief Isaac Passage and
19 made one of the other ones chief.

20 Now, there is another document that
21 shows, but this time around there is no Isaac
22 Passage named as Chief, instead it has James Bird,
23 Joseph Sayer, and Isaac Sayer. So it becomes a
24 question whether our Treaty is legitimate, because
25 it was also signed in Winnipeg as opposed to being

1 signed here in the community. Every other Treaty
2 that has been signed has been signed within the
3 communities of the First Nations. Treaty 5 was
4 signed in Berens River, and the same with the
5 other communities had signed their adhesions
6 within their communities. Black River, our
7 adhesion was not signed here. As a matter of
8 fact, there is documents that show that James Bird
9 did not really agree to what was being signed. He
10 was lead to believe that he was signing something
11 different. And so it becomes a question whether
12 we've made a claim to the Federal Government in
13 regards to our Treaty. Because one of the things
14 that was promised, and again we done research into
15 that, there was supposed to have been 640 acres of
16 land per person that was allotted in Treaty 5.
17 But with a stroke of a pen, somebody has scratched
18 that out.

19 Berens River has a good argument
20 because the Chief of Berens River made that
21 statement to them, the amount of land that you
22 sectioned off for us is not what we had agreed to,
23 because you had agreed to 640 acres of land. And
24 he writes back and forth to the Commissioner that
25 the amount of land was not the amount of land that

1 was agreed to. And they were using Treaty 4
2 allotment of land in regards to how much land was
3 going to be disbursed.

4 So we are going to be impacted many
5 different ways with the regulation of lake water.
6 If you take a bottle of water and say that's 715
7 there, and you take a cup of water there and
8 measure the same amount at 715, the width of one
9 body of water is a lot larger than what it would
10 be that -- the tub water. And as the land
11 expands, the depth is always maintained at the
12 same level. I'm not a scientist by any means, I
13 don't claim to be, but just common sense tells me
14 that you can have the same amount of level of
15 water, but the width always expands if you add
16 more water. The width will get wider, and that's
17 what is happening to Lake Winnipeg, it is getting
18 wider and wider. It is expanding and it is really
19 backing up.

20 We have a bridge within our
21 community -- go back one -- right up here. There
22 is a rapids that flows there, or they should flow,
23 and that rapids comes and goes these days. Like
24 this past summer, we didn't even see water flowing
25 down that river where the rapids used to be.

1 So when Hydro claims there is not an
2 impact to us, they don't live here to see the
3 impacts that we are faced with. They don't come
4 and do the studies here in the communities to look
5 at the land erosion. They don't come and look at
6 that little lake that's building, slowly building
7 and some of the islands that are going to be
8 taking place. And these are the things that we
9 have been asking for.

10 Now, I am going to talk about a
11 three-headed serpent. The three-headed serpent,
12 and why I make reference to this is basically the
13 Province of Manitoba is the body. The other side
14 that is connected to that body is Manitoba
15 Conservation, they are the ones that regulate or
16 give out the licences. The other side of it is
17 Manitoba Hydro. Manitoba Hydro is connected to
18 the Province, even though they say that they are
19 separate. Yes, you have different heads but still
20 the same body. In the middle we have the Clean
21 Environment Commission, all in one, you are all in
22 one. So we are fighting basically the same
23 person, and we have no tools that have been given
24 us to fight the three-headed serpent. We
25 basically stand alone. The information is passed

1 out from the different heads to the same body.
2 Manitoba Hydro basically feeds off, or feeds into
3 the Province. We, on the other hand, basically,
4 we don't have the same resources as the Province.
5 All our resources have been stripped from us.
6 And I say stripped, because in 1903
7 there was a proposed railroad, this is before the
8 Natural Resource and Transfer Agreement took
9 place, there was a proposed railroad that was
10 going to go across the territory of Black River.
11 Black River Chief and Council at that time spoke
12 up and said, no, because it is going to hamper our
13 way of life, it is going to impact our way of
14 life. So the railroad station stopped in Pine
15 Falls. When you come there, there used to be a
16 railway there, and that's as far as it went was
17 Pine Falls. It would not come this way because
18 the community of Black River didn't want it. Why
19 I tell you this is because it was our way of life.
20 Ever since the Natural Resource Transfer Agreement
21 went into effect, the Province took its own
22 authority to impose their will on the First
23 Nations communities. And they did it in this
24 form, where you use the serpent, the different
25 heads, and every now and then those heads change

1 to meet the needs of what the Provincial
2 Government wants.

3 And as citizens of First Nations, we
4 have to learn how to challenge them, fight them in
5 their own grounds. And the only way that we are
6 ever going to do that is if we are united as
7 communities, as a nation, the way they should be,
8 one nation against another nation. And that was
9 the purpose and intent of the Treaties was so that
10 we cohabitate, not smother one over the other, it
11 was to cohabitate. If you understand the Treaties
12 the way that we understand them, the oral history,
13 (Ojibway spoken).

14 Whenever you see a Treaty medal, you
15 look in between the European and the Anishinabe
16 person standing there, you will notice an ax in
17 the middle. And the ax represents how much land
18 that the Europeans utilized so that they could
19 grow their crops also, so that they could survive
20 the harsh lands of this country of ours. It was
21 not for us to give up what was rightfully ours, it
22 was so that we could share, so that we could live
23 side by side with each other. But what has
24 happened, though, is you imprisoned our people,
25 and that's what the reservations are all about,

1 you imprisoned our people so that we could not
2 leave these communities. And there is
3 documentation right up until 1950, that community
4 members could not go outside of the reserve
5 boundaries without permission of the Indian agent.
6 That they could not go past the reserve boundary
7 to go hunt without having permission first. And
8 we could not go and associate with our family
9 members next door on either side. Why? Because
10 they were afraid that we would conjure up together
11 so that we could fight the Federal Government and
12 the Provincial Government. So they imprisoned our
13 people, they locked us up in the small boundaries.
14 And that's basically what has taken place.

15 And for us, and we have been doing a
16 lot of work this last little while and a lot of
17 research that we've done, and what professor --
18 what's his name again -- Professor Steinberg
19 verifies what we have been saying, that we came
20 from the east. And this whole territory that
21 comes up this way, it's all our territory, right
22 from the area, even from the east coast all of
23 this way right to the west. It is not limited
24 just to one community, it is the shared
25 territories that we have with other First Nations

1 right throughout the country. It is just that we
2 didn't have the resources to basically put us in
3 the situation that we are in.

4 I read a book called The Art Of War
5 once, and it is how to conquer a nation without
6 ever firing a shell. And a lot of it, the first
7 thing you do is you learn their language, and the
8 courier du bois that came across learned our
9 languages. You bring in their priest, the Jesuit
10 priest that they used to have, and basically
11 that's what they did, the Jesuit priests came in
12 and basically told us our way, our method of
13 praying was not right. They called our people
14 heathens if they did not follow the Christian way,
15 but yet when you listen to Christianity and the
16 philosophy of our people, both say the same thing.
17 And I will tell you that this (Ojibway spoken),
18 from whence God has created the man to lower on
19 that. It is written in the Bible the same way,
20 (Ojibway spoken). And in the Bible it says I will
21 lend them the breath of life so that the human
22 would live. In our language it is the same thing,
23 it is the same thing.

24 When I talk about the Anishinabe, if
25 you look and understand the Bible, if you read the

1 Bible, it talks about the first man being lowered,
2 and do you know who he was? It was Adam, but you
3 know what Adam means in the Hebrew language? It
4 means a red man. A red man was the first one
5 being made, and you could check that through, you
6 can check the Hebrew language and that's what it
7 will tell you. He was made from the red soil, the
8 red man. So what does that tell you about our
9 history?

10 And what Warren mentioned too about
11 our sacred ceremonial sites, a little bit about
12 the sacred ceremonial sites; Black River, the
13 occupants of Black River were further south of
14 here called (Ojibway spoken), it means the big
15 point, out in Lake Winnipeg. But in 1750, when
16 the intruders were coming this way, they said we
17 need somebody to go and protect that sacred
18 ceremonial grounds. That's the place they called
19 (Ojibway spoken). In our history, we understand
20 that when they were to go and sign the
21 confederation for Manitoba, they kept meeting
22 these tribes of people coming this way. And every
23 time they asked them, where are you going, and
24 they said (Ojibway spoken), where the Creator
25 sits. And they met many, many, many tribes coming

1 across that way.

2 When they got to Ottawa to sign
3 confederation, the intent was not to really sign
4 the Province as Manitoba, but it stuck in their
5 mind, the Commissioners that were going to sign,
6 the delegates that were going to go sign, and it
7 rang in their ears as to where was (Ojibway
8 spoken)? And so they tried to make reference to
9 say (Ojibway spoken) and they came out with
10 Manitoba, where the Creator sits. And that's
11 right in that area that Warren mentioned that is
12 slowly going in the water.

13 A lot of the stuff that's being talked
14 about by our elders today, our community members,
15 we understand that we have our fight ahead of us.
16 And it shouldn't be a fight, because what we are
17 doing is not just for us, it is for all Manitobans
18 here within the province, people that use the lake
19 water. You hear it from the cottages saying the
20 same thing that we are saying, we are losing our
21 land, we are losing our water, we are losing our
22 land to the water. And more of it is being
23 eroded. And what we would like to see at the end
24 of the day, basically, is if we had the resources,
25 we could put arguments towards what Manitoba Hydro

1 is saying. But we don't have those resources, and
2 that's why we pleaded to the Commission to see if
3 they would fund that, to really do a good study
4 about what we could do to be able to respond to
5 the many professionals, many studies, many
6 engineers that Manitoba Hydro has access to. We
7 don't have access to one. We get free help from
8 Peter, like Peter Kulchyski, which is one of our
9 people that has assisted us, and same thing with
10 Ryan. We basically try and do as much with the
11 little that we do have.

12 So with that, I welcome this
13 opportunity that we've had to do our presentation
14 to you. And I hope you hear what we are saying.
15 It's our livelihood, it is our sacred ceremonial
16 grounds that are going to be impacted, and these
17 sacred ceremonial grounds are things that teaches
18 us of what is coming. It showed us the types of
19 emblems on the ships that they are going to have.
20 And you see that, footprints that are embedded in
21 rock to show that we have been here for millions
22 and millions of years, not like the 10,000 years
23 that people say. And yet there is places too
24 throughout the province here that will verify that
25 by having those footprints embedded in rock.

1 Whiteshell area is another example
2 where you see foot steps going up on a rock. And
3 little Grand Rapids, they talk about those same
4 footprints. And we call them (Ojibway spoken)
5 because it is a boy's footprints, it is only about
6 that big, and real footprints. It is nothing that
7 you could chisel out over a period of time, they
8 are just embedded in rock.

9 So this is our home, our homes that we
10 are going to be losing, our territory that we are
11 going to be losing. Not once has the Federal
12 Government or Provincial Government come to sit
13 down with us to say, well, we will give you more
14 land.

15 Manitoba Hydro should be paying us a
16 fee for all of the land that was -- for all of the
17 water that we are keeping for them. But they
18 haven't. And we talk about also that the dams on
19 the Winnipeg River has impacted our livelihood,
20 because those used to be our travel ways. We have
21 a birch bark canoe that sat on the other side of
22 Seven Sisters, and that birch bark canoe was
23 basically used to go up and down the river. But
24 when the dam started happening, the family that
25 was on the other side couldn't come back this way,

1 so they had to leave their canoe on the other
2 side. And that canoe now sits in the Museum of
3 Man and Nature in Winnipeg.

4 And you have heard some of the
5 recommendations made by our community members
6 where they talk about, you know, we need a safe
7 place for our kids to play, we need the same safe
8 water environment for them to swim, we can't send
9 our kids out to the lake to go swim anymore,
10 because it is useless, it is a diseased lake. And
11 like it says, and it has been said by our
12 community members here, that the water system
13 cannot clean itself out. All of the sediment
14 builds up at the bottom, and as the water --
15 sediments build up at the bottom, the lake gets
16 wider. We don't have the resources to prove that.
17 If we could get the resources, we could do a
18 proper study, and not controlled by the Province
19 of Manitoba, it has to be controlled by us, the
20 First Nations, because it is our livelihood.

21 Okay. With that I want to thank you
22 for that, and I'm going to ask Peter, do you want
23 to say a few words?

24 MR. PETER KULCHYSKI: It is not that I
25 like Michael Jackson, but I'm worried about

1 passing my cold on to people so I'm going to wear
2 a glove.

3 Well, I don't have as maybe broad or
4 strong things to say as Chief Abraham, but I do
5 want to say a few things here today. And first I
6 want to say, it is really an enormous honour and a
7 privilege for me to be able to speak on behalf of
8 Little Black River First Nation in this sacred
9 territory. I'm aware of the fact that Peter
10 O'Chief, one of the elders who I had the privilege
11 of meeting, was very widely respected all across
12 Anishinabic communities in Canada and in the
13 United States. He used to live in this sacred
14 territory. And of course, I grew up in Bissett,
15 this area of the bush, I have traveled in the bush
16 all across Canada, and northeastern Manitoba is my
17 favorite part of the bush in any part of the world
18 actually. So I wanted to say that.

19 And I'm just going to -- so I want to
20 speak a bit more technically and go back to your
21 terms of reference, because I noted that two of
22 your terms of reference refer to the broader
23 public policy rationale in 1970 and 1972, when the
24 three licences were originally issued.

25 And so I want to impress upon the

1 Commission that that's a very particular time
2 period in the struggles of First Nations in Canada
3 for recognition. In 1969, the Government of
4 Canada introduced the statement of the Government
5 of Canada on Indian policy, the famous White
6 Paper, where they effectively attempted to
7 terminate Aboriginal and Treaty rights. The then
8 government of Prime Minister Trudeau, or the then
9 Prime Minister Trudeau basically said Aboriginal
10 people should be treated as all other Canadians
11 are treated, they should gain their services
12 through the province, as all other Canadians, they
13 should be given services on the basis of needs
14 rather than on the basis of rights.

15 Now, you should also understand that
16 1923 was the last of the historic Treaties signed.
17 The numbered Treaties, Treaties 1 to 11 ended in
18 1921 with Treaty 11. There was another Treaty
19 called the Williams Treaty that consolidated some
20 of the land issues in southern Ontario. After the
21 Williams treaty there were no more Treaties. And
22 there would have been no more Treaties ever except
23 for the fact that the Umista peoples of British
24 Columbia, after a long struggle, reached the
25 Supreme Court of Canada.

1 Soon after the Trudeau White Paper was
2 defeated by Aboriginal peoples and it was formally
3 withdrawn in 1971, in 1973, the Supreme Court of
4 Canada handed down its historic judgement in the
5 Calder case, and six out of seven justices said
6 Aboriginal title exists in Canadian law.
7 Aboriginal title exists in Canadian law.
8 Famously, in response to that the then Prime
9 Minister Trudeau said, well, maybe you Aboriginal
10 people had more rights than we knew about when we
11 did the White Paper. Even Trudeau, who is not
12 known for changing his mind, particularly I think
13 was swayed by Emmett Hall's famous dissenting
14 opinion in the Calder case, which has now become a
15 majority opinion on the Supreme Court.

16 The licences written in 1970 and 1972,
17 and I read all three of them, the words Aboriginal
18 and Treaty rights do not appear anywhere in those
19 documents. So I think this is very important to
20 understand. I wouldn't expect them to because of
21 that particular time period. In that time nobody
22 really knew that Aboriginal and Treaty rights had
23 legal force in Canada. The assumption, which
24 Trudeau had acted upon and which many people still
25 believed was that there is no legal ground for

1 Aboriginal and Treaties rights. We have moved
2 past that somehow.

3 It was the Calder decision a year
4 after '72, in 1973, where the courts determined,
5 yes, Aboriginal title is still a valid legal
6 concept in Canada. That was six out of seven
7 judges. The seven judges only ruled on the
8 technicality and didn't rule on the question.

9 That's what started the modern Treaty
10 process as we know it. That's what lead to the
11 James Bay Agreement, that's what lead to the
12 Western Arctic agreement, the Nunavut Agreement,
13 all of what we now call modern land claims.

14 Now, over the next, the period between
15 about 1970 and 1974 has been characterized by
16 historians as a period of turmoil and floundering.
17 Nobody really knew what to do. After '73, when
18 the Supreme Court said Aboriginal title does have
19 legal force, people started thinking, well, what
20 does that mean? So certainly it meant something
21 for those First Nations that hadn't negotiated
22 Treaties, much of British Columbia, much of the
23 north and other pockets of the country. And a
24 decades long struggle ensued and lead to, in 1982,
25 the Constitution, including a section, section 35,

1 which is existing Aboriginal and Treaty rights are
2 recognized and affirmed.

3 After 1982, it became very clear to
4 people that Aboriginal rights and Treaty rights
5 were a part of the constitutional fabric of Canada
6 and could no longer be disputed in theory, no
7 proposal like the White Paper could be advanced.

8 I can also tell you that after the
9 Calder decision, generally speaking, if you read a
10 textbook on Aboriginal rights in those days, it
11 would say that Aboriginal rights flow from
12 Aboriginal title. Most of the thinking was land
13 rights, land ownership was the basis of all
14 Aboriginal rights.

15 I was actually one of the first
16 scholars, in 1992, I wrote that Aboriginal rights
17 flow from aboriginal culture, that there are two
18 distinct forms of Aboriginal rights, Aboriginal
19 land ownership or Aboriginal title and Aboriginal
20 cultural rights. In 1996, the Supreme Court of
21 Canada -- I wish it was my influence but it
22 probably wasn't -- but they decided that the court
23 case, it defined aboriginal rights culturally.
24 They said Aboriginal rights are the customs,
25 practices and traditions that are integral to the

1 distinctive culture claiming the right.

2 So since 1982, we have had a series of
3 Supreme Court decisions, most of them favorable to
4 Aboriginal people, and most of them increasingly
5 adding to our knowledge of what Aboriginal rights
6 and Treaty rights are. I will mention two other
7 decisions, and then I want to backtrack and look
8 at the licence.

9 The Sparrow decision and the Sioui
10 decision that both came out in 1990, the Sparrow
11 decision said, in using a scarce resource, and we
12 can think about it in terms of the management of
13 Lake Winnipeg, they said we have a general regime
14 in Canada that would say conservation is the first
15 priority, because if the resource disappears no
16 one gets to use it. But the next priority are
17 Aboriginal uses, then commercial uses, and then
18 recreational uses. If we were to think about the
19 management of Lake Winnipeg according to the
20 Sparrow decision of the Supreme Court, we would
21 have to say, first, we want to make sure that the
22 lake is not irreparably harmed. Secondly, we want
23 to say it maintains its vitality for Aboriginal
24 purposes, and that that should have preference
25 over managing the lake for commercial purposes.

1 As Hydro itself has basically admitted, it is
2 largely regulating the lake for commercial
3 purposes. So I would say that they have a
4 priority wrong there, and that's something that
5 needs to be examined much more closely.

6 The other case that I want to mention,
7 and the last one -- I could spend a lot of time on
8 court cases but I won't -- is the Sioui case,
9 which says that Treaty rights should be treated
10 liberally and generously. So that there is a
11 question here of whether Treaty 5 is actually
12 signed by Little Black River or not. If it is, we
13 have to treat that, we have to look at the terms
14 of the Treaty, and especially the terms of the
15 Treaty that relate -- when Chief Abraham talked
16 about way of life, a couple of people spoke about
17 living the way of life. The Treaty makes very
18 strong promises about people will be allowed to
19 continue their way of life. The honour of the
20 Crown is at stake in the Treaties, the First
21 Nations oral view of the Treaties has equal status
22 as the written documentation from the government
23 side, and Treaties should be interpreted in a
24 liberal and generous manner. All of those phrases
25 come from the Sioui decision.

1 None of those things are reflected in
2 the licence. However, the licence of -- and I'm
3 just quoting from the 1972, the 14, December, 1972
4 licence, but I think this wording is the same in
5 all three versions. So there is the 18th of
6 November, 1970, the 8th of August, 1972, and the
7 14th of December, 1972, and all signed by Minister
8 Sydney Green, and largely the same except they
9 bring in Jenpeg as a specific site.

10 In the section immediately after where
11 it talks about this is what the licence is for, it
12 says:

13 "That licence is subject nevertheless
14 to the provisions of the regulations
15 and of any other regulations now or
16 hereinafter in force governing the
17 granting or administration of
18 Provincial water powers or lands
19 required in connection with the
20 development and use thereof."

21 Now, regulations now or hereinafter in
22 force means that we can contemplate a regime where
23 Aboriginal rights are actually respected, as they
24 should be in law today, because it is a part of
25 the constitutional law of the country.

1 Futhermore section 11 of the licence

2 says:

3 "The said final licence shall be
4 issued subject to the regulations then
5 in force and shall embody such matters
6 as the Minister may determine in
7 accordance with the regulations."

8 I interpret that to mean, then in
9 force is what is in force now, and what is now in
10 force at a constitutional level are protection,
11 and are technically recognition and affirmation of
12 Aboriginal and Treaty rights, and a way of
13 respecting those as the Minister has the
14 discretion to determine.

15 I mean, certainly I would say if this
16 licence were issued today, it would be subject to
17 legal challenge and judicial review, because it
18 absolutely says nothing about Aboriginal and
19 Treaty rights. Any licences issued going forward
20 should move as quickly as possible to start
21 thinking about recognition of Aboriginal and
22 Treaty rights in the licensing process. Those are
23 not hollow words. I'm not just saying that
24 because we will get the phrase Aboriginal and
25 Treaty rights in the licence and, hoorah, we will

1 all have a big party and nothing happens. If
2 Aboriginal and Treaty rights are recognized in the
3 licence, it has a few implications. And for me
4 immediately it means that, in the first place, all
5 of the communities need to be consulted about the
6 regulation of the water levels, all of the First
7 Nations communities need to be consulted
8 consistently, on an ongoing basis, about the
9 regulation of the water level of Lake Winnipeg,
10 more so than any other stakeholder.

11 According to the Sparrow decision,
12 they are the first human stakeholder. They have
13 priority in consultation, they must be consulted
14 first. Secondly that consultation means a
15 reliance on traditional knowledge. You may
16 remember that we asked Manitoba Hydro on behalf of
17 Black River what traditional knowledge research
18 had been done in the lower basin to determine the
19 impact of its water regime? Hydro responded by
20 saying in part, as a result, Manitoba Hydro can
21 see no basis at this time for indigenous
22 traditional knowledge studies in relation to Lake
23 Winnipeg Regulation.

24 I believe it is incumbent upon you to
25 make them change their mind, and I think on two

1 counts. First of all, what you have seen in the
2 pictures graphically demonstrates there is
3 flooding in this community. And I want to echo
4 the words, or repeat the words of Myrtle Abraham
5 almost first thing this morning to you, I want to
6 say those words again, because they are very
7 powerful. She said:

8 "Flooding was never, ever, ever a
9 problem."

10 Flooding was never, ever, ever a
11 problem. Right. Now, you can stack up as many
12 scientific reports as you want to tell me there is
13 no flooding here, there is no issue here. But
14 when you have somebody saying flooding was never,
15 ever, ever a problem, and you see the pictures
16 that Chief Abraham showed you, I would say
17 flooding had become a problem, and if it wasn't a
18 problem in the past, the major factor that has
19 changed the way in which the lake behaves is the
20 Jenpeg dam.

21 There are other issues about the
22 pollution in Lake Winnipeg, as we all know. And I
23 can't myself square the scientific knowledge that
24 it stayed at these certain water levels with the
25 fact that this flooding is taking place. It might

1 be because of the increased amount of variability
2 in how they are running, I don't know. But what I
3 do know is we haven't done proper traditional
4 knowledge study, and those knowledge studies would
5 tell us something.

6 I should also say in Manitoba we have
7 some of the best traditional knowledge profs in
8 Canada. Here we have Professor Shirley Thompson
9 from the Natural Resources Institute, Fikret
10 Berkes, Iain Davidson-Hunt, John Sinclair, Stephan
11 McLachlan, who has appeared before the Commission
12 previously, are all nationally recognized people
13 working with traditional knowledge. It is not as
14 if we don't have in-house resources in Manitoba to
15 do very serious traditional knowledge studies
16 about how the water level regulation has changed
17 the behaviour of the lake.

18 But it is counterintuitive to say it
19 hasn't changed the behaviour of the lake, and it
20 is certainly counterintuitive to say nothing is
21 happening in Black River that's due to the Hydro
22 dam, when we see pictures of flooding in the last
23 six years, and there are no pictures like that
24 before 1976.

25 I also want to read to you a little

1 bit from Hydro's document as part of this process,
2 and the part four on public engagement. And just
3 because I think that it gives us a sense of the
4 magnitude of the problem with Manitoba Hydro.
5 This is how they begin part 4 of public
6 engagement:

7 "As any Lake Winnipeg cottager,
8 year-round resident, fisher or boating
9 enthusiast will tell you, Manitoba's
10 largest lake is impressive and
11 majestic."

12 Cottager, year-round resident, fisher
13 or boating enthusiast, isn't that lovely? All of
14 these people are missing from that account,
15 everyone here. That statement insults you all,
16 absolutely, without any qualification.

17 "Manitoba's largest lake...",
18 they say,

19 "...is impressive and majestic. It is
20 perhaps the most remarkable natural
21 feature of the province. Its waters
22 are home to a large commercial and
23 recreational fishery."

24 Finally:

25 "Its shores are home for Aboriginal

1 communities and thousands of other
2 year-round residents and a haven for
3 cottagers and tourists. The lake also
4 serves as a transportation system."

5 Then they say:

6 "Through many interactions with
7 communities, individuals,
8 environmental and cottage
9 associations, Manitoba Hydro has
10 learned about stakeholder concerns."

11 Well, the number one priority
12 stakeholder concern comes from First Nations.
13 They don't even really put First Nations in the
14 list. I think that's kind of insulting, and
15 certainly flies against the constitutional reality
16 of Canada.

17 So if Aboriginal and Treaty rights are
18 to be respected, you are the first place where
19 that will happen. You need to tell the government
20 to tell Hydro that if they want to continue to
21 regulate Lake Winnipeg, they have to pay attention
22 particularly to First Nations stakeholders, to the
23 cultural concerns and traditional knowledge. They
24 need a three-track system. First of all, they
25 need to do the traditional knowledge. They can't

1 go around saying it doesn't affect the communities
2 without asking the communities, without listening
3 to what the elders are saying. So listening to
4 traditional knowledge is a part of respect and
5 affirmation of Aboriginal rights. If that
6 traditional knowledge says there are significant
7 impacts, they have to think about how to mitigate
8 those impacts. And that could include
9 compensation. They certainly have to, on an
10 ongoing basis, continue to consult the communities
11 on how they are going to continue to regulate the
12 lake. I think those are for me the bare minimum
13 of what a licence requirement should look like, if
14 they are going to extend their licence.

15 And I urge you, really with all of my
16 heart, because I have come to care a lot about
17 this community, I remember coming here as a young
18 child -- of course, I grew up in Bissett and we
19 are like neighbours -- I remember myself doing a
20 little fishing with a snare in the river here, a
21 long, long time ago. And now my stepfather is
22 about to become a member of the band here. And of
23 course, what I hadn't known, what Chief Abraham
24 told me today, is this is very, very sacred
25 territory. I think it is important for all of us

1 in Manitoba. I think the voices you heard today
2 deserve to be listened to and extended. And I
3 think it is your responsibility to carry that
4 forward. And I thank you for listening to me
5 today. Miigwech.

6 THE CHAIRMAN: Thank you,
7 Dr. Kulchyski. As always, you have given us much
8 for thought.

9 CHIEF FRANK ABRAHAM: Okay. That
10 basically brings us to the end of our
11 presentations, unless anybody else wants to make
12 any other comments? If not, do you want to make
13 any closing comments?

14 THE CHAIRMAN: Just a few words.

15 First of all, I would like to, as I
16 said at the outset in my initial comments, I would
17 like to thank the community for accepting our
18 invitation to host today's session. This has been
19 an excellent day, we have heard a lot of good
20 presentations. We have learned a lot. I thank
21 you all for doing that, for coming out and putting
22 thought into your presentations, and for coming
23 out and sharing them with us.

24 As I said earlier in response to a
25 question posed by David Bird, I can't promise you

1 that we will give you everything you want. I can
2 promise you that what we have heard today will be
3 reflected in our report. What we have heard today
4 will influence our thinking when we make our
5 decisions. And we will be making our decisions
6 probably starting in late April when we finish the
7 hearings. We have more or less three months from
8 the end of the hearings until we submit the report
9 to the Minister. So after the hearings are all
10 over, we will sit down and consider everything
11 that we have heard in all of our communities,
12 including what we have heard today. And we will
13 come to some conclusions and some recommendations.

14 And again, as I said earlier to
15 Mr. Bird, I hope and I think that we will have
16 some recommendations that will be small steps.
17 But I cannot guarantee that they will be big
18 steps, or fast steps.

19 So, again, thank you. I would also
20 like to thank the members of the community that
21 put on a fabulous lunch, it was just really
22 outstanding. It was delicious, there was more
23 than enough. So thank you to everybody in the
24 community, especially the bannock maker, my old
25 neighbour in the office at Northern Affairs, back

1 about a hundred years ago, Brian. Actually in the
2 mid to late '80s. Again, thank you very much.
3 Safe travels.

4 CHIEF FRANK ABRAHAM: Okay. Before we
5 close, I just want a quick question in regards to
6 why is there not a First Nations citizen with the
7 Commission?

8 THE CHAIRMAN: We have actually been
9 asked that before in other communities. We have
10 on our roster, we have a roster of about 12 or 14
11 people who are members of the Commission. We
12 choose from that roster when we are putting
13 together a panel. We have two Aboriginal people
14 on that roster, and one of whom is a member in
15 Opaskwayak. She has a full-time job and can't sit
16 on a panel like this that takes months, or a even
17 year or more. And the other is a person from
18 western Manitoba, from Pine Creek First Nation,
19 who sat on our last panel, the Keeyask panel. And
20 after he had completed that, he didn't want to do
21 another one immediately. We may use him in the
22 future. He was actually extremely helpful to us
23 during the Keeyask hearings. We did for this --
24 this is the first time we have done it -- for this
25 particular round of hearings we did engage an

1 Aboriginal person to help us liaise with the
2 communities and to help set up meetings like we
3 have had today.

4 CHIEF FRANK ABRAHAM: Okay. I also
5 want to thank Henry Traverse from Jackhead First
6 Nation for being here with us, and also Garth
7 Bushie from Hollow Water. And for a while we had
8 Lyle Morriseau here with us too from Sagkeeng, but
9 there were some Sagkeeng members that were here
10 present, so I want to thank you. And again, I
11 want to the thank the Chief from Norway House for
12 coming.

13 And I want to also thank all of the
14 presenters. I know it is a little bit tough when
15 we are talking about things that really impact us
16 the most, but it is good that we are able to do
17 that, because it really shows the impacts that we
18 have in our communities. And I'm glad that, even
19 though we couldn't put it on the screen here, but
20 I'm glad that you were able to see the plot of
21 land that was floating away from our community.
22 And as it just so happens, my two council members
23 sitting there, Rhonda Abraham and Nelson Bird are
24 the ones that chased that way out in the lake, and
25 they chased it on a very windy day and were able

1 to capture it. And maybe some day we will figure
2 out how to put it on a screen so everybody will
3 get to see it, or if there is a presentation in
4 Winnipeg, we will be able to present it there.

5 So with that, I want to thank each and
6 every one of you that took part today. I say
7 miigwech, and then we will close with a prayer. I
8 will ask Olga to close with a prayer.

9 (Closing prayer).

10 (Concluded at 2:50 p.m.)

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OFFICIAL EXAMINER'S CERTIFICATE

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

Cecelia J. Reid
Official Examiner, Q.B.

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