

MANITOBA CLEAN ENVIRONMENT COMMISSION

LAKE WINNIPEG REGULATION

SCOPING MEETING

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Transcript of Proceedings

Held at RBC Convention Centre

Winnipeg, Manitoba

THURSDAY, May 29, 2014

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APPEARANCES

CLEAN ENVIRONMENT COMMISSION

Terry Sargeant - Chairman
Michael Green - Counsel to the Board
Cathy Johnson - Commission Secretary

MANITOBA CONSERVATION AND WATER STEWARDSHIP

Rob Matthews

MANITOBA HYDRO

Doug Bedford - Counsel
David Cormie

CONSUMERS ASSOCIATION OF CANADA (Manitoba chapter)

Gloria Desorcy
Aimee Craft -Counsel
Heather Fast

MANITOBA METIS FEDERATION

Marci Reil - Counsel
Jasmine Langman

MANITOBA WILDLANDS

Gaile Whelan Enns

PEGUIS FIRST NATION

Mike Sutherland
Lloyd Stevenson
Jared Whelan

PIMICIKAMAK OKIMAWIN

Kate Kempton - Counsel
Darwin Paupanakis

FISHER RIVER CREE NATION

Harold Cochrane - Counsel

SAVE LAKE WINNIPEG

Vicky Burns

NORTHERN ASSOCIATION OF COMMUNITY COUNCILS

Reg Mead

Participants

LAKE FRIENDLY
Rick Gamble

LAKE WINNIPEG FOUNDATION
Marlo Campbell
Kirsten Earl McCorrister

LAKE WINNIPEG RESEARCH CONSORTIUM
Al Kristofferson
Karen Scott

INTERNATIONAL INSTITUTE OF SUSTAINABLE DEVELOPMENT
Karla Zubrycki

KINONJEOSHTEGON
Henry Traverse

INDEX OF PROCEEDINGS

Opening by the Chair

5

1 THURSDAY, MAY 29, 2014

2 UPON COMMENCING AT 1:00 P.M.

3 THE CHAIRMAN: Good afternoon. Those
4 of you who may not know me, my name is Terry
5 Sargeant, I'm the chair of the Manitoba Clean
6 Environment Commission, and I will be the chair of
7 the panel that conducts this review into the Lake
8 Winnipeg Regulation.

9 This will be the first of our meetings
10 with the broader group on this topic. It is our
11 hope today to just get some sense of what this, or
12 these proceedings will be all about and how they
13 might unfold.

14 I would like to start off by asking,
15 or just having a go around the table of
16 introductions. At this point, please just
17 introduce yourself and the organization that you
18 are with. You will get an opportunity later in
19 the agenda to state your views.

20 Just before we start that, the way
21 these microphones work for those of you who may be
22 new, you have to turn the mic on to speak, and
23 please turn it off after you finish speaking.
24 Also, later on when you speak, please state your
25 name for the transcriber, she may or may not be

1 able to see you. So when you want to say
2 something, state your name, and it will become
3 part of the record.

4 So, starting off, we will go around to
5 my left and around the table, please introduce
6 yourselves. Oh, he doesn't have a mic. He is
7 Mike Green, he is our legal counsel to the
8 Commission.

9 MR. MATTHEWS: Rob Matthews, I manage
10 what is called the water use licensing section of
11 the Manitoba Conservation and Water Stewardship.

12 MS. DESORCY: My name is Gloria
13 Desorcy, I am the executive director for the
14 Manitoba branch of the Consumers Association of
15 Canada.

16 MS. CRAFT: Good afternoon,
17 Mr. Chairman. Aimee Craft with the Public
18 Interest Law Centre, here as legal counsel to the
19 Consumers Association, and I have with me
20 Ms. Heather Fast who is articling with me.

21 MR. PAUPANAKIS: Darwin Paupanakis
22 from Pimicikamak Okimawin, secretary to the
23 councils.

24 MS. KEMPTON: Kate Kempton from
25 Olthuis Kleer Townshend, legal counsel for

1 Pimicikamak.

2 MR. MEAD: Reg Mead, president of the
3 Northern Association of Community Councils.

4 MS. RIEL: Good afternoon. I am Marci
5 Riel with the Manitoba Metis Federation.

6 MS. LANGHAM: I'm Jasmine Langham with
7 the Manitoba Metis Federation.

8 MS. ZUBRYCKI: Hi there, I am Karla
9 Zubrycki with the International Institute for
10 Sustainable Development.

11 MR. GAMBLE: Hi, I'm Rick Gamble, I am
12 with the Lake Friendly Stewardship Alliance.

13 MR. WHELAN: Good morning, Jared
14 Whelan with Peguis First Nation.

15 MR. STEVENSON: Lloyd Stevenson,
16 Peguis First Nation. We also have Councillor Mike
17 Sutherland who is present but out of the room at
18 the moment.

19 MS. WHELAN ENNS: Gaile Whelan Enns,
20 Manitoba Wildlands.

21 MR. COCHRANE: My name is Harold
22 Cochrane and I am legal counsel to Fisher River
23 Cree Nation.

24 MS. BURNS: Vicky Burns, the Save Lake
25 Winnipeg project.

1 MR. KRISTOFFERSON: Al Kristofferson,
2 Lake Winnipeg Research Consortium.

3 MS. SCOTT: Karen Scott, Science
4 program coordinator with Lake Winnipeg Research
5 Consortium.

6 MS. MCCORRISTER: Kirsten Earl
7 McCorrister and I am with the Lake Winnipeg
8 Foundation.

9 MS. CAMPBELL: Marlo Campbell, and I
10 am also with the Lake Winnipeg Foundation.

11 MR. CORMIE: I am David Cormie, I am
12 from Manitoba Hydro.

13 MR. BEDFORD: Doug Bedford from
14 Manitoba Hydro.

15 MS. JOHNSON: Cathy Johnson, I'm
16 secretary to the Commission.

17 THE CHAIRMAN: Thank you. Just one
18 bit of technical information. I'm not sure
19 whether washrooms close to here are open. I know
20 when I went looking, and I know Mr. Sutherland
21 went looking, we had trouble finding a washroom
22 that was open. I did ask the security guards to
23 open one closer to where we are meeting, if not we
24 will have to go way down to the far end of the
25 building by the snack bar.

1 I don't know, we have scheduled three
2 hours, I'm certain we won't need that long, but
3 you never know. We would like to go through a
4 number of things. We have handed out an agenda.
5 The first item on the agenda will be a CEC
6 overview, and that will be me talking about a
7 number of things. Following that, I will ask, I
8 will go around the table and ask each of you to
9 have your input. I will pose a few questions
10 before I turn it over to the participants.

11 Please don't feel pressured into
12 having to respond. If you don't see any role at
13 this time for your organization, just say so and
14 we will move on to the next person.

15 Following that we will let Manitoba
16 Hydro, which is the applicant for the licence, to
17 make comments, to ask questions.

18 And I will then ask if there is any
19 other business we need to attend to, make some
20 closing comments, and then we will talk about a
21 next meeting for this group.

22 So, this particular review, and a
23 number of you around the table are quite familiar
24 with past Clean Environment Commission reviews, so
25 you are familiar with the process and how it

1 works. This one is, as you obviously know as
2 well, is quite different. It is a bit of a
3 strange beast. It doesn't come under the
4 Conservation, or the Environment Act, it comes
5 under the Water Power Act. There is no proposed
6 project that is going to be constructed and,
7 therefore, there is no environmental impact
8 statement for us to review. I mean, the fact is
9 that Lake Winnipeg Regulation is built, it has
10 been operating for close to 40 years, and it is an
11 integral part of Manitoba Hydro's overall system
12 for electrical production in the Province.

13 I'll come back to that in some ways in
14 a few minutes when I talk about our mandate.

15 And this meeting, again, for those of
16 you who are familiar with our process, this
17 meeting today will be a little different than the
18 normal. Usually I sit up here and pontificate for
19 however long, an hour or so, just laying out a
20 number of directives and procedural rules. Today
21 I will do a little bit of that, but also we would
22 like to get some feedback from you. Because this
23 is a different type of review, I would like to get
24 views, input from you as to how we might do it and
25 ensure that it is done thoroughly.

1 Turning to the mandate of our review,
2 under the Water Power Regulation, Manitoba Hydro
3 is entitled to a final licence upon fulfillment of
4 and compliance with the terms and conditions of
5 their interim licence, the interim licence that
6 was initially granted in 1972, and then
7 subsequently regranted or amended in 1976 when the
8 operation went into place.

9 So, on the surface, Manitoba Hydro I'm
10 sure feels and probably wishes that they could get
11 a licence as simply as that. They would claim
12 that they have fulfilled all, or complied with all
13 of the terms and conditions of the initial licence
14 and, therefore, shouldn't have to go through this
15 process that we are embarking on today. However,
16 given the history of Lake Winnipeg Regulation,
17 given the widespread public interest in this
18 topic, the Minister of Conservation and Water
19 Stewardship, about three years ago, almost three
20 years ago, asked the Commission to conduct a
21 review into a number of issues related to it.

22 The ultimate decision on whether or
23 not to grant the final licence will be made by the
24 Minister of Conservation and Water Stewardship.

25 I would urge you to read, and I'm sure

1 most, if not all of you have, but I would urge you
2 to read carefully the Minister's letters of
3 July 5th, and September 1st, 2011, as well as the
4 terms of reference that were attached to the
5 second letter.

6 In those letters the Clean Environment
7 Commission was asked to provide a public forum to
8 consult with stakeholders regarding Manitoba
9 Hydro's performance under its interim licence.
10 The terms of reference attached to the September
11 letter said that the Commission is to conduct
12 hearings to hear evidence about the impacts of
13 regulation of Lake Winnipeg.

14 The Commission has not been asked to
15 provide an opinion on whether or not the final
16 licence should be issued. We have not been asked
17 to provide an opinion on whether or not Lake
18 Winnipeg Regulation should have been implemented
19 in the first place. Therefore, the hearings will
20 not focus on those questions.

21 Issues around the operation of Lake
22 Winnipeg Regulation and its impacts are what will
23 be under our review.

24 Again, taken from the terms of
25 reference, we have been asked specifically to

1 review the broader public policy rationale in
2 effect at the time leading up to the issuance of
3 the interim licence in 1970; 2, the effects and
4 impact of Lake Winnipeg Regulation since first
5 operation in 1976; 3, the successes and failures
6 of implementation of the policy goals.

7 The terms of reference also state that
8 the Commission may comment on concerns raised
9 about the issuance of the final licence, including
10 but not limited to future monitoring and research
11 beneficial to Lake Winnipeg.

12 In the end, as is the case with
13 probably all of our reviews, the principal purpose
14 of the proceedings, as the panel and as the
15 Commission sees it, is to provide the panel with a
16 full record of evidence sufficient for the panel
17 to provide sound advice to the Minister.

18 Having mentioned the panel, you will
19 note that we don't have a panel in place as yet.
20 We are waiting for appointments to go through
21 Cabinet. We expect that to happen fairly soon,
22 perhaps within the next couple of weeks, at which
23 time we will strike a panel.

24 Some of you who were at much earlier
25 sessions in respect to Lake Winnipeg Regulation

1 may ask what happened to the panel that was in
2 place in 2011. Well, they ended up, when we
3 received the reference from the Minister for
4 Bipole III, and then subsequent to that a
5 reference for the Keeyask Generation Station, the
6 panel that had originally been assigned to look at
7 Lake Winnipeg Regulation ended up being the panel
8 that took on the Keeyask Generating Station. So
9 now we have to wait for some new and some
10 reappointments to be confirmed shortly before we
11 strike another panel.

12 Just a few words about the scope of
13 our review. While we recognize that Lake Winnipeg
14 Regulation is part of the hydro system, it is not
15 up to the Commission to decide whether other parts
16 of the system are also examined as part of this
17 review. The Commission has been provided terms of
18 reference by the Minister and will undertake to
19 fulfill these. Any appeals to change these terms
20 of reference cannot and will not be entertained by
21 the Commission. I am aware that one or more of
22 you has already written to the Minister in this
23 regard. I haven't heard anything further on that.

24 As requested by the Minister,
25 meetings, hearings, sessions will be held in

1 communities around the north and south basins of
2 Lake Winnipeg, in other northern communities and
3 in the City of Winnipeg. The time frame at this
4 point is uncertain. We hope to go into the
5 northern communities this fall, with meetings in
6 southern communities and the City of Winnipeg in
7 the winter. And it is our hope that we will
8 deliver a report to the Minister about a year from
9 now, next May or June would be our expectation and
10 our hope.

11 A few words about the community
12 meetings, particularly those in northern and
13 Aboriginal communities. It is our intent to
14 maximize the opportunities for stakeholders to
15 provide their input into these proceedings. To
16 that end, the Commission will go into many, if not
17 most of the communities impacted by Lake Winnipeg
18 Regulation. There is a caveat, however, we may
19 not be able to visit every single community that
20 may in some way be affected or have been affected.
21 So it is possible that we will try to combine
22 meetings in some nearby communities, if that's
23 possible and if it works out.

24 It is also our hope to keep these
25 community sessions as informal as possible. We

1 want to hear about, and in some cases see local
2 impacts from members of those communities. There
3 will be little or no role for most participants in
4 the community sessions.

5 First Nation and northern communities
6 will be dealt with on a case-by-case basis with
7 arrangements made that are suitable to each
8 community. Details will be worked out between
9 Commission staff and the communities once a more
10 concrete game plan is in place.

11 Background information; the background
12 information that will form the basis for our
13 review, in November of 2011, before we all got
14 distracted by Bipole III and the Keeyask
15 Generation Station reviews, but in the fall of
16 2011, the Commission wrote to Manitoba Hydro with
17 the request that Hydro compile a plain language
18 document outlining the history, the issues and
19 commentary regarding the past, present and future
20 actions relevant to the regulation of the water
21 levels on Lake Winnipeg. This document is also to
22 provide references to the supporting technical
23 documents and data. And as some of you have begun
24 researching this topic, simply by googling it, you
25 will find that there are already dozens, if not

1 hundreds or thousands articles and studies and
2 research reports that have been compiled over the
3 last 40 years. It is my understanding, and Hydro
4 will almost certainly confirm this later on, that
5 this document, the plain language report, will be
6 available before the end of July.

7 As a matter of interest, although not
8 directly related to our review, although there
9 will certainly be some overlap in the research,
10 phase I of the regional cumulative effects
11 assessment should be available quite soon.

12 In respect of expert evidence, the
13 Commission will engage and/or invite experts to
14 provide information in their areas as that
15 expertise applies to Lake Winnipeg Regulation.
16 Examples may include but are certainly not
17 restricted to isostatic rebound and its effects
18 on, long term effects on Lake Winnipeg water
19 levels, climate change, effects of Lake Winnipeg
20 Regulation on lake and marsh ecology, as well as
21 looking at engineering options that might be
22 explored.

23 Other topics may, or perhaps almost
24 certainly will arise through stakeholder
25 consultations and through some of our meetings in

1 various communities. And I also invite you,
2 either this afternoon or at any time in the next
3 little while, if you have other ideas of areas of
4 expertise that we should be exploring, please let
5 us know.

6 Transcriptions, as with all of our
7 reviews and as required by our statute, all
8 proceedings will be transcribed. Typically they
9 are available within a day or so of the session,
10 and they are available on our website. That will
11 also apply in the community, to the community
12 sessions that we will hold.

13 Participant funding program, it hasn't
14 been completely defined yet. Funding will be
15 available, but it will be much more limited than
16 in the last couple of reviews that we've
17 conducted. A total amount of \$500,000 has been
18 allocated. Given the nature of this particular
19 proceeding, it is our belief that that will be
20 more than sufficient.

21 Funding priority will be given to what
22 we put in quotes as "the public" to identify
23 direct effects of the LWR. In our experience, the
24 public is likely to be in the form of community or
25 group presentations, the panel of community

1 members followed by some discussion. As well
2 other forms of public participation will be
3 considered as appropriate.

4 We are also aware that funding is
5 available and I believe has been allocated to some
6 Aboriginal groups and First Nations through the
7 section 35 consultation process. Activities in
8 this regard include a canvass of community members
9 about the effects of Lake Winnipeg Regulation on
10 their communities, on their members, and on their
11 abilities to carry on their lives. We will not
12 fund duplication of those community consultations,
13 but we would fund taking the information that is
14 gleaned and put together from those processes,
15 re-packaging or enhancing that information, and
16 using it -- and then presenting it to this panel
17 at some point in the hearings.

18 Having said all of that, there will
19 still be some funding available for the usual
20 groups that get involved at this end, for that
21 matter new groups that may wish to get involved in
22 this process, but it won't be in the significant
23 amounts that you may be used to, in large part
24 because the need for independent and new research
25 simply doesn't exist in this process.

1 On some process issues, we are not
2 sure about the information request process. I
3 think until we've all seen the documents, we are
4 not certain how much need there will be. There
5 may well be a need for information requests but,
6 again, it would be a somewhat more limited
7 approach than in the past. We will let you know
8 on that one.

9 We are also considering, although we
10 have come -- we are nowhere near any conclusions
11 in respect of cross-examination of witnesses.
12 Those of you who were involved in the recent
13 Keeyask hearings will know that at times the
14 cross-examinations could have used some
15 improvement. So we are trying to think of ways
16 that we might improve the cross-examination
17 process, and we would appreciate any feedback or
18 thoughts that you might have in that respect.

19 Now, that brings me to a close in the
20 comments that I want to make at this time. I will
21 invite questions of what I have just spoken about
22 right now, and then following that I will just
23 have a go around the table, as I said at the
24 outset, and ask you for your thoughts.

25 So does anyone have any questions,

1 comments, advice in respect of the opening points
2 that I've just made? Ms. Kempton?

3 MS. KEMPTON: On the participant
4 funding -- sorry, it is Kate Kempton -- on the
5 participant funding, Mr. Chair, has there been an
6 official notice put out, or when do we expect
7 that?

8 THE CHAIRMAN: No, it hasn't gone out
9 yet. Probably within a couple of weeks.

10 MS. KEMPTON: And do we know if there
11 are going to be restrictions on, for instance, the
12 ability for people to have funded legal counsel?

13 THE CHAIRMAN: There will be no
14 restrictions, it may be limited by the amount of
15 money you get, but there would be no restrictions.
16 We would never say no to good lawyers coming
17 before us.

18 MS. KEMPTON: Thanks.

19 THE CHAIRMAN: Ms. Burns?

20 MS. BURNS: I just want some
21 clarification on something that you said. Did you
22 say that it was clear that there would be no need
23 for any further research on any of the issues that
24 are brought up?

25 THE CHAIRMAN: I don't think -- well,

1 I might have said that, and it might be a little
2 confusing. I think what we are looking at is new
3 research, but certainly research into any of the
4 documentation and the history of stuff that has
5 gone on is certainly open for consideration.

6 MS. BURNS: Okay. I just wanted to,
7 there were a number of questions that you put to
8 Hydro in the report that they are to be finished
9 by the end of July. So if those questions are not
10 answered to your satisfaction or those of other of
11 us, possibly there could be need for --

12 THE CHAIRMAN: Yes, or certainly to
13 review what might be out there. At this point we,
14 the Commission, would need some convincing, and
15 I'm not saying no, but we would need some
16 convincing if somebody wanted to get funding for
17 some completely new research. It is brand new
18 stuff, if you can convince us that it is good and
19 valuable and will contribute to the process, we
20 will very seriously consider it. But at this
21 point we are not sure just what that might be.

22 Okay. Ms. Craft?

23 MS. CRAFT: Mr. Chair, just picking up
24 on your comment about improving cross-examination,
25 there are a few things that CAC might put forward

1 based on past experience, and one would be to just
2 reiterate what we have expressed in the past in
3 terms of funded legal counsel, as Ms. Kempton has
4 pointed out, but also the ability to have
5 technical advisors. I understand that your
6 comment earlier was related to new expertise and
7 new reports and evidence that may already exist in
8 the form of technical science. But we would
9 certainly want to encourage the Commission to
10 consider the availability of technical expertise
11 for those who will be participating. And I'm sure
12 that I won't be alone in saying the technical
13 challenges around gathering all of the information
14 and ensuring it is robust, and testing some of
15 that in relation to the different perspectives
16 that will be put forward is key in this process.

17 My question would be in relation to
18 information requests and whether or not the
19 Commission is contemplating to have one or two
20 rounds of information requests that are associated
21 to this process.

22 THE CHAIRMAN: Well, I think I made
23 some comment on that. At this point we don't
24 know. We don't know if there will be an
25 information request round. I suspect there will.

1 Whether it will be one or two, we don't know yet.
2 But we will let you know. We are not going to be
3 unfair in any of this process stuff, we are just
4 not certain as to the need. But I take your
5 comments.

6 Your comment about having funded legal
7 counsel, some of us who were involved in Keeyask
8 remember at least one or more lawyers who were a
9 bit painful in their cross-examinations, as well
10 as non-lawyers, so that's not always a solution to
11 cleaning up the cross-examination process.

12 MS. CRAFT: And I take by your smile,
13 Mr. Chair, you are not referring to me?

14 THE CHAIRMAN: I'm not referring to
15 you. Unnamed. Mr. Mead.

16 MR. MEAD: Good afternoon. On the
17 funding aspect of it, like I represent 52 of the
18 communities on the east side, the west side, and
19 the north end of Lake Winnipeg, and maybe even the
20 odd one on the south end there. I'm not too
21 concerned about the legal counsel because I know
22 that you are not going to be able to fund 52
23 communities to these hearings that are impacted,
24 because in a round about way, even in the western
25 part of the province around Lake Manitoba and

1 that, are impacted in some way or another. Who is
2 going to be divvying up this money, this 500,000
3 you mentioned? And do the Commissioners get their
4 salary and their costs out of that 500,000?
5 Because all of the hearings that are taking place,
6 especially in Northern Manitoba, are held in the
7 City of Thompson, not too much of an impact. But
8 to bring all of those small communities and to
9 hear from those small communities into Thompson is
10 not doable.

11 THE CHAIRMAN: Thank you, Mr. Mead.
12 No, no other costs are paid, no Commission costs
13 are paid out of that \$500,000. The \$500,000 will,
14 all of it, or if it is all allocated, but it will
15 go to the community groups or the environmental
16 groups that apply for it, and may or may not be
17 successful to get it.

18 As far as your 52 communities, I'm
19 somewhat familiar with the Northern Association of
20 Community Councils from working in Northern
21 Affairs in one of my past lives. And I know that
22 many, many of those communities would not be
23 directly impacted by Lake Winnipeg Regulation.
24 Having said that, a number of the communities,
25 your communities that have been impacted, we will

1 be going into them. We will certainly go into the
2 four Northern Flood Agreement communities which
3 were affected by Lake Winnipeg Regulation,
4 excluding Nelson House, which is affected by CRD.
5 And there are Northern Affairs communities
6 attached to I think all, if not -- is there a
7 Northern Affairs community in York Landing? I'm
8 not certain. But anyway we will be going into
9 some Northern Affairs communities. We will hold
10 sessions in Thompson. We may go into Wabowden, we
11 haven't decided that yet. So we will go into a
12 number of those communities, which should ease
13 that concern which you've just raised.

14 MR. MEAD: Thank you. But in your
15 past life with Northern Affairs, would you be able
16 to give me a documented list of the ones that are
17 impacted and the ones that aren't? You mentioned
18 York Landing -- kind of in a round about way, tied
19 in with the community of Ilford. In your past
20 life you would know that was one of the Northern
21 Affairs community, and also impacted with
22 Pikwitonei.

23 So I would like to, because I can't
24 make a judgment call of what communities are
25 impacted and which ones aren't, so if the

1 Commission could give us a list of which ones are
2 and which ones aren't, I would really appreciate
3 it, because I don't want to go back to the drawing
4 board and say, well, you aren't impacted at all.

5 THE CHAIRMAN: Well, we are not really
6 making that decision. We are inviting communities
7 that feel or believe or know that they were
8 impacted to apply to us. We have identified a
9 number of likely communities that we may go into.
10 As I said earlier, we won't be able to go into
11 every one of the communities, even every one of
12 the communities that was impacted, it would simply
13 take too long. The logistics could be quite --
14 not impossible, but very difficult in a number of
15 them. But we will go into most of the
16 communities.

17 MR. MEAD: Thank you. We shouldn't
18 worry about the time frame because after we are
19 gone, then somebody else will be taking over
20 anyway, so it will still be continuing in the
21 future if we are too old to be around there,
22 especially when you have one foot in the grave and
23 the other on a banana peel. If you are not coming
24 to Wabowden, that's fine, we will come to you, I'm
25 sure of that, knowing the renegade mayor they have

1 there. It's somewhere along the line, if these
2 are really true hearings for the benefit of the
3 communities, and the benefit of industry, and we
4 are dictating which communities we talk to, which
5 ones we don't. It is kind of hard to be a leader
6 like myself, and with the MMF and others to tell
7 different people in different communities that,
8 no, we don't think you are impacted so we are not
9 going to deal with you. We have just been going
10 through that with Bipole III.

11 THE CHAIRMAN: Well, again, we won't
12 be making those decisions saying, no, you are not
13 impacted. So we won't go there. What we will do,
14 and as I noted earlier, this is a little different
15 approach, but in Keeyask we went into five or six
16 First Nations communities. We dealt with the
17 local communities, we asked them whether they were
18 interested in having us come in. When they
19 said -- or those that did say yes, in one case we
20 were invited in, we hadn't even thought of that
21 particular community, but they asked us to come
22 and we went. We will do the same. We will either
23 deal directly with you or with your staff at NACC.
24 We will also talk with people in the various
25 communities. We will talk with people in

1 Wabowden, we will talk with people in other
2 northern communities, Pikwitonei, Thicket Portage.
3 Whether we go in to them will depend, again, on
4 logistics, but also on just our conversations with
5 people in the community.

6 MR. MEAD: Okay. Thank you. I am
7 taking up too much time, so one quick question,
8 the last one I will have is, who is making the
9 decisions of which communities you go into? Can I
10 have a name, because I want to get buttonholing
11 them immediately before they get too far and the
12 names of the communities are written in stone.

13 THE CHAIRMAN: Well, the one who does
14 all the work, or most of the work in that respect,
15 or leads the work in that respect is the
16 Commission secretary, Cathy Johnson.

17 MR. MEAD: Can I have a few minutes of
18 your time later?

19 MS. JOHNSON: Certainly.

20 THE CHAIRMAN: Mr. Mead, we don't need
21 to resolve all of these issues today. So if we go
22 until, our full three hour slot today, you know,
23 there may not be time to talk with Ms. Johnson
24 today. But she will certainly be in touch with
25 you or your staff at NACC. And we will give your

1 communities a fair chance to have hearings.

2 MR. MEAD: Thank you.

3 THE CHAIRMAN: Mr. Paupanakis.

4 MR. PAUPANAKIS: Good afternoon.

5 Yeah, I have a question here regarding the legal
6 and technical help that may be available.

7 Considering how many people are at this table
8 here, is there a possibility to reconsider the
9 amount available for participants? Because the
10 reason why I'm asking that is, our policy is to do
11 things right, and if we don't have access to legal
12 and expert help, then it is very difficult to
13 determine how we can function at this table if we
14 can't ask the right questions and get the right
15 answers. So that's my question, is there a
16 possibility that -- is this 500,000 written in
17 stone?

18 THE CHAIRMAN: Nothing with us is
19 written in stone, although it is certainly a
20 fairly solid guideline. But typically what we
21 have done, and this has happened in other cases,
22 when the applications come in from the various
23 groups, if there is a need for additional funding,
24 we will seek advice from our Minister and see
25 whether or not he, in this case, would be prepared

1 to increase that amount. But I guess part of
2 what -- it is not going to be radically higher
3 than it is now, if at all. It certainly is not
4 going to be in the one half to two million range
5 that we had for Bipole and for Keeyask. It is a
6 very different process. There is not an EIS that
7 needs heavy analysis. So there is a bit of a
8 fuzzy answer for you. If there is a need for some
9 increase in that amount, we would seek it. But at
10 this point we don't believe there will be a need
11 for that.

12 MR. PAUPANAKIS: The next question, I
13 guess, well, statement I wanted to make here, you
14 said the Commission will listen to stakeholders
15 all over Northern Manitoba. I just wanted to make
16 it clear here that if Pimicikamak is to
17 participate in these processes, we are not going
18 to be here as stakeholders, we are here as rights
19 holders.

20 THE CHAIRMAN: I understand your
21 point, and it is a mistake on my part in writing
22 these notes that I use that term. But I
23 completely agree with you and I understand that
24 you are rights holders.

25 And I point out too, Mr. Paupanakis,

1 that during our Keeyask hearings when we went into
2 your community, that was the type of session that
3 we would like to see in most of the communities,
4 if not all of the communities that we go into.
5 That was a very good presentation from a number of
6 people in your community who had experienced these
7 effects firsthand.

8 Now, Ms. Whelan Enns?

9 MS. WHELAN ENNS: I have a couple of
10 questions that I think are fairly quick,
11 Mr. Chair. Does the CEC know when Manitoba Hydro
12 will be filing its annual reports and its
13 cumulative report with Water Stewardship regarding
14 regulation of the lake, and will that material
15 then be part of the basis for the hearings?

16 THE CHAIRMAN: I'm sorry, I haven't a
17 clue. I'm not Manitoba Hydro though.

18 MS. WHELAN ENNS: It is all filed with
19 the same department, it all goes to Conservation
20 and Water Stewardship.

21 THE CHAIRMAN: And what is this
22 information?

23 MS. WHELAN ENNS: Maybe Mr. Matthews
24 can do a better job of describing it than I can.

25 THE CHAIRMAN: You might be going a

1 little further down the road than we really want
2 to today. I'm not sure just what this information
3 is that you want to be on the record?

4 MS. WHELAN ENNS: Well, it is my
5 understanding that aside from an annual report
6 that goes with permit or licence that is in place
7 for regulation of the lake, that Manitoba Hydro
8 will also be reporting to the regulator, if you
9 will, regarding its permit and licence for the
10 time span, that's the same time span that goes
11 with your mandate. So I honestly don't know what
12 has happened yet.

13 THE CHAIRMAN: Okay. And I don't know
14 that either.

15 MS. WHELAN ENNS: Well, we can put it
16 aside for now.

17 THE CHAIRMAN: It may well be an
18 important issue, but at this point I don't have
19 any information or any knowledge at all in that
20 regard.

21 MS. WHELAN ENNS: Thank you. The next
22 one I think is shorter. I want to make sure we
23 understood you correctly that the permanent
24 licence for the Jenpeg Generating Station that is
25 included in the information for Aboriginal

1 consultations at the same time as the regulation
2 of Lake Winnipeg is included in Aboriginal
3 consultations, is not part of the CEC review? I
4 did hear you correctly?

5 THE CHAIRMAN: Well, no, actually I
6 didn't say anything quite like that. What I did
7 say is that we wouldn't approve funding to
8 duplicate research that's being done under the
9 section 35 consultation process, but that if
10 somebody wanted to take the information gathered
11 in that process, repackage it and present it in a
12 relevant manner, in a manner relevant to our
13 proceedings, that would be legitimate. As always
14 in Manitoba, we are not conducting the section 35
15 consultations. That is done by a different branch
16 of the Crown.

17 MS. WHELAN ENNS: And Jenpeg is not in
18 your terms of reference, it is not named?

19 THE CHAIRMAN: Jenpeg is one of the
20 projects constructed under the Lake Winnipeg
21 Regulation, so in as much as it plays a role in
22 Lake Winnipeg Regulation, it is part of our
23 review. As far as it operating as a generating
24 station, I don't know that that's relevant at all
25 to us. But in so far as it is part of -- and if

1 you look at the licences and, in fact, I believe
2 the 1976 licence includes Jenpeg as one of the
3 structures built under the Lake Winnipeg
4 Regulation licence.

5 MS. WHELAN ENNS: Yes, it does. Thank
6 you. Another quick one, or aiming for a quick
7 question, I wasn't quite sure, or may not have
8 heard you clearly, will there be a review process
9 through the CEC of what Manitoba Hydro will file
10 with you?

11 THE CHAIRMAN: I am sorry?

12 MS. WHELAN ENNS: You are waiting for
13 a response from Manitoba Hydro and indicated that
14 they are going to provide those materials by the
15 end of July?

16 THE CHAIRMAN: Yes.

17 MS. WHELAN ENNS: So my question is
18 whether the CEC is going to build in any kind of
19 review of what they file?

20 THE CHAIRMAN: Well, I would hope that
21 people sitting around this table, some, if not all
22 of you, would do that. I don't see sort of the 30
23 or 60-day posting on a registry that Manitoba
24 Conservation does for an environmental impact
25 statement, but, you know, in a lot of ways the

1 people that respond to that are the same people
2 that participate in our reviews.

3 MS. WHELAN ENNS: Fair point. One
4 last question, and this has come up in
5 conversation at different times and I don't know
6 the answer, so I will ask it in terms of all of
7 the inflows into the lake. And that is, the
8 assumption behind the question would be then that
9 there is a lot of inflows into Lake Winnipeg, Lake
10 Winnipeg is regulated, so are the inflows then
11 relevant in terms of your mandate and the hearings
12 and what comes to you?

13 THE CHAIRMAN: Well, if you can
14 demonstrate that Lake Winnipeg Regulation has
15 affected those inflows, then it may or may not be
16 relevant, but I'm not certain that --

17 MS. WHELAN ENNS: Well, and/or the
18 inflows affect the regulation, they do affect the
19 level of the water in the lake.

20 THE CHAIRMAN: Yes, but we are not
21 conducting an environmental assessment of the Red
22 River or the Assiniboine River or the South
23 Saskatchewan and Southern Alberta.

24 MS. WHELAN ENNS: Thank you. Done.

25 THE CHAIRMAN: Mr. Whelan.

1 MR. WHELAN: Jared Whelan for Peguis
2 First Nation. I would like to read one sentence
3 from a letter from Mr. Rob Matthews to Peguis
4 First Nation and then ask a clarifying question.

5 "The Jenpeg control structure is
6 licensed under the Lake Winnipeg
7 interim licence and the Jenpeg
8 Generating Station is licensed on the
9 Jenpeg interim licence."

10 Is this process going to review both
11 licences?

12 THE CHAIRMAN: Well, that's news to
13 me. I don't fully understand it. Mr. Matthews,
14 can you elucidate? Is there a different licence
15 in place?

16 MR. MATTHEWS: Yes, there is an
17 interim licence for the actual generating station
18 as opposed to the control structures, that's
19 correct. So that when you --

20 THE CHAIRMAN: But it is an interim
21 licence for the generating station, not Lake
22 Winnipeg controls?

23 MR. MATTHEWS: That's right. There is
24 an interim licence for the generating station and
25 there is an interim licence for Lake Winnipeg

1 Regulation.

2 THE CHAIRMAN: What we are looking at
3 is the interim licence for Lake Winnipeg
4 Regulation. If you look at Manitoba Hydro's
5 letter to the department, I don't have it with me
6 and I'm not even sure when it was written, early
7 2011, or 2010, when Wes first wrote applying for
8 the final licence --

9 MS. CRAFT: December 2010.

10 THE CHAIRMAN: December 2010, so it is
11 whatever is impacted by that licence, the
12 December 2010 letter from Manitoba Hydro, from the
13 project manager Wes Penner, to the department
14 requesting a final licence, it's whatever is
15 covered in that licence. And I suspect, and don't
16 hold me to this, I suspect that the Jenpeg
17 Generating Station is not part of it, but the
18 Jenpeg control structure is. We will clarify that
19 for you soon.

20 MR. WHELAN: I would like to make one
21 point then on behalf of Peguis First Nation, is
22 that the scope of a section 35 consultation is,
23 therefore, different than the scope of these
24 hearings, if these hearings will not be taking
25 into account Jenpeg.

1 THE CHAIRMAN: These hearings will not
2 be taking into account the Jenpeg Generation
3 Station? Well, I mean, that doesn't make any
4 difference to our process. Ultimately, it is the
5 Minister who makes the decision on issuing or not
6 the final licence. He will base that on what we
7 report to him, he will base that also in part on
8 what the section 35 consultations report to him,
9 and he will also take advice from officials in his
10 department. So it doesn't make a difference in
11 the end whether or not we look at the generation
12 station, because the generation station, if it is
13 not part of this licence, then it is not part of
14 our mandate. But we will clarify that for you.

15 Mr. Sutherland?

16 MR. SUTHERLAND: I want to expand
17 upon, I guess get a better understanding --
18 Ms. Whelan Enns asked as her first question, each
19 year Manitoba Hydro provides a report of its
20 operations to Water Stewardship, along with the
21 application in order to be granted the licence to
22 operate the following year. The question she
23 asked is, are we going to be privy to that report?
24 Maybe Mr. Matthews, or the representatives from
25 Manitoba Hydro here, if they can answer that

1 question? Because I don't really know what you
2 guys asked Hydro in regards to gathering
3 information for the public. But one of the things
4 that we want to be able to look at is the actual
5 reports that have been provided in order to
6 operate yearly, the reports that they provide
7 Water Stewardship.

8 THE CHAIRMAN: If it is relevant to
9 our review and to the regulation of Lake Winnipeg,
10 then it will be relevant to our review, and we
11 would seek that those reports be made available to
12 this panel and to the parties in this room, if it
13 is relevant to our review. Now, are you saying
14 that they are applying every year to get the
15 licence extended? That's not my understanding,
16 they have to report every year.

17 MR. SUTHERLAND: They make a report
18 every year.

19 THE CHAIRMAN: Yes.

20 MR. SUTHERLAND: And it has to be
21 reviewed. Previous employees have stated that in
22 order for them to operate, the reports have to be
23 reviewed and the go ahead given in order for them
24 to continue. It is like they apply each year to
25 keep moving forward, otherwise, if they didn't,

1 they wouldn't be here asking for a permanent
2 licence, right? In order for them to operate
3 yearly, they have to make sure that their reports
4 are reviewed and everything is okay for them to
5 continue on year by year. If it wasn't that way,
6 they wouldn't be here asking for a 50-year
7 licence. That's my understanding. If there are
8 reports provided yearly, we want to see copies of
9 those reports.

10 THE CHAIRMAN: It will certainly be
11 looked at. I can't tell you today whether or not
12 we can make those available, will make those
13 available. But if it is relevant to our review,
14 we will ensure that the information is made
15 available.

16 MR. SUTHERLAND: Who is going to
17 determine if they are relevant? The CEC?

18 THE CHAIRMAN: Yes.

19 MR. SUTHERLAND: All right. Thanks.

20 THE CHAIRMAN: Mr. Stevenson?

21 MR. STEVENSON: Yes, I want to refer
22 to the scope of the review.

23 THE CHAIRMAN: Yes.

24 MR. STEVENSON: You had four bullets
25 under your scope of the review.

1 THE CHAIRMAN: Yep.

2 MR. STEVENSON: I want you to look at
3 the second bullet where it deals with a time
4 frame, looking at the regulation since commercial
5 use on August 1st, 1976. So that gives us,
6 basically that's our starting point from there
7 onward. But you also mentioned that some
8 communities will be utilizing the section 35
9 consultation and accommodation process. When you
10 go through that process, you are looking at
11 Aboriginal rights, Treaty rights, all the rights
12 that exist with the First Nation. And when you do
13 that you look at also when Treaty was signed for
14 that particular First Nation. In most cases it
15 will be from 1871, 1875, that area. So if you are
16 going to be utilizing section 35 package and
17 repacking into a resubmission into this process,
18 you are going to go back beyond August 1st, 1976.

19 THE CHAIRMAN: I understand that.
20 But, again, what would be relevant to our review
21 would be the impacts as they may or may not have
22 affected your Treaty and Aboriginal rights caused
23 by the Lake Winnipeg Regulation. We are not
24 denying any abrogation or interference with rights
25 prior to that, but they wouldn't be relevant to

1 our review.

2 Mr. Sutherland?

3 MR. SUTHERLAND: You are confusing me
4 now then. So you just referred to Treaty and
5 Aboriginal rights, yet you say --

6 THE CHAIRMAN: Well, Mr. Stevenson
7 brought it up.

8 MR. SUTHERLAND: You say that these
9 hearings don't refer to section 35, so I don't
10 think you can have one with the other.

11 THE CHAIRMAN: No, I think you are
12 misunderstanding what I said.

13 MR. SUTHERLAND: Help me understand
14 then?

15 THE CHAIRMAN: I'm just saying that
16 what Mr. Stevenson referred to was the section 35
17 consultations, which may or may not look at issues
18 going back before 1976. The issues that we are
19 looking at are only effects -- let me finish this
20 off and then take a step back -- only those
21 effects caused by the impact, or caused by Lake
22 Winnipeg Regulation. But you may recall from the
23 Keeyask hearings that I made the point more than
24 once that there is a fine line. An impact may be
25 both a section 35, or a Treaty and Aboriginal

1 rights impact, but also an environmental impact.
2 I mean, if a project, and let's take Keeyask, if
3 that dam impacts a First Nations person from TCN's
4 ability to exercise his or her rights to hunt,
5 that's both a section 35 and an environmental
6 issue. So, I mean, we can report on both, we can
7 report on it and somebody else may report on the
8 same thing in the section 35 hearings, there is no
9 getting away from that, that's just the way the
10 beast is built. What we are looking at is the
11 environmental side and the socio-economic issues,
12 but they may also have a crossover to Treaty and
13 Aboriginal rights.

14 MR. SUTHERLAND: Everything that
15 affects the environment and socio-economic affects
16 our Treaty and Aboriginal rights. So there is no
17 getting away from it, you are right.

18 THE CHAIRMAN: Absolutely.

19 MR. SUTHERLAND: So then why separate
20 section 35 from this hearing? I mean, because you
21 can't just pick and choose as you go forward. You
22 said it yourself that, you know, you are here to
23 determine whether or not there are environmental
24 impacts for section 35. I mean, if you are
25 affecting the land and the moose populations, you

1 are affecting the First Nations. If you are
2 affecting the trapping regimes within that area,
3 you are affecting the socio-economic conditions of
4 the First Nations that live in that area as well.

5 THE CHAIRMAN: I will take the easy
6 out and say it is not my choice as to who splits
7 up the jurisdictions. The Government of Manitoba
8 has taken the position for a number of years now
9 that a specific branch of government conducts the
10 section 35 consultations. They have not asked the
11 Clean Environment Commission to do it, they have
12 not asked in other cases the Public Utilities
13 Board or other review agencies to conduct those.
14 They have a branch that looks at it specifically.

15 MR. SUTHERLAND: Okay. That gets back
16 to my point that I have said at the two previous
17 hearings, that maybe the Clean Environment
18 Commission should say to the Province that we are
19 not going to conduct these hearings until you do
20 section 35, the same as Manitoba Hydro when it
21 digs back in the proper order or perspective, so
22 that we can deal with the issues as we move
23 forward. Because right now you are putting the
24 cart before the horse again.

25 THE CHAIRMAN: I don't know if I would

1 go quite that far, but I agree with you in the
2 most part. It can be confusing and sometimes you
3 wonder why it is not done at the same time.
4 However, having some sense of the complexities of
5 both, I think putting the two together would make
6 it even more complex.

7 MR. SUTHERLAND: Actually, it would
8 probably even make things more clear because the
9 environment -- First Nations are part of that
10 environment.

11 THE CHAIRMAN: You may well be right.

12 MR. SUTHERLAND: Well, I am right, not
13 may well, I am right. We live on the land, hunt
14 on the land, we operate on the land.

15 THE CHAIRMAN: I know you are right in
16 that respect. I was suggesting that you may well
17 be right and it would make our lives easier, but
18 we won't get to find that out in this particular
19 review because we have not --

20 MR. SUTHERLAND: So how many reviews
21 is it going to take before government, CEC, Hydro
22 and everybody else gets it right, and do section
23 35 first?

24 THE CHAIRMAN: That I can't answer
25 because that's not my decision. You will note

1 that in I think both of our last reports on Bipole
2 and Keeyask, we have noted that there are often,
3 particularly in recent years, far too many
4 consultation processes going on at the same time.
5 But we are not quite sure how to make that better.

6 Okay. I will take a question from
7 Ms. Whelan Enns, and then I'm going to switch to,
8 more specifically, the item 3 on the agenda and
9 just have a go around the table and let people
10 have their say in what they see as their role in
11 this process.

12 MS. WHELAN ENNS: Thank you,
13 Mr. Chair. I'm looking at the same bullets, this
14 is an environmental question. There is a
15 reference then, of course, here in your mandate to
16 the commercial use of the regulation of the lake
17 by Manitoba Hydro as of 1976. So I would like to
18 know whether in terms of the CEC mandate and this
19 review and hearings, the impacts from construction
20 and the infrastructure being put in place, and all
21 of the work, particularly at the top of the lake,
22 that our utility conducted over several years
23 before commercial operation are within your
24 mandate and your scope?

25 THE CHAIRMAN: What is within our

1 mandate and scope are the effects that came about
2 from the Lake Winnipeg Regulation, so what was put
3 in place and began operation more or less
4 midsummer of 1976. We are not going to be looking
5 at environmental damage caused by a bulldozer when
6 it was digging 2-Mile Channel, for example. We
7 are looking at the impacts to communities around
8 and downstream from the lake.

9 MS. WHELAN ENNS: Thank you.

10 THE CHAIRMAN: Okay.

11 MR. TRAVERSE: If I may say something
12 sir? I came here not knowing where the meeting
13 was going to take place, but I would like to get
14 recorded here, I would like to say something about
15 my community where I come from.

16 THE CHAIRMAN: Where do you come from,
17 sir?

18 MR. TRAVERSE: From Kinonjeoshtegon
19 First Nation. My name is Henry Traverse, I didn't
20 know where I was heading this afternoon.

21 THE CHAIRMAN: Could you identify
22 yourself and your community again, please?

23 MR. TRAVERSE: Yes, my name is Henry
24 Traverse. I was aware of these meetings, but I
25 didn't know where they were going to take place.

1 I guess I got the tail end of this, when this
2 process started a month ago on May 6. I come from
3 the Kinonjeoshtegon First Nation. I'm a
4 commercial fisherman, and we are very concerned
5 about going on with this -- we hear this hearing
6 that's going to take place down the road. Our
7 community, where we reside, we signed a Peace
8 Treaty, 1875, it was signed. And today, the place
9 where that Treaty was signed, the grounds are all
10 under water. And also our birth right places,
11 they are all under water, or given away by the
12 government of the day. We are very concerned
13 about this and we would like to be a participant.
14 We don't have no expertise to help us along. Our
15 community, we are very, very concerned. Why I'm
16 here today, like I didn't want to barge in and
17 start talking here. I'm a commercial fisherman, I
18 have been a commercial fisherman for over 40
19 years, and also my ancestors have been fishing way
20 before the Treaty was signed. I would like to get
21 to know this hearing. I know I met you back a few
22 years ago, Mr. Sargeant, I went to the Arborg CEC
23 meeting a few years ago.

24 But that's what I want to say, I want
25 to bring this, my community forward, because we do

1 have, we have concerns as commercial fishermen.
2 Our industry is not, it is not the way it is
3 supposed to be going, our fish are declining and
4 everything like that. I want to say that for now,
5 and maybe I could say something else after again.

6 THE CHAIRMAN: Could you tell me where
7 your community is located?

8 MR. TRAVERSE: We live right on the
9 shore of Lake Winnipeg. We don't live in an
10 inland area of Manitoba here, we reside right on
11 the lakeshore of Lake Winnipeg. Myself, like I
12 said before, I was born on the shoreline of Lake
13 Winnipeg. And this is how -- you know, a lot of
14 things took place since the fluctuation of the
15 water changed, you know, since 1976, you know,
16 there is a lot of things happened. One time we
17 were chased off the lake, we had mercury poisoning
18 we were told. And we believed that, and we have
19 never gotten anywhere, anything from that, you
20 know, that incident, we never got no --

21 THE CHAIRMAN: That was about 1969 or
22 1970.

23 MR. TRAVERSE: It started right around
24 1970.

25 THE CHAIRMAN: Just help me out a

1 little bit. Your community now goes by its
2 Aboriginal name. Could you --

3 MR. TRAVERSE: Yes, Kinonjeoshtegon
4 First Nation.

5 THE CHAIRMAN: What was it referred to
6 before?

7 MR. TRAVERSE: Jackhead First Nation.

8 THE CHAIRMAN: Okay. I'm well aware
9 of Jackhead and where it is, I have been in that
10 community a number of times many years ago. And
11 it is one of the communities that is on our list
12 that we may or may not go into. We will talk with
13 you and people in your community about that as we
14 are setting up our schedule, but Jackhead is one
15 that is on the list as a possible community to go
16 into.

17 MR. TRAVERSE: This is nice to hear,
18 this is what I wanted to see happen. I have
19 already informed the chief and council. They
20 can't be here today, you know, time and travel is
21 limited for them, but somehow I managed to come
22 here on my own. That's the way I am, I travel, go
23 to far places. And also things that, wherever I
24 go, our culture, custom, tobacco is presented in
25 talking about water, water right, and issues like

1 that. Those are very important in our culture. I
2 don't see that going on today. Everybody is just
3 taking and grabbing, you know. Not that I want to
4 offend anybody, you know, I say this in good way
5 around the table today, this afternoon. I
6 understand what is taking place here. But somehow
7 that's the kind of person I am, that's what I
8 follow, my culture.

9 THE CHAIRMAN: I thank you for your
10 comments, Mr. Traverse. Our goal today really
11 wasn't, or isn't to talk about the specific
12 issues. So that in part is why some people
13 haven't been using the tobacco. Today is really
14 just an organizational meeting. We are talking
15 about process, we are talking about organizing the
16 sessions, the hearings, the meetings, the
17 community visits. And it is when we get into the
18 communities that we really do want to hear and
19 talk about the specific issues, about the effects
20 on your community and on the water.

21 MR. TRAVERSE: Thank you.

22 THE CHAIRMAN: So we will definitely
23 be in touch. And I'm not just saying that
24 Jackhead is on our list, I can show you here on
25 the piece of paper, it is one of the communities.

1 As I said, it may or may not end up with sessions,
2 we will see as we proceed.

3 MR. TRAVERSE: Yes, we have reasons,
4 we have our own reasons why we want something like
5 this. This is very important. This hasn't --
6 nobody has ever come and consulted us in our
7 community ever about Hydro, about fishing. Those
8 are the things that we hold and maintain in our
9 everyday life.

10 THE CHAIRMAN: And we will talk with
11 you and/or people in your community and see
12 what -- where we go from there. And we may end up
13 in your community. We may well end up there.

14 MR. TRAVERSE: Yes. Thank you.

15 THE CHAIRMAN: So, perhaps we can
16 start a go around, around the table, and what I
17 would like to do is just ask each of you to
18 describe what you see as your role in this
19 process, any thoughts you might have on the
20 process for conducting this particular review, the
21 issues that in your opinion that you think will
22 come up and should be addressed. If you have any
23 free, or even expensive advice for the Commission,
24 we would welcome that. And if you have
25 suggestions for other groups or organizations or

1 First Nations that aren't here today, that we
2 should be talking with, please let us know that as
3 well? And the same applies to experts, if there
4 are any areas or individual experts that you think
5 we should be talking with, please let us know.

6 As I noted at the beginning, don't
7 feel pressured, you don't have to respond, you
8 know, if you don't have anything to put in right
9 now, or you don't see your role as being very
10 large, just say so and we will move on.

11 So, Mr. Matthews, maybe you could just
12 briefly describe your role and the role of your
13 branch in this whole process?

14 MR. MATTHEWS: Thank you,
15 Mr. Chairman. What I thought I would do is point
16 out that there is actually a section on the
17 department of Conservation and Water Stewardship
18 website that deals with Water Power Act licensing.
19 And some of you have been there, some of you
20 haven't, so I would encourage people to visit that
21 part of the site soon, and maybe throughout the
22 time that the Commission is in session on this
23 topic, probably some more information will appear
24 there.

25 One thing that does appear there is

1 the annual report on hydraulic flows, which Hydro
2 has been submitting since -- this was an outcome
3 of the Wuskwatim hearings and they have been
4 submitting it since 2008. And we have got 2008
5 through 2012 posted, and I'm waiting for the 2013
6 report. I don't want to get into the weeds on it
7 today, but, no, there is no annual authorization
8 required. This is just an annual report that
9 summarizes information that they have always
10 provided to us. But that information has in the
11 past come to us kind of letter by letter
12 throughout the year. This puts it all together in
13 one report.

14 Just a word about licensing
15 nomenclature, and if you read the Act, which is
16 easy to read, it is only a few pages long, but the
17 regulations go on forever. The term interim
18 licence and final licence is used in there, and
19 final licence is not final. It does -- can only
20 be issued for up to 50 years, but that is 50 years
21 from the date that a project is commissioned. So
22 we are well into that 50 year period. Because the
23 interim licence was issued in 1976, any final
24 licence coming out of this process will actually
25 expire in the year 2026. And then there will be

1 another process to renew the final licence, which
2 really should start before 2026.

3 So if we are not careful we will all
4 be around to do that, so some of us have to maybe
5 think about retiring before then perhaps.

6 THE CHAIRMAN: Not a bad idea. I
7 speak for myself only.

8 MR. MATTHEWS: I might have missed
9 something here. No, I think that was all I wanted
10 to say at this time.

11 THE CHAIRMAN: Thank you,
12 Mr. Matthews.

13 Consumers, Ms. Craft?

14 MS. CRAFT: Thank you, Mr. Chair.
15 Maybe I will preface the comments that I will make
16 today on behalf of CAC with the fact that you have
17 identified earlier that this is a different
18 process from what we might be used to from a CEC
19 proceeding. And CAC has given a lot of thoughts
20 to how it might best participate in this type of
21 process, but these are obviously very preliminary
22 views and we look forward to discussing further
23 how we could contribute.

24 I think to answer the question about
25 why CAC is at the table, and Ms. Desorcy is always

1 more elegant than I on this subject, I think it is
2 important to note that CAC has an interest beyond
3 consumers as ratepayers, and that has been
4 demonstrated in past hearings, but in particular
5 in relation to Lake Winnipeg Regulation, it is
6 interested in considering what you have identified
7 as community impacts, so the socio-economic
8 impacts on lake communities. And some of the
9 issues that CAC is concerned with would include
10 erosion and water quality. And I am assuming that
11 that's common to most of the parties around the
12 table. But CAC does have the consumer's
13 perspective at interest in terms of commercial
14 fishing and also as consumers of lake fish on Lake
15 Winnipeg, and also some of the recreational
16 activities, as consumers of those recreational
17 activities and how they may be impacted by the
18 regulation of the lake.

19 So those are generally the interests
20 that CAC brings to this process and to this seat
21 at the table today. And as will be of no surprise
22 to any of the parties that have been following
23 what CAC has done on environmental issues in the
24 past few years, it is a priority for CAC to ensure
25 that current environmental and regulatory best

1 practices are part of the licensing process that
2 moves forward in Manitoba. And concerns around
3 ensuring best practice have been front and centre,
4 and I think that they are highlighted in the
5 context of considerations around Lake Winnipeg
6 Regulation, especially in the sense that
7 legislation that is -- I won't use the word
8 antiquated today but you may hear it from me in
9 the future -- that legislation that doesn't
10 necessarily easily contemplate and grapple with
11 those environmental best practices, how that
12 affects the consideration by the Commission and
13 ultimately by the Minister in terms of how to
14 grant licensing going forward.

15 And CAC says that in the context of
16 two very important factors, one is in light of a
17 changing environment and changing environmental
18 practices, as we've mentioned. And I assume that
19 you might hear from my friends at Lake Winnipeg
20 Foundation something about the changing
21 environment in terms of Zebra Mussels on Lake
22 Winnipeg, and how that might have some kind of
23 impact on the lake, and how Lake Winnipeg
24 Regulation can be responsive to some of those
25 changing environmental factors.

1 And it is also important, in light of
2 the upcoming renewals, and I am thankful that
3 Mr. Matthews mentioned that, you know, the final
4 licence would go out to 2026, but Lake Winnipeg
5 Regulation is not the only interim licence that
6 will move to a final licence. There are quite a
7 few up that are up in the queue and there are a
8 lot of renewals that are subject to a renewal
9 process in the next few years and will be
10 considered through this environmental regulatory
11 process. And trying to solidify what the concerns
12 are relating to how we licence in Manitoba on
13 hydroelectric development, I think is one of the
14 important concerns to the Consumers Association of
15 Canada.

16 So I think I will leave it at that in
17 terms of the role and issues. Suggestions
18 relating to the process; I think we have noted
19 that in the terms of reference, and specifically
20 on the scope of the hearing, there is one term
21 that's used twice in the sub bullets in the scope,
22 and that's "broader public policy rationale." And
23 that's certainly one of the outstanding questions
24 that CAC has as to what exactly, going into this
25 process, is perceived to be both by Manitoba Hydro

1 and Manitoba Conservation as the public policy
2 rationale for Lake Winnipeg Regulation. And we
3 certainly would welcome any opportunity to
4 participate in trying to narrow it down, how to
5 access that information well in advance of the
6 proceeding taking place.

7 And so subject to any questions that
8 you have on those comments, that would be how CAC
9 perceives its role at this very preliminary stage.
10 Thank you.

11 THE CHAIRMAN: Thank you.
12 Pimicikamak?

13 MS. KEMPTON: Kate Kempton, I will
14 start and Mr. Paupanakis will conclude for us.

15 Before we talk about more specifics, I
16 wanted to frame this in the context that
17 Pimicikamak sees this and all of the regulation of
18 the Hydro project in. Our firm is cohosting a
19 major conference actually in Fort McMurray this
20 weekend. Archbishop Desmond Tutu is the keynote
21 speaker, and many other major honoraries, Nobel
22 laureates and others speaking about human rights
23 and the environment as it pertains to indigenous
24 peoples in Canada, and the ongoing crimes against
25 humanity that continue to be perpetrated against

1 indigenous people like Pimicikamak in this room
2 and elsewhere. The ultimate theme of the
3 conference is Treaty renewal.

4 This is the context in which we
5 believe that Pimicikamak has a voice here and in
6 other processes, Federally and Provincially.
7 Pimicikamak, like other indigenous peoples, this
8 is their land, it was their land and remains their
9 land. The Treaty that was signed, the
10 understanding and the trust that the indigenous
11 parties to Treaty, including Treaty 5, signed was
12 a Treaty of peace and friendship, a Treaty
13 agreeing to share the lands and resources with the
14 Crown and the settlers that the Crown governed.

15 The words and concepts of cede and
16 surrender, a relationship of stewardship with the
17 land which indigenous people had and have was a
18 foreign concept that could not be understood in
19 accordance with Pimicikamak customary law. And
20 therefore Pimicikamak could not have agreed to the
21 insertion by the Crown of the word cede and
22 surrender under Treaty 5.

23 This is the understanding, I have to
24 say, that I think all of the clients of my law
25 firm, which practice Aboriginal law across what

1 some refer to as Canada, would hold. The historic
2 Treaties have been taken and abused, or used as
3 tools of abuse by the Crown against indigenous
4 people since they were first signed. The
5 manipulation that occurred by the insertion of the
6 word cede and surrender, and the holding up of the
7 written text of the document using it to say you
8 have no more rights left, has perpetrated, as I
9 stated, which many human rights experts around the
10 world call cultural genocide, or crimes against
11 humanity by the Crown, against indigenous peoples
12 in Canada. And they continue today. And they
13 continue as well from the Hydro project and the
14 failure by the Government of Manitoba to take the
15 opportunity, the many opportunities that have
16 occurred, to change the situation, to change the
17 devastating impacts that Aboriginal peoples,
18 including Pimicikamak, have experienced and
19 continue to experience day to day to day.

20 We are presented with an excellent
21 opportunity here, an opportunity in the final
22 licences to put, and have conditions put on that
23 will enable these changes to be made that will
24 help effect reconciliation. So in the context of
25 what has been stolen from Pimicikamak through the

1 Crown's manipulation of Treaty 5, and through the
2 Hydro project and the devastating impacts it has
3 caused and continues to cause. We have an
4 opportunity now to remediate, mitigate, and try to
5 turn the clock around a little bit here through
6 conditions on the final licences. This is an
7 excellent opportunity to help effect the
8 reconciliation that should have been there, to
9 help turn around the terrible abuses that have
10 happened for the last 150 years and continue to
11 happen today.

12 The world has been condemning Canada
13 for years on what is happening to indigenous
14 peoples here, and yet Canadians themselves seem to
15 turn a blind eye. We do not want to see this
16 process be yet another one where the blind eye is
17 ultimately turned, that we are not really looking
18 at what is happening here, and we are not really
19 taking the opportunity to make it right once and
20 for all, because it is very, very, very wrong
21 right now.

22 We don't want this to be a sham. We
23 have a great opportunity here. So Pimicikamak's
24 position is set out in the letter of May 5th,
25 2014, to the Minister of Conservation, which we

1 copied to the CEC. I'm asking, if you haven't
2 done so already, that you put it on your website.

3 In that we have said that decisions
4 like this about the types of conditions, this is
5 what this review should be getting to, that should
6 go on these kinds of licences. Fundamental
7 changes to the situation now to provide more
8 justice, remediation, mitigation to Aboriginal
9 peoples and others who continue to suffer from the
10 Hydro project, including Lake Winnipeg Regulation.

11 We have set out a series of cascading
12 preferences in that letter, starting with an
13 independent, comprehensive regional cumulative
14 effects assessment of the entire Hydro project and
15 the areas that it impacts, not the one conducted
16 behind closed doors and without the involvement of
17 indigenous peoples, Hydro and Manitoba.

18 Further, beyond that, if that's not
19 going to happen, then we ask the Minister to
20 exercise his discretion to have full environmental
21 assessments under the Environment Act for both the
22 CRD and LWR together, because they are two arms of
23 one integrated project. Decisions about what
24 conditions should be on one licence cannot and
25 should not be made without the full assessment of

1 both licences together. As soon as you set
2 conditions on one licence, you limit, if not
3 prohibit certain types of conditions on the other
4 licence, because you will have sealed the fate of
5 one arm by sealing the fate of the other.

6 If that's not to be, then we at the
7 very least have said that there needs to be CRD
8 hearings at least similar to the ones being
9 conducted for LWR, and contemporaneously with or
10 aligned with these hearings, again, so that
11 decisions about the conditions on one licence are
12 not made before decisions are ready to be made
13 about conditions on the other licence. They go
14 together, they are two arms of one whole.

15 So we set that out in a letter of
16 May 5th to the Minister. We have not heard back.
17 If those changes, or none of them are to be made,
18 then we think that this process will continue to
19 be what we have seen far too often in Manitoba,
20 that the writing is on the wall from the get go
21 and that there is no real intention here to
22 reconcile, to reconcile the damage, huge damage
23 that continues to be done and injustices done to
24 indigenous peoples affected by the Hydro project.

25 Pimicikamak, I won't say is the most,

1 but clearly is severely affected by Lake Winnipeg
2 Regulation. Its traditional territory and its
3 residential communities sit directly downstream of
4 Jenpeg. Of all of the parties in this room,
5 Pimicikamak, of course, needs to be heard -- needs
6 to be heard, needs to be listened to, and its
7 appeals for once acted on.

8 How do we propose to participate? We
9 are not sure if we will at all. It depends on
10 whether Pimicikamak deems this process a sham or
11 not, ultimately at the end of the day, and we need
12 to hear back from the Minister in response to our
13 letter to determine that.

14 This is in no way blaming the CEC, it
15 is looking to the Minister for an answer. So I
16 guess we will have to wait and see.

17 If Pimicikamak does participate in
18 this process, then it will be to speak about the
19 devastating and ongoing harms of Lake Winnipeg
20 Regulation to Pimicikamak and its vast territory
21 and citizenry, to human lives and their part of
22 the environment. And we will propose ways that
23 the devastating impacts might be able to be
24 addressed. Darwin?

25 MR. PAUPANAKIS: Thank you. Yes,

1 Pimicikamak is, I guess, Mr. Chair, very, very
2 deeply concerned at this point in time. If we can
3 not begin to address concerns through this
4 process, and it looks like to me that the ability
5 for us to express those concerns in a meaningful
6 way is very limited, and through other processes
7 as well. We were let halfway into the door in the
8 Clean Environment Commission hearings on Keeyask.
9 We participated as best as we could. And at this
10 point in time, if this is the case again, then we
11 do consider this whole process to be a sham again.
12 I want to express this in my language, and there
13 is no other way to express it, but I just have to
14 put it on the table.

15 (Cree Spoken).

16 In summary, the Pimicikamak people
17 will no longer and can no longer tolerate this
18 kind of process. I have been through these
19 processes before, most recently at the Clean
20 Environment Commission hearings on Keeyask. We
21 all know how that ended. As we sit here today,
22 our mandate from the people is no more. The
23 living are marked with a target. We want to
24 remove this injustice. You know, we suffered from
25 the past before Hydro came along. We buried our

1 forefathers along the shores of Sepewisk. Today,
2 Manitoba Hydro desecrates our burial sites, you
3 have seen it, and we don't lie about that.

4 Manitoba Hydro today perpetuates lies
5 into the United States. We have them on video
6 manipulating this story to their benefit, to sell
7 power. While we believe in our hearts that our
8 grandfathers and grandmothers have gone to the
9 spirit world to rest in peace, yet again today
10 Manitoba Hydro rips the graves apart. The bones
11 of our ancestors, our history, willingly being
12 washed out from our lands. Our babies dying, a
13 plane will be landing in a few minutes in Cross
14 Lake and other communities, born of deformity.
15 Another gentleman being landed today, his body
16 dying of disease. These are all water borne
17 inflicted by Manitoba Hydro. We did not agree to
18 these things to happen to us. The death sentence
19 on our people today has a ripple effect on all
20 Manitobans. We fill your hospitals in the south
21 here with our sick from the polluted water we
22 drink. To us, we can not stand for that no more.

23 That is why I'm saying to the
24 Commission, consider, consider what is in your
25 heart, consider you are able to sit in these

1 hearings with the limited scope that's in front of
2 you. I'm pretty sure you can appeal to the
3 Minister. If there is heart in these lands, your
4 recommendation is part of that decision. It is
5 not only a recommendation, but it is part of the
6 decision making process which deals with our
7 fundamental human right to exist as a people and
8 share in the abundance of this land. We are here
9 in that spirit, and we continue to be here in that
10 spirit. We invite you to come here and be here
11 with us in the same spirit.

12 With that, if this is again the same
13 thing that's going to be done all over again, I'm
14 sorry, but we are going to have to withdraw. No
15 more do we want to be participants in a sham
16 anymore. Thank you.

17 THE CHAIRMAN: Thank you. I would
18 like to take a short break, so we can come back in
19 ten minutes. Mr. Mead, you have pretty well laid
20 out what your organization wants to do.

21 MR. MEAD: I'm totally lost now. I
22 thought we were here because of the impact that
23 was done prior. And I think we all sit around
24 this table realizing we are not going to change
25 that back, we can't put it back to what it used to

1 be. We are impacted. I'm a member of the Cross
2 Lake First Nation, or Pimicikamak, whatever line
3 you want to use. And I don't live there. I live
4 in a community that is made up by 87 per cent
5 First Nation people, and I think it is around 12
6 Metis, so just about the whole works that are
7 Aboriginal. But out of that 80 some per cent, 90
8 per cent of that 80 is Pimicikamak First Nation.
9 And we are impacted.

10 So the Lake Winnipeg Regulation, in my
11 mind, and you mentioned it is only the communities
12 that are impacted, for Hydro to keep a level of
13 water table on the basin of Lake Winnipeg, they
14 either have to dump it, which we get, or they have
15 to hold it back at Jenpeg, or we don't get the
16 water. Those communities are impacted to a great
17 extent with the water elevation going up and down
18 on a daily basis. So when you are talking Lake
19 Winnipeg Regulation, that should be a watershed
20 regulation that we talk about, because everybody
21 has different views of what is impacted.

22 I heard you mention the Saskatchewan
23 River. The Saskatchewan River impacts Lake
24 Winnipeg as well down at the mouth there, Grand
25 Rapids. But all of those impacts, what are we

1 actually here for? Are we here because of what
2 Hydro is going to do further down, or are we here
3 to try and find ways of lessening the impact on
4 Lake Winnipeg, which in turn lessens the impact on
5 the watershed that is going into Northern
6 Manitoba? It is difficult.

7 And if I can't get the community
8 members to come and speak up by picking and
9 choosing where we are going, we are actually
10 missing the whole concept of what we are supposed
11 to be doing here. Because everybody has different
12 views. And too many of these hearings have been
13 taken there where this person's idea is this, and
14 the other is this, the other one is that, all
15 totally different. Bipole III is exactly the same
16 thing, no two communities living 50 kilometres
17 apart have the same view of what Bipole III is
18 going to do.

19 When Bipole III was first talked
20 about, it was going to the east side of Lake
21 Winnipeg. The west side, where most of the
22 population is, wouldn't have even -- had no impact
23 on them directly, but indirectly it would have.

24 So all I'm saying is, how are we going
25 to come to grips with this? How are we going to

1 work together to try to clean up the mess that --
2 you mentioned experts, that experts have done,
3 because there wasn't enough grassroot people
4 giving advice to hearings like this. A lot of us
5 listen to the experts and, boy, did they ever lead
6 us astray. But that's only in my mind that they
7 lead us astray, because being a non-expert, I
8 guess I get a little jealous of these experts.
9 And I have the same problems with engineers
10 creating all of the problems.

11 Is this board, these hearings going to
12 get back to what is on the table? What are we
13 actually here for? Are we actually here to say no
14 to Hydro's proposal, or are we here to try and
15 bring something together that we can work
16 together? Because even if we say no, I don't
17 think that they are going to, but I could be
18 wrong, pull out the dam. How many dams all the
19 way, from Seven Sisters all the way down? We have
20 ruined the watershed. But not only us, it has
21 been ruined even before it hits Manitoba. Thank
22 you.

23 THE CHAIRMAN: Mr. Mead, thank you for
24 those thoughts, and those are valuable thoughts,
25 and I hope that you will come to one of our

1 regular sessions and make those points again. But
2 today we are here to discuss process and how this
3 goes on. So thank you very much.

4 And I would like to take a break right
5 now for about ten minutes.

6 (Proceedings recessed at 2:45 p.m.
7 and reconvened at 3:00 p.m.)

8 THE CHAIRMAN: Could we reconvene? We
9 have more than half the table to get around.

10 THE WITNESS: So Marci, MFF.

11 MS. RIEL: Thank you, Mr. chair.

12 Marci Riel for the Manitoba Metis Federation. Mr.
13 Madden wasn't able to join us today, so if it
14 suits you and with your permission, perhaps what I
15 could do is undertake to provide information to
16 you in written form to be shared or kept within,
17 and therefore speed up the process a little bit
18 this afternoon.

19 THE CHAIRMAN: No problem at all with
20 that.

21 MS. RIEL: Thank you, very much.

22 THE CHAIRMAN: Thank you, Ms. Riel.

23 IISP. Sorry, I don't know your name.

24 MS. ZUBRYCKI: I am Karla Zubrycki. I
25 don't have any particular comment to add at this

1 time. Although I will bring back the discussion
2 to my colleagues, Richard Grosshans, who send
3 their regrets, they would have liked to have been
4 here today. They are away at a conference. Also
5 at the conference is my colleague Scott Higgins,
6 who might be able to add something to the Zebra
7 mussels situation, but he is at the conference for
8 the International Association of Great Lakes
9 Research.

10 We work somewhat more on the upstream
11 watershed management, but are certainly interested
12 in the sustainable management of the lake in terms
13 of regulations, so this is certainly of interest
14 to us. Some of the topics mentioned by the chair
15 are along the lines of what I think we feel should
16 be included, for instance, marsh ecology and most
17 definitely climate change considerations.

18 I guess I could comment on one of the
19 bullets in the terms of reference and just
20 reinforce the need for monitoring, the need for
21 indicators and monitoring related to things like
22 water quantity, quality, hydrology measurements
23 and ecosystem measurements. Monitoring is
24 mentioned in the fourth bullet of the terms of
25 reference. It is important to keep track of

1 things so we can understand where things are
2 going, especially with considerations such as
3 climate change, so that the lake levels can be
4 managed adaptively going into the future.

5 And I don't think that I have much
6 more to add at this time, but we are definitely
7 interested in being involved in this process, I
8 think.

9 THE CHAIRMAN: Thank you very much.
10 Mr. Gamble.

11 MR. GAMBLE: Yes, I guess speaking on
12 behalf of the Lake Friendly Stewardship Alliance,
13 our concern would be the health of Lake Winnipeg
14 going into the future. And also we would like to
15 be part of the process, and we would like to get
16 into clean energy, developing clean energy. And I
17 will leave it at that. Thank you.

18 THE CHAIRMAN: Thank you, Mr. Gamble.
19 Mr. Whelan or Mr. Stevenson.

20 MR. STEVENSON: I think Councillor
21 Mike Sutherland might have a comment or two. He
22 is just out of the room for a second. I do have a
23 couple of questions here I wanted to ask. Dealing
24 with the Clean Environment Commission, I
25 understand reference is made to the CEC under the

1 Environment Act, where it gives the CEC its
2 authority to do its business and to conduct
3 hearings and make recommendations. I'm not sure
4 if that same authority is found in the Water Power
5 Act or under the Water Power Regulations. And if
6 it is not in there, I'm just wondering whether the
7 CEC would have jurisdiction to hear a process
8 under the Water Power Regulations. That is
9 something that I'm not sure it is there to begin
10 with.

11 I do have other comments. One is
12 dealing with Peguis is part of Treaty 1. And when
13 Treaty 1 was signed back in 1871 there is nothing
14 in the written Treaty text saying that we have
15 given up our rights in other areas outside of
16 Treaty 1. That is where we do assert we have
17 Aboriginal title to lands in Treaty 2, 3, 4, 5, 6
18 and 10. Those rights still exist since time
19 immemorial, because certainly the Treaty did not
20 extinguish our rights in those lands and waters.

21 The other thing, when Treaty 1 was
22 signed back in 1871, there was nothing on the
23 table where we gave up our environmental rights
24 that we did have at that time. And if the
25 environmental rights were not given up, how can

1 you have another government, whether it is a
2 Federal government or the Provincial Government,
3 take over those rights when it is not explicit in
4 Treaty. Therefore we do assert that we still
5 retain environmental rights as part of our
6 inherent rights as the First Nations in the
7 country.

8 We also want to see how NRTA might
9 play a part in this process. You know NRTA was
10 signed back in 1930 where the Federal lands were
11 transferred to the Province under certain trust
12 conditions, and those trust conditions were to
13 ensure that the First Nations had sufficient Crown
14 lands available to select their Treaty land
15 entitlements, the ones that signed the agreements,
16 also to insure there were hunting, fishing and
17 trapping rights that exist, and that those rights
18 were not abrogated or affected. And I know that
19 1930 was a constitutional document, and I am just
20 wondering how government may play a part in this
21 process as this thing unfolds. Right now I guess
22 we are trying to figure out exactly what is our
23 game plan as we proceed. It may take one or two
24 meetings to fully determine how we are going to do
25 it and where and when and how much.

1 So we do have to reconcile our
2 Aboriginal title rights with, you know, there is a
3 September 1, 2011 letter written to yourself by
4 Minister Bill Blaikie. On the second paragraph it
5 says Manitoba Hydro is entitled to a final
6 licence. You know, that entitlement comes from
7 the Water Power Regulations. But we have certain
8 entitlements prior to those entitlements being
9 written into the Act. And how do you I guess
10 reconcile Manitoba Hydro rights with our rights
11 that were here since time immemorial? And if you
12 look at certain case law from the Supreme Court of
13 Canada, you know, we have always been given what
14 they call the doctrine of priority rights in terms
15 of Aboriginal peoples.

16 The other matter, which Pimicikamak
17 discussed it briefly, is, you know, going through
18 the process, for us we have to have that trust
19 built into this process. And right now from
20 Peguis, certainly that trust is not there. There
21 is portions of it, but it needs to be strengthened
22 where we could fulfill our trust in this process
23 and expect a fair, judicious outcome on these
24 proceedings.

25 Those are my comments. I think

1 Mike -- Councillor Mike Sutherland has a comment
2 or two. Mike.

3 MR. SUTHERLAND: I guess I have to be
4 open and honest in saying I don't really know
5 where to go from here. Because, you know, dealing
6 with this under the Environment Act is a whole
7 different scope, you know, so I'm really trying to
8 understand and figure out the authority that the
9 CEC has, other than being a relay of concerns and
10 issues that are there. Because in your Statement
11 of the Clean Environment Commission your
12 parameters for assessment, you know, the first
13 sentence says you are not doing section 35, and
14 the second one says the Commission is not tasked
15 to provide recommendations as to whether the
16 licence should be issued, thus not providing us
17 with these conditions. So what is the purpose of
18 this whole process then? You contradicted
19 yourself saying that, you know, you were looking
20 at whether or not the environment is affected,
21 socio-economic conditions are affected from this
22 whole process, so I'm kind of wondering, you know,
23 what do we do as a community if the CEC is really
24 not sure of the steps, or why you are here as
25 well.

1 From what I heard today, you know, the
2 reports that we make to you, if we go through
3 these hearings and you come to our community, you
4 know, where is the information going to go if you
5 are not to provide recommendations or provide
6 licensing conditions? You know, so yeah, the
7 Commission will review conditions under which the
8 project was granted an interim licence that
9 transpired since that time. Well, will you
10 provide those findings to the affected
11 communities?

12 And the next question, the Commission
13 will examine and comment on the effects of the
14 project to date. You know, will you report that
15 to the communities, you know, and or does this all
16 go to Hydro, if you are not providing
17 recommendations or conditions on this whole
18 project?

19 So, right now, like I'm sitting here
20 with a lot of unanswered questions after reading
21 some of the information provided to me. As for
22 Peguis, if we feel that the CEC is unsure of what
23 their mandate is or where they are going to go
24 here, how could we be sure of our mandate or what
25 we are going to provide the CEC to help ensure

1 that, you know, that our concerns are met here?

2 And so I'm confused today. I talked
3 to Lloyd here and we have to go back and sit as a
4 council and discuss this meeting today, and maybe
5 we get a clearer understanding as, if there is
6 another meeting or two roll out, you know.

7 I think one of the other big concerns
8 that I have, is, that geez, there isn't many First
9 Nations here. If Peguis and Kinonjeoshtegon are
10 the only First Nations that are sitting at the
11 table that's around Lake Winnipeg, what is that
12 telling us? Are we going to be left out of this
13 whole process? These are the concerns and
14 questions that I'm going to walk away with here
15 today.

16 You talk about downstream. Well, we
17 are upstream from the Jenpeg station. You know,
18 we heard from Pimicikamak today about the flooding
19 that they have every time those gates are opened.
20 But when those gates are closed, the level of the
21 lake, whether you want to believe it is adequate
22 between 711 and 716, it is not, because it creates
23 a wall or a barrier in the Fisher Bay, so that
24 when we have high levels of water within the RM of
25 Fisher we are flooded because that water has no

1 where to go. We tried to explain that in the
2 Bipole III, the Keeyask Generating CEC hearings,
3 and it seems that no one is listening.

4 You know, so in your licensing you
5 talk about the Jenpeg there and, you know, there
6 is two structures side by side, one generates
7 energy and one is the, whatever it does, the
8 mechanicals or whatever, so what are we
9 authorizing there? I don't know that, you know,
10 and after listening to them, First Nations are
11 damned if you do and you are damned if you don't,
12 because somebody is going to be affected by the
13 flow of that water, whether it be downstream or
14 upstream.

15 So we want our concerns heard and
16 taken forward to Manitoba Hydro. And from what
17 I'm hearing and from what I am reading in the
18 documentation, I don't know if that's going to
19 happen. I don't have that reassurance right now,
20 you know, and maybe one or two meetings down the
21 road maybe I will have that.

22 You know, we have been through CEC
23 hearings twice already, and it is the first for
24 our community, I don't know if there has been any
25 other First Nations communities in the south basin

1 participating in projects in the north, I think we
2 are the first ones. But it seems that we can't
3 make people within government, industry and Hydro
4 believe that your projects in the north affect us.
5 Dramatically. We flood year after year after
6 year. You have heard the story over and over
7 again. We still have families out again and even
8 more from this previous flood. Thankfully it was
9 a short one. The waters came and then went, but
10 it did damage to homes and people are still out.

11 So regardless of what you do with that
12 structure, what you do with those licences, we
13 have to look after number one as leadership, our
14 community, and we have to have reassurances as we
15 move forward, you know, to ensure that somebody is
16 looking after our welfare and well-being.

17 From what we have seen from the CEC in
18 the previous hearings, we haven't come away
19 satisfied. And the projects are still moving
20 forward with your recommendations. Maybe they
21 still move forward anyway. So, you know, and now
22 we come here, this doesn't fall under the
23 Environment Act, so to me the CEC, Clean
24 Environment Act Commission, but you are here
25 representing someone, whether it be the

1 environment or whoever, or some form of government
2 here, I don't know, because you are looking at not
3 the Clean Environment Act but the Water Power Act.

4 So I don't know what to say,
5 Mr. Chair. I'm puzzled. I don't know where to
6 go. I don't know what to do from what I read and
7 heard here today. I'm glad Mr. Stevenson has made
8 those statements, because we have to look at other
9 parameters as well. But for us to move forward
10 with the hearing, whether or not you come to
11 Peguis, you know, it might be a good idea for our
12 own people and for their understanding as to what
13 we are doing here, you know, but they are going to
14 ask you the same questions. The statements that
15 we make to you, are you going to take our
16 statements back and make those recommendations to
17 Hydro and develop them into conditions to ensure
18 that if this project is going to go through, that
19 certain conditions have to be met. Yet your
20 second statement says you won't be providing
21 licensing conditions. So I'm puzzled.

22 Anyway no use rambling on. I will
23 turn the mic over to Ms. Whelan Enns.

24 THE CHAIRMAN: I would just like to
25 assure you, Mr. Sutherland, that the Clean

1 Environment Commission knows exactly why we are
2 here. We know what our mandate is. The main
3 purpose we called today's meeting was to seek some
4 comment and advice on how we go forward in
5 fulfilling our mandate. I would certainly hope
6 that Peguis stays involved in this process. We
7 want to hear your concerns. But as with any
8 process like this, we hear the concerns, we can't
9 give everybody everything they want. It comes out
10 to be a bit of a negotiated process or a balancing
11 act. But we will certainly, as we have in the
12 last two reviews that you referenced, we will
13 certainly listen to Peguis' concerns and consider
14 your concerns seriously.

15 MR. SUTHERLAND: You just made a
16 comment there, your mandate, are we allowed or
17 privy to see your mandate?

18 THE CHAIRMAN: Well, it is in the two
19 letters and the terms of reference that came from
20 the Minister, that's our mandate.

21 MR. SUTHERLAND: Okay, thanks.

22 THE CHAIRMAN: Ms. Whelan Enns. And I
23 don't really want to discuss issues today, we are
24 talking process.

25 MS. WHELAN ENNS: Thank you,

1 Mr. Chair. Gaile Whelan Enns, Manitoba Wildlands.
2 I have a corner turned down here that I can't
3 find.

4 So in your four bullets, there are two
5 that refer to the public policy in relation to
6 regulation of the lake. And what I wanted to
7 comment on is perhaps something that is workable
8 within your mandate, but does have to do with
9 process and content I think in terms of your
10 review and hearings. And I think that's the first
11 and third bullet refer to broader public policy
12 goals. But they also both refer to the broader
13 public policy goals that lead up to the issuance
14 of the licence for regulation of Lake Winnipeg.
15 So my process point or content point would be that
16 for the CEC's reviews and hearings to be
17 effective, the current broader public policy
18 context is also needed. As in there is leading up
19 to and going into regulating the lake 40 years ago
20 and then there is whether the policy goals were
21 fulfilled, but there is also I think fairly
22 significant areas of public policy and public
23 expectation based on government policy about the
24 lake that I would hope can be part of your review
25 and your hearings.

1 Again on process in terms of the
2 Winnipeg hearings, and this is not needed today,
3 this is just a comment, but I think some further
4 thought and further information about the Winnipeg
5 hearings would probably help all participants and
6 potential participants. And by that I mean that
7 there are examples, for instance, of regional
8 organizations, province-wide organizations,
9 professional associations in the province, I'm
10 thinking engineers and hydrologists as examples,
11 where we could probably do with some clarity about
12 whether or not the Winnipeg hearings then will be
13 a venue and a way for organizations and groups of
14 Manitobans that are different than single
15 community or single group of rights holders to
16 participate and inform what you are doing.

17 I have Mr. Traverse's consent to give
18 you an example in that regard, and that's the
19 Kinonjeoshtegon fishers of the north basin are an
20 example of a geographically large and community
21 wide diverse organization where going into the
22 communities is not the same as hearing from the
23 fishers as a group. That's intended as sort of a
24 second comment.

25 In terms of issues and content, and

1 there have been several things that have been said
2 that we would certainly agree with. And I was
3 glad to hear your reference to climate change in
4 terms of content and issues. I would add to that
5 that the lake is its own weather system. The lake
6 has been clearly subject to a new pattern of
7 extreme weather events. So both in terms of
8 weather patterns, weather events and climate
9 change, I believe that's going to be and hope
10 that's fairly important in terms of where you are
11 able to go with your mandate.

12 We have also heard comments from the
13 CEC about water quality and erosion. And I would
14 put that in a bit of a basket in terms of a whole
15 range of information and perhaps questions in
16 terms of shoreline, and changing shoreline, and
17 erosion and water quality together.

18 You also mentioned marshes and
19 wetlands, and again this goes a little bit to the
20 fact that we are talking about the surround on the
21 lake, and there is really a lot of ingredients
22 from an environmental and licensing basis in terms
23 of the operation of regulation and the effects of
24 regulation that I hope, again back to wetlands,
25 marshes, fens, shoreline, changes in shoreline,

1 structure in shoreline and so on, that can in fact
2 all have an effect on the regulation of the lake
3 and vice versa, where the regulation of the lake
4 affects them.

5 I asked an earlier comment about
6 inflows, and I think that is two directional, that
7 is the number of rivers that are flowing into Lake
8 Winnipeg, that is the regulated lake that we are
9 talking about, and the number of rivers and their
10 shorelines affected by the fact that the lake is
11 regulated is significant. And we have, of course,
12 a permanent but emergency channel now which may in
13 fact be used again and dug open again in another
14 couple of months, so there are some new
15 realities -- sorry, Mr. Chair, I will be more
16 specific.

17 THE CHAIRMAN: You are getting into
18 issues.

19 MS. WHELAN ENNS: Fair enough. I will
20 stop. I also wanted to say that all of the
21 economic effects of regulation of the lake on
22 communities, the fishers, but certainly also on
23 the local economies in both basins are important
24 in any review that comes from this.

25 The references to mitigation in what

1 you have said and what is in the documents that we
2 have received so far are potentially very broad
3 and wide, and I'm hopeful that mitigation in terms
4 of the effects of regulation of the lake can go a
5 long way in your review. Thank you.

6 THE CHAIRMAN: Fisher River.

7 MR. COCHRANE: Harold Cochrane,
8 Mr. Chair, for the record. Fisher River, as you
9 may know, is located along Lake Winnipeg on the
10 west side. There is about 1900 Cree people
11 located in that community. We also live along the
12 banks of the Fisher River which flows directly in
13 to Lake Winnipeg. We would certainly welcome the
14 CEC to come to Fisher River during the hearings.
15 We intend to talk about the impact that Lake
16 Winnipeg regulation has on a number of issues.

17 I will list them, of course, it is a
18 preliminary list at this point. Water quality,
19 obviously is one, and that relates to the overall
20 health of Lake Winnipeg.

21 Two would be the local economy which
22 is directly impacted by that first point. We
23 have, in our community we have about 148
24 commercial fishermen. It employs about 225 people
25 in our community, so it is a significant

1 commercial enterprise in Fisher River. And we
2 would feel, or we would like to have input because
3 we feel the regulation of Lake Winnipeg would
4 definitely impact our economy.

5 Three would be annual flooding. You
6 have heard our neighbours, Peguis, speak of annual
7 flooding that they experience each year. We do as
8 well. I don't know if that's upstream or
9 downstream, but right along the lake from Peguis,
10 so we definitely have that annual flooding, and we
11 believe that the regulation of Lake Winnipeg has a
12 direct impact on that. Our land, as well, 75 per
13 cent of our land is unusable, it is essentially
14 swamp land. Drainage issues are a significant
15 issue for Fisher River. And we feel that
16 regulation of Lake Winnipeg has an impact on that.
17 75 per cent of our land is unusable. Soil
18 erosion, I'm not sure if I mentioned that yet, but
19 that's definitely an area where we would have some
20 interest in and we believe, or we would like to
21 speak about that, soil erosion.

22 You also asked, Mr. Chair, about other
23 participants. You know, there is a lot of First
24 Nations along the east side as well, you have the
25 three here on the west side, all in the same area,

1 Fisher River, Peguis and Jackhead,
2 Kinonjeoshtegon, but along the east side there is
3 a number of First Nations, at least seven that are
4 sort of in our area; Berens River, Black River,
5 Hollow Water, Poplar River and a number of others
6 in there as well. Those I would recommend to you
7 should be participating in this process.

8 And in closing I would certainly
9 endorse the comments of Ms. Craft that she made
10 earlier respecting technical assistance,
11 professional assistance. Fisher River would
12 certainly -- my expectation would be that Fisher
13 River would require that type of expertise to
14 meaningfully, or to participate in this process in
15 a meaningful way. If we don't have that, then I
16 would question the value of our participation.

17 There is a number of issues that I
18 have talked about that I think are technical. You
19 know, I understand also we do have high water
20 tables in our community which contributes to
21 issues like mold. We have a huge mold problem in
22 our community. We have hydrologists that told us
23 that's directly attributable to high water tables,
24 which I understand is impacted by regulation.
25 Those are issues that we would like to have

1 explored.

2 And for the purpose of today, that's
3 the extent of my comments.

4 THE CHAIRMAN: Thank you,
5 Mr. Cochrane. Ms. Burns?

6 MS. BURNS: I actually have a
7 presentation from or some comments from the
8 Manitoba Association of Cottage Owners from their
9 president, Dave Crab, but actually he has given it
10 in written form, so rather than taking time to
11 read it out I will give it to your secretary. But
12 I would certainly hope that they will be involved
13 in making a presentation when the hearing actually
14 happens.

15 My main effort to contribute to
16 something meaningful happening here is that in
17 preparing for these hearings from a couple of
18 years ago, it came to my and other people's
19 attention that there was somewhat of a similar
20 circumstance that had happened around the Lake
21 Ontario/St. Lawrence River hydro operations. And
22 that is that the operations in that part of the
23 country had been going on since the 1960s and by
24 the mid '90s there was a lot of concern in
25 different areas about what was going on.

1 What ended up happening is they did a
2 fairly significant study about all of the impacts
3 of their water regulation, their flow regulation
4 and water regulation there. And out of that
5 study, has come some very important
6 recommendations about how they can continue those
7 operations but alter them slightly in order to
8 take into account decreasing some of the negative
9 impacts. And it seems to me that this is a real
10 opportunity that we have right now to do something
11 similar here, because Hydro has operated for
12 almost 40 years, we know that Hydro is going to
13 continue operating, but perhaps this is an
14 opportunity to request that we actually put
15 forward an analysis of how that operation could
16 occur perhaps with a wider range in lake levels,
17 that would end up decreasing a lot of the negative
18 impacts that probably are going to be discussed in
19 these hearings.

20 I've written something up, and I will
21 give it to the secretary as well. There is a
22 really very easy to understand information on the
23 website about this St. Lawrence/Lake Ontario
24 issue, and although the recommendations that have
25 been made there have not yet been implemented,

1 they really are based on information that I have a
2 feeling we are going to hear very similar things.
3 So it seems to me that if we are going to spend
4 the time and energy and money to do this, it would
5 be really great to think that there could possibly
6 be a positive outcome out of it, not just the
7 status quo, because I think we are going to hear
8 from a lot of people that the status quo is not
9 acceptable. And that's all I have to say for now.
10 Thank you.

11 THE CHAIRMAN: Thank you. Mr.
12 Kristofferson.

13 MR. KRISTOFFERSON: Thank you, Mr.
14 Chair. Al Kristofferson of the Lake Winnipeg
15 Research Consortium. The Lake Winnipeg Research
16 Consortium was formed in 1998 to facilitate or
17 make happen research that wasn't being done on
18 Lake Winnipeg, the results of which are and will
19 be very important to decisions now and in the
20 future. We don't have science staff on our
21 organization at all. We simply invite researchers
22 with areas of different expertise to get involved,
23 and we basically have put a team together to
24 address issues that have been directly affecting
25 Lake Winnipeg.

1 We don't have the expertise to address
2 all problems. Most of the focus right now is on
3 water quality. And I see our role here with this
4 Commission as identifying individuals who may have
5 information that they have gathered over many
6 years that may be germane to the discussions that
7 are going to be ongoing with this Commission. So
8 that's the role that I see us playing. If you
9 want to find out more about us, simply Google Lake
10 Winnipeg Research Consortium and you will get our
11 background there. Thank you.

12 THE CHAIRMAN: Lake Winnipeg
13 Foundation. I am sorry, I don't know your name.

14 MS. EARL MCCORRISTER: Kirsten Earl
15 McCorrister, Lake Winnipeg Foundation. The Lake
16 Winnipeg Foundation has a primary focus in
17 phosphorous reduction. So our interest would lie
18 in the Commission exploring if there are any
19 impacts because of the regulation on phosphorous
20 loading into the lake. I think you mentioned
21 climate change and marsh ecology, and we know that
22 both of those do have an impact, whether it be
23 acceleration or with marsh impact that that has an
24 impact in filtering those nutrients. So we are a
25 science based organization, and we work with the

1 Science Advisory Council, and hopefully we can
2 provide some valuable information vis a vis
3 phosphorous loading into this process. That's how
4 we see our role. Thank you.

5 THE CHAIRMAN: Thank you, Ms.
6 McCorrister.

7 Now, Manitoba Hydro. I'm not looking
8 for responses to all of these challenges and
9 charges and allegations laid out today, but I will
10 invite you to comment on what you have heard, to
11 provide general comment on how you think this
12 process might work. And you are welcome to ask
13 questions of the panel or of anyone else in this
14 room, if you wish. Not of the panel, but the
15 Commission or anyone else in the room.

16 MR. BEDFORD: Thank you, Mr. Sargeant.
17 For the record, it is Doug Bedford speaking. I
18 can confirm that the document that you had
19 requested that my client prepare and which you
20 encouraged everyone who is present here to read
21 once it is completed and filed with the Clean
22 Environment Commission, it is to be completed by
23 July 31, 2014. I did encourage my client to
24 choose a date that it was comfortable committing
25 to. So as counsel I'm optimistic that the

1 document will be filed on or before July 31, 2014.

2 With respect to the process, Mr.
3 Sargeant, that you've described to us, I can tell
4 you all that Manitoba Hydro does not in this
5 particular process see itself as a proponent,
6 which is, of course, the role that we have played
7 and that I have been involved in other proceedings
8 before the Clean Environment Commission. We see
9 ourselves playing a role as a participant whose
10 particular responsibilities are and will be to
11 explain Lake Winnipeg Regulation, and among other
12 things, provide some help or assistance in helping
13 to understand what the likely consequences would
14 be if Lake Winnipeg Regulation is altered some day
15 from the regime that currently prevails.

16 But to repeat, we don't see ourselves
17 as a proponent, and accordingly we see no purpose,
18 and you didn't touch on the subject in any event,
19 but we see no purpose in having opening statements
20 as you necessarily have in more formal processes.
21 At present my client doesn't intend to attend or
22 participate in the community meetings that you
23 have described which you expect to have in various
24 locations around the lake. I endorse the comment
25 that you offered up a couple of hours ago, which

1 is that the Commission itself doesn't really see a
2 purpose or role for participants in this process
3 to be attending in those communities.

4 My understanding as counsel to Hydro,
5 from what you described to us, is that the
6 Commission's objective for this process will be to
7 encourage as many members of the public or public
8 organizations, be they representing groups across
9 the province or more narrowly particular
10 communities, to come forward and to make what I
11 understand can be described as presentations to
12 the Commission. My experience from your formal
13 processes are that you, of course, have the
14 concept of presentations in the more formal
15 processes. Sometimes those who registered to make
16 a presentation leave with you, when they are
17 finished, a written copy of what their
18 presentation has been. Sometimes they leave no
19 written copies. And certainly the only questions
20 generally that are ever allowed of presenters are
21 questions posed by the members of the Clean
22 Environment Commission themselves.

23 And my present expectation and
24 personal hope would be that you do get many, many
25 presentations from organizations and members of

1 the public. But I do not seek, and would suggest
2 to you that there not be questioning of any
3 presenters by any participants, nor indeed by me
4 or another lawyer on behalf of Manitoba Hydro.

5 And at the moment, what I envision
6 that you are going hear are 99 per cent
7 presentations, and some evidence or presentation
8 from my client. So with respect to the 99 per
9 cent, I would suggest that you think through,
10 having solved your concerns about
11 cross-examination by effectively not permitting
12 it.

13 Now, in the case of my particular
14 client, we do anticipate when you have your
15 meetings in Winnipeg, that at least to kick them
16 off there should be some sort of presentation from
17 my client, and logically that presentation will
18 clearly be based upon the document which we
19 anticipate filing on July 31st. To the extent
20 that there would be relevance or need or necessity
21 to have any one other than members of the
22 Commission questioning my client is something I
23 think we need to give a little bit more thought
24 to. If the choice is to have participants, or
25 members of the public more broadly speaking,

1 allowed to ask questions of the employee or
2 employees from Manitoba Hydro who do a
3 presentation in Winnipeg, I think we do need to
4 think through some limits to that. Relevance is
5 the obvious simple one that would apply to any
6 meeting or to any hearing situation. None of us
7 have the time nor interest, I would suggest, in
8 questions that aren't relevant to the work and
9 mandate that the Commission has.

10 However, I would also note at the
11 moment the only document that will be filed in
12 advance is the document on July 31, from my
13 clients. So when you are thinking through
14 subjects like information requests,
15 cross-examinations, cross-examinations I
16 personally always thought are really only
17 effective for the kind of work you do, if the
18 people assigned the task of cross-examining have
19 some fair opportunity in advance to read whatever
20 the reports are or presentations are that people
21 want to present. You can't do a very good job if
22 you are handed, for example, an expert report ten
23 seconds before the expert takes the witness stand
24 to present the report.

25 It has been your practice in your

1 formal proceedings for the Clean Environment
2 Commission itself to retain experts in particular
3 fields of interest to it. In the more formal
4 proceedings we sometimes see those experts but, of
5 course, we never hear from them, they never
6 testify, and whatever advice they give the Clean
7 Environment Commission, be it in writing or
8 orally, is kept confidential by the Clean
9 Environment Commission. So I ask you to clarify
10 whether there is an intention at this time for the
11 Clean Environment Commission to retain experts in
12 fields of interest to it. And if the answer to
13 that is yes, I would assume, and you can confirm,
14 that you intend to follow the practice that you do
15 in more formal proceedings, any such expert advice
16 will remain confidential to the Commissioners.

17 THE CHAIRMAN: Just on the last note,
18 Mr. Bedford, we will be engaging experts. There
19 will be one or two or three who will give advice
20 to the Commission, and that advice would not be on
21 the record. But we will be engaging and/or
22 inviting other experts to make presentations in
23 their field of expertise and present it probably
24 in the Winnipeg hearings. So that would be on the
25 record and would be made public. And we haven't

1 identified exhaustively who all or what all topics
2 we will seek to have experts give advice or
3 present position papers on yet, but part of what
4 we hope to achieve today will be some better
5 direction on what issues they need to find.

6 So I think when you said 99 per cent
7 presentations, I think I'm not sure I would go
8 quite that high -- well, I suppose the evidence
9 presented by our experts engaged or invited, may
10 qualify as presentations as well.

11 Do you have any other questions or
12 comments on this process?

13 MR. BEDFORD: Two other points. I
14 would suggest, and it is probably on your agenda,
15 before we adjourn today you may wish to canvass
16 people as to a timing of a further organizational
17 meeting or preparatory meeting.

18 And the other point on my list is that
19 the document which we are committing to file on
20 July 31, will, as is the case with all documents
21 of this nature, I expect have references and
22 footnotes, occasionally readers of the document
23 like to read for themselves the underlying
24 reference that's noted in a footnote, and we are
25 prepared to commit, make available electronically,

1 all of the references that are in the document
2 that we will be filing July 31. Thank you.

3 THE CHAIRMAN: Thank you. Any other
4 compelling business that people would like to
5 bring up before we move to some closing comments?

6 Before we close, in the next couple of
7 weeks we will review the transcripts of today's
8 meeting. We will look to the comments that have
9 been provided by many of you on how we might
10 conduct these proceedings. We will also look to
11 the issues that a number of you have identified.
12 I would also invite any or all of you, if you
13 think of issues that may or may not have been
14 brought up today, or particularly if they weren't
15 brought up today, that you think we should
16 canvass, please let Cathy or I know within the
17 next week or so.

18 In about a couple of weeks we will put
19 out a hearing directive of sorts, just laying out
20 a list, although as with most of our stuff, it
21 will not be exhaustive, but a list of issues that
22 we feel are relevant to the process that will be
23 before us. We will lay out some more detail about
24 the participant assistance program, a little bit
25 more about the nature of the community hearings,

1 and basically cover all of the waterfront for this
2 review -- that might be a bad pun, given what we
3 are talking about, or bad analogy.

4 We will also in probably a couple of
5 weeks formally announce the participant assistance
6 program. There has been a fair bit of discussion
7 about that today. We have noted that there is a
8 limited amount this time around, but I would
9 invite you to put in within -- put in a fair and
10 honest application if you are going to do so, and
11 we will review them and we will allocate the
12 funding as we see best serves our interest.

13 And in the end run, by saying that,
14 I'm not saying that your interests aren't
15 legitimate, but our interests are that we need a
16 record that's full so that we can make
17 recommendations to the Minister based on broad
18 ranging advice that's come from a broad cross
19 section of Manitobans affected by this Lake
20 Winnipeg Regulation.

21 Just to go back to you, Mr. Bedford,
22 you said you don't see yourself as a proponent, I
23 used the term applicant earlier. Would that be a
24 safe term? You have applied for a licence.

25 MR. BEDFORD: And I heard you say

1 that, so in that sense we quite logically have
2 applied for something, so we are an applicant.

3 As you have heard today it is not
4 crystal clear to some of the people in the room
5 what the logic and purpose of this particular
6 process is. I think we share your observation,
7 and if you read carefully through the mandate
8 that's been given to you, it is not, to use a
9 colloquial expression, rocket science to figure
10 out what the mandate of the Clean Environment
11 Commission in this particular process is. I will
12 concede it is outside of the more formal normal
13 process that many of us have now become familiar
14 with.

15 THE CHAIRMAN: With respect to a next
16 meeting, I would think that some time late August,
17 more likely early September, once we have all seen
18 the document, we have had a chance to read, digest
19 and get some more sense of where we are going with
20 this process, we will have another meeting.
21 Again, it will be an organizational meeting. We
22 won't be dealing with issues at that time. But we
23 will have further need to further refine our
24 process.

25 Mr. Traverse, did you have something?

1 Please come forward and turn a mic on.

2 MR. TRAVERSE: Yes, Henry Traverse
3 again. The question that comes to my mind is the
4 communities and I guess information and what I
5 wanted to know is how many people have been given
6 the green light to this licence that we are
7 talking about? Like, I don't like to -- that's
8 one of our problems in our First Nations
9 communities. Why I'm here today is because for
10 that reason, we don't know and sometimes we run
11 into barriers amongst our leadership, we don't
12 know where -- where the deal was made, you know.
13 Those are the issues that we have at the grass
14 roots -- at the grassroots level. Those are the
15 things we want to know, as we are dealing -- as we
16 are going forward with this hearing today here.
17 Those are the things that we want to know.

18 THE CHAIRMAN: Thank you, Mr.
19 Traverse. I think, I mean the history of the
20 development, Hydro development north of Lake
21 Winnipeg, basically starting at the northern end
22 of Lake Winnipeg, is quite well known, and it
23 isn't necessarily the best history in our
24 province. Some of that will certainly be reviewed
25 during our proceedings. However, we are not here

1 to solve all of the problems that arose out of
2 that, but we are here to identify any particular
3 issues in respect of Lake Winnipeg Regulation, and
4 see if there are ways that it can be mitigated and
5 monitored as we go forward.

6 MR. TRAVERSE: I just want to add to
7 that, the way -- the way our culture goes is our
8 creator, he bestowed this fish, this water, the
9 land to the Anishinabe people. They were the
10 first ones that got that right to the land,
11 everything like that, and this is what we have to
12 follow. This is what I'm following. I'm not
13 trying to step on anybody's toes. That's the
14 reason why I ask that, my first comment, those are
15 the reasons they are very important for us.
16 Because our Treaty 5, we have a, we call it a
17 water Treaty, they call it back then before they
18 sign that Treaty. I think I did a little bit of
19 research myself and I came to the point to realize
20 that there is only two Treaties that hold water
21 rights and fishing rights in our Treaties here in
22 Manitoba and across Canada. This is what I have
23 come to understand.

24 Like I say, I don't want to step on
25 anybody's toes, but those are the things that has

1 to be taken upon in consideration in talking about
2 our Treaties. Those are very sacred. Our
3 ancestors, they lived by the rule and law, and
4 today I try to honour that in order for me to
5 justify who I am as a grandfather, a concerned
6 grandfather, and I want my future, the ones that
7 are coming, I want them to have the same life that
8 we have today for them. We don't want to make no
9 fast -- we don't want to cut across in any way,
10 form or shape, to be able to do things, you know,
11 without these protocol that we have. Water is
12 sacred, that's life. That's what we call life.
13 That's where we get our life from. And the women
14 they are the ones responsible for that, they carry
15 that water of life, woman. It is very precious.
16 I honour women today, mother earth we honour very
17 deeply and sacredly. I wanted to say that,
18 Mr. Chairman. Thank you for your time.

19 THE CHAIRMAN: Thank you, Mr.
20 Traverse. Before we close I would just like to
21 address a concern raised by both Mr. Sutherland
22 and Mr. Stevenson, about the legitimacy of the
23 Clean Environment Commission in this particular
24 review. And our legitimacy rests with the fact
25 that the then Minister of Water Stewardship asked

1 the then Minister of Conservation to have the
2 Clean Environment Commission conduct this review.
3 Since that initial letter was written in 2011 or
4 letters were written in 2011, those two
5 departments have been combined into one. But our
6 legitimacy rests in the fact that we are not a
7 regulatory body. We do not make rules. We do not
8 make decisions that have the force of law, but we
9 are a recommendatory body, even under the
10 Environment Act. So our recommendations to the
11 Minister will inform his decision. He is the
12 ultimate decision-maker. So I don't think there
13 is any question as to our legitimacy in this
14 respect.

15 Having said that, I thank you all for
16 coming out here today. I think this has been a
17 good session. We have had a good conversation and
18 comments and input, and we will do our best to
19 have some documents further clarifying this
20 process out in a couple of weeks or so. So thank
21 you very much and good afternoon.

22 (Concluded at 3:45 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.

Cecelia J. Reid
Official Examiner, Q.B.

A				
<p>abilities 19:11 ability 21:12 23:4 44:4 67:4 able 6:1 15:19 24:22 26:15 27:10 40:4 66:23 68:25 73:13 74:6 88:11 109:10 Aboriginal 15:13 19:6 33:25 34:2 42:11,22 43:5,25 44:13,16 51:2 61:25 62:17 64:8 70:7 76:17 78:2 78:15 about 5:12 9:6,20 10:14 11:19 12:12 13:9 14:12 15:8 15:11 16:1 19:9 20:2,21 22:24 24:6,21,24 26:18 27:18 48:1,14 49:5,13 50:21 51:13,25 52:11,15 52:15,19,19 53:7 53:7 55:14 56:5 56:24 58:20 60:15 60:22 64:4,23 65:11,13 66:18 68:3 70:6,20 71:20 73:5 81:16 81:18 82:5 86:23 87:4,11 88:13,20 89:5,9 90:10,15 90:23,24 91:21,22 92:18 93:25 94:2 94:6,23 96:9 100:10 104:18,23 104:25 105:3,7 107:7 109:1,22 abrogated 77:18 abrogation 42:24 Absolutely 44:18 abundance 69:8 abuse 62:3 abused 62:2 abuses 63:9 acceleration 96:23 acceptable 95:9 access 30:11 60:5 accommodation 42:9 accordance 61:19 accordingly 98:17 account 38:25 39:2 94:8 achieve 103:4 across 61:25 99:8 108:22 109:9 act 10:4,5 54:18</p>	<p>55:15 64:21 76:1 76:5 78:9 79:6 83:23,24 84:3,3 85:11 110:10 acted 66:7 actions 16:20 activities 19:7 57:16 57:17 actual 37:17 40:4 actually 34:5 46:7 54:16 55:24 60:19 71:1,9 72:13,13 93:6,9,13 94:14 adaptively 75:4 add 73:25 74:6 75:6 88:4 108:6 additional 30:23 address 67:3 95:24 96:1 109:21 addressed 53:22 66:24 adequate 81:21 adjourn 103:15 advance 60:5 101:12,19 advice 13:17 21:1 30:24 39:9 53:23 72:4 85:4 102:6 102:15,19,20 103:2 105:18 advisors 23:5 Advisory 97:1 Affairs 25:21 26:5,7 26:9,15,21 affect 36:18,18 83:4 affected 15:20,20 26:3,4 36:15 42:22 65:24 66:1 77:18 79:20,21 80:10 82:12 89:10 105:19 affecting 44:25 45:1 45:2,3 95:24 affects 44:15,15 58:12 89:4 after 5:23 27:18 50:5 80:20 82:10 83:5,5,13,16 afternoon 5:3 6:16 7:4 18:2 24:16 30:4 48:20 52:5 73:18 110:21 again 10:15 12:24 20:6 28:11 29:3 42:20 45:24 48:22 50:5 65:10 67:10 67:11 68:9 69:12 69:13 73:1 83:7,7 87:1 88:19,24 89:13,13 106:21</p>	<p>107:3 against 60:24,25 62:3,10,11 agencies 45:13 agenda 5:19 9:4,5 47:8 103:14 ago 11:19,20 49:2 49:22,23 51:10 86:19 93:18 98:25 agree 31:23 46:1 68:17 88:2 agreed 61:20 agreeing 61:13 Agreement 26:2 Agreements 77:15 ahead 40:23 Aimee 2:9 6:17 aiming 35:6 AI 3:6 8:1 95:14 Alberta 36:23 aligned 65:10 allegations 97:9 Alliance 7:12 75:12 allocate 105:11 allocated 18:18 19:5 25:14 allowed 85:16 99:20 101:1 almost 11:19 17:4 17:23 94:12 alone 23:12 along 28:1 39:20 49:14 67:25 68:1 74:15 90:9,11 91:9,24 92:2 already 14:22 16:25 23:7 51:19 64:2 82:23 alter 94:7 altered 98:14 although 17:7,8 20:9 30:19 74:1 94:24 104:20 always 24:10 34:13 55:9 56:25 78:13 101:16 amended 11:7 among 98:11 amongst 107:11 amount 18:17 21:14 30:9 31:1,9 105:8 amounts 19:23 analogy 105:3 analysis 31:7 94:15 ancestors 49:19 68:11 109:3 and/or 17:13 36:17 53:11 102:21 Anishinabe 108:9 announce 105:5</p>	<p>annual 32:12 33:5 55:1,7,8 91:5,6,10 another 14:11 25:1 35:6 56:1 63:16 68:15 77:1 81:6 89:13 100:4 106:20 answer 31:8 36:6 39:25 46:24 56:24 66:15 102:12 answered 22:10 answers 30:15 anticipate 100:14 100:19 antiquated 58:8 anybody 52:4 anybody's 108:13 108:25 anymore 69:16 anyone 20:25 97:13 97:15 anything 14:23 34:6 50:19 54:8 anyway 26:8 27:20 83:21 84:22 anywhere 50:19 apart 68:10 71:17 appeal 69:2 appeals 14:19 66:7 appear 54:23,25 APPEARANCES 2:1 applicant 9:16 105:23 106:2 application 39:21 105:10 applications 30:22 applied 105:24 106:2 applies 17:15 54:3 apply 18:11 25:16 27:8 40:24 101:5 applying 38:7 40:14 appointed 111:4 appointments 13:20 appreciate 20:17 27:2 approach 20:7 28:15 appropriate 19:3 approve 34:7 Arborg 49:22 Archbishop 60:20 area 42:15 45:2,4 50:10 91:19,25 92:4 areas 17:14 18:3 54:4 64:15 76:15 86:22 93:25 95:22 arise 17:24</p>	<p>arm 65:5 arms 64:22 65:14 arose 108:1 around 5:15 6:4,5 9:8,23 12:21 15:1 20:23 23:13 24:25 27:21 35:21 47:9 48:7 50:23 52:5 53:16,16 56:4 57:11 58:2,5 62:9 63:5,9 69:23 70:5 73:9 81:11 93:20 98:24 105:8 arrangements 16:7 articles 17:1 articling 6:20 aside 33:5,16 asked 11:20 12:7,14 12:16,25 28:17,21 39:18,23 40:2 45:10,12 89:5 91:22 109:25 asking 5:14 30:10 41:1,6 64:1 aspect 24:17 assert 76:16 77:4 assessment 17:11 36:21 64:14,25 79:12 assessments 64:21 assigned 14:6 101:18 Assiniboine 36:22 assistance 92:10,11 98:12 104:24 105:5 associated 23:20 Association 2:8,21 6:14,19 7:3 25:19 59:14 74:8 93:8 associations 87:9 assume 58:18 102:13 assuming 57:10 assumption 36:8 assure 84:25 astray 72:6,7 attached 12:4,10 26:6 attend 9:19 98:21 attending 99:3 attention 93:19 attributable 92:23 August 42:5,18 106:16 authority 76:2,4 79:8 authorization 55:7 authorizing 82:9 availability 23:10</p>

<p>available 17:6,11 18:9,10,15 19:5 19:19 30:6,9 40:11 41:12,13,15 77:14 103:25 aware 14:21 19:4 48:24 51:8 away 44:9,17 49:11 74:4 81:14 83:18</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>babies 68:12 back 10:13 27:3 42:18 43:18,20 45:15,21 49:21 65:16 66:12 69:18 69:25,25 70:15 72:12 74:1 76:13 76:22 77:10 81:3 84:16 88:24 105:21 108:17 background 16:11 16:11 96:11 bad 56:6 105:2,3 balancing 85:10 banana 27:23 banks 90:12 bar 8:25 barge 49:16 barrier 81:23 barriers 107:11 base 39:6,7 based 23:1 86:23 95:1 96:25 100:18 105:17 basically 42:6 95:23 105:1 107:21 basin 70:13 82:25 87:19 basins 15:1 89:23 basis 16:6,12 32:15 70:18 88:22 basket 88:14 Bay 81:23 beast 10:3 44:10 become 6:2 106:13 Bedford 2:6 8:13,13 97:16,17 102:18 103:13 105:21,25 before 5:20 9:10 14:10 16:13 17:6 21:17 29:11 43:18 45:24 46:21 47:23 49:20 50:12 51:6 56:2,5 60:15 65:12 67:19,25 72:21 98:1,8 101:23 103:15 104:5,6,23 108:17 109:20</p>	<p>began 48:3 begin 67:3 76:9 beginning 54:6 begun 16:23 behalf 38:21 56:16 75:12 100:4 behind 36:8 64:16 being 14:7 34:8 47:20 54:9 65:8 68:11,15 72:7 75:7 78:8 79:9 95:17 belief 18:19 believe 19:5 27:7 31:10 35:1 61:5 68:7 81:21 83:4 88:9 91:11,20 believed 50:18 beneficial 13:11 benefit 28:2,3 68:6 Berens 92:4 best 56:20 57:25 58:3,11 67:9 105:12 107:23 110:18 bestowed 108:8 better 32:24 39:17 47:5 103:4 between 16:8 81:22 beyond 42:18 57:2 64:18 big 81:7 Bill 78:4 Bipole 14:4 16:14 28:10 31:5 47:1 71:15,17,19 82:2 birth 49:10 bit 8:18 10:2,21 24:9 31:7 51:1 63:5 73:17 85:10 88:14,19 100:23 104:24 105:6 108:18 Black 92:4 Blaikie 78:4 blaming 66:14 blind 63:15,16 board 2:3 27:4 45:13 72:11 body 68:15 110:7,9 bones 68:10 born 50:12 68:14 borne 68:16 both 37:10 43:25 44:5,6 46:5 47:1 59:25 64:21 65:1 86:12 88:7 89:23 96:22 109:21 boy 72:5 branch 6:14 34:15</p>	<p>45:9,14 54:13 brand 22:17 break 69:18 73:4 briefly 54:12 78:17 bring 25:8 49:25 72:15 74:1 104:5 brings 20:19 57:20 broad 90:2 105:17 105:18 broader 5:10 13:1 59:22 86:11,12,17 broadly 100:25 brought 21:24 43:7 104:14,15 build 35:18 building 8:25 built 10:9 35:3 44:10 78:19 bulldozer 48:5 bullet 42:3 74:24 86:11 bullets 41:24 47:13 59:21 74:19 86:4 burial 68:2 buried 67:25 Burns 2:20 7:24,24 21:19,20 22:6 93:5,6 business 9:19 76:2 104:4 buttonholing 29:10</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>Cabinet 13:21 CAC 22:25 56:16 56:19,25 57:2,9 57:12,20,23,24 58:15 59:24 60:8 call 26:24 62:10 78:14 108:16,17 109:12 called 6:10 85:3 came 48:1,12 53:6 67:25 83:9 85:19 93:18 108:19 Campbell 3:4 8:9,9 Canada 2:8 6:15 59:15 60:24 62:1 62:12 63:12 78:13 108:22 Canadians 63:14 canvass 19:8 103:15 104:16 careful 56:3 carefully 12:2 106:7 carry 19:11 109:14 cart 45:24 cascading 64:11 case 13:12 28:19 30:25 67:10 78:12</p>	<p>100:13 103:20 cases 16:1 30:21 42:14 45:12 case-by-case 16:6 Cathy 2:3 8:15 29:16 104:16 cause 63:3 caused 42:22 43:21 43:21 48:5 63:3 caveat 15:18 CEC 9:5 32:11 34:3 35:9,18 41:17 46:21 47:18 49:22 56:18 64:1 66:14 75:25 76:1,7 79:9 79:23 80:22,25 82:2,22 83:17,23 88:13 90:14 Cecelia 111:4,13 CEC's 86:16 cede 61:15,21 62:6 cent 70:4,7,8 91:13 91:17 100:6,9 103:6 centre 1:20 6:18 58:3 certain 9:2 20:4 24:4 26:8 36:16 65:3 77:11 78:7 78:12 84:19 certainly 17:4,9,16 17:24 22:3,5,12 23:9 26:1 29:19 30:19 31:3 41:10 59:23 60:3 74:11 74:13 76:19 78:20 85:5,11,13 88:2 89:22 90:13 92:8 92:12 93:12 99:19 107:24 certainty 29:24 CERTIFICATE 111:1 certify 111:6 chair 4:2 5:5,6 21:5 22:23 24:13 32:11 47:13 56:14 67:1 73:11 74:14 84:5 86:1 89:15 90:8 91:22 95:14 Chairman 2:2 5:3 6:17 8:17 21:8,13 21:19,25 22:12 23:22 24:14 25:11 27:5 28:11 29:13 29:20 30:3,18 31:20 32:16,21,25 33:13,17 34:5,19 35:11,16,20 36:13 36:20,25 37:12,20</p>	<p>38:2,10 39:1 40:8 40:19 41:10,18,20 41:23 42:1,19 43:6,11,15 44:18 45:5,25 46:11,15 46:24 47:25 48:10 48:16,21 50:6,21 50:25 51:5,8 52:9 52:22 53:10,15 54:15 56:6,11 60:11 69:17 72:23 73:8,19,22 75:9 75:18 84:24 85:18 85:22 89:17 90:6 93:4 95:11 96:12 97:5 102:17 104:3 106:15 107:18 109:18,19 challenges 23:13 97:8 chance 30:1 106:18 change 14:19 17:19 62:16,16 69:24 74:17 75:3 88:3,9 96:21 changed 50:15 changes 62:23 64:7 65:17 88:25 changing 58:17,17 58:20,25 88:16 channel 48:6 89:12 chapter 2:8 charges 97:9 chased 50:17 chief 51:19 choice 45:6 100:24 choose 44:21 97:24 choosing 71:9 circumstance 93:20 citizenry 66:21 City 15:3,6 25:7 claim 11:11 clarification 21:21 clarify 38:18 39:14 102:9 clarifying 37:4 110:19 clarity 87:11 clean 1:1 2:2 5:5 9:24 12:6 45:11 45:17 67:8,19 72:1 75:16,16,24 79:11 83:23 84:3 84:25 97:21 98:8 99:21 102:1,6,8 102:11 106:10 109:23 110:2 cleaning 24:11 clear 21:22 31:16 46:8 106:4</p>
---	--	--	---	--

<p>clearer 81:5 clearly 35:8 66:1 88:6 100:18 client 97:19,23 98:21 100:8,14,17 100:22 clients 61:24 101:13 climate 17:19 74:17 75:3 88:3,8 96:21 clock 63:5 close 8:19 10:10 20:19 104:6 109:20 closed 64:16 81:20 closer 8:23 closing 9:20 92:8 104:5 clue 32:17 Cochrane 2:19 7:21 7:22 90:7,7 93:5 cohosting 60:18 colleague 74:5 colleagues 74:2 colloquial 106:9 combine 15:21 combined 110:5 come 10:3,13 20:10 27:24 28:18,21 30:22 36:4 48:15 48:16 49:2 51:21 53:22 55:11 69:10 69:18 71:8,25 72:25 80:3 83:18 83:22 84:10 90:14 94:5 99:10 105:18 107:1 108:23 comes 10:4 36:12 78:6 85:9 89:24 107:3 comfortable 97:24 coming 21:16 27:23 55:24 109:7 110:16 COMMENCING 5:2 comment 13:8 22:24 23:6,23 24:6 73:25 74:18 75:21 79:1 80:13 85:4,16 86:7 87:3 87:24 89:5 97:10 97:11 98:24 108:14 commentary 16:19 comments 9:17,20 20:20 21:1 24:5 52:10 56:15 60:8 76:11 78:25 88:12 92:9 93:3,7 103:12 104:5,8</p>	<p>110:18 commercial 42:4 47:16,23 49:4,17 49:18 50:1 57:13 90:24 91:1 Commission 1:1 2:2 2:3 5:6 6:8 8:16 9:24 11:20 12:7 12:11,14 13:8,15 14:15,17,21 15:16 16:9,16 17:13 22:14 23:9,19 25:12 27:1 29:16 31:14 45:11,18 53:23 54:22 58:12 67:8,20 68:24 75:24 79:11,14 80:7,12 83:24 85:1 96:4,7,18 97:15,22 98:8 99:1,12,22 100:22 101:9 102:2,7,9 102:11,20 106:11 109:23 110:2 commissioned 55:21 Commissioners 25:3 102:16 Commission's 99:6 commit 103:25 committing 97:24 103:19 common 57:11 communities 15:1,2 15:5,6,13,17,22 16:2,5,9 18:1 19:10 24:18,23 25:8,9,18,22,24 25:25 26:2,5,9,12 26:24 27:6,9,11 27:12,16 28:3,4,7 28:16,17,25 29:2 29:9,12 30:1 32:3 32:4 42:8 48:7 51:11 52:18,25 57:8 66:3 68:14 70:11,16 71:16 80:11,15 82:25 87:22 89:22 99:3 99:10 107:4,9 community 2:21 7:3 15:11,19,25 16:4 16:8 18:11,11,24 18:25 19:8,12 25:15,20 26:7,19 26:21 28:21 29:5 32:2,6 48:15,22 49:7,15,25 50:7 51:1,10,13,15 52:17,20 53:7,11</p>	<p>53:13 57:7 70:4 71:7 79:23 80:3 82:24 83:14 87:15 87:20 90:11,23,25 92:20,22 98:22 104:25 compelling 104:4 compile 16:17 compiled 17:2 completed 97:21,22 completely 18:14 22:17 31:23 complex 46:6 complexities 46:4 compliance 11:4 complied 11:12 comprehensive 64:13 concede 106:12 concept 61:18 71:10 99:14 concepts 61:15 concern 26:13 75:13 93:24 109:21 concerned 24:21 49:4,12,15 57:9 67:2 109:5 concerns 13:8 50:1 58:2 59:11,14 67:3,5 79:9 81:1,7 81:13 82:15 85:7 85:8,13,14 100:10 conclude 60:14 Concluded 110:22 conclusions 20:10 concrete 16:10 condemning 63:12 conditions 11:4,13 45:3 62:22 63:6 64:4,24 65:2,3,11 65:13 77:12,12 79:17,21 80:6,7 80:17 84:17,19,21 conduct 11:20 12:11 45:13,19 76:2 104:10 110:2 conducted 18:17 47:22 64:15 65:9 conducting 34:14 36:21 53:20 conducts 5:7 45:9 conference 60:19 61:3 74:4,5,7 confidential 102:8 102:16 confirm 17:4 97:18 102:13 confirmed 14:10 confused 81:2</p>	<p>confusing 22:2 43:3 46:2 consent 87:17 consequences 98:13 Conservation 2:4 6:11 10:4 11:18 11:24 32:19 35:24 54:17 60:1 63:25 110:1 conservations 29:4 consider 22:20 23:10 67:11 68:24 68:24,25 85:13 consideration 22:5 58:12 109:1 considerations 58:5 74:17 75:2 considered 19:3 59:10 considering 20:9 30:7 57:6 Consortium 3:5 8:2 8:5 95:15,16 96:10 constitutional 77:19 constructed 10:6 34:20 construction 47:19 consult 12:8 consultation 19:7 34:9 38:22 42:9 47:4 consultations 17:25 19:12 34:1,3,15 39:8 43:17 45:10 consulted 53:6 consumers 2:8 6:14 6:19 56:13 57:3 57:14,16 59:14 consumer's 57:12 contemplate 58:10 contemplating 23:19 contemporaneously 65:9 content 86:9,15 87:25 88:4 context 58:5,15 60:16 61:4 62:24 86:18 continue 40:24 41:5 60:25 62:12,13,19 63:10 64:9 65:18 69:9 94:6,13 continues 63:3 65:23 continuing 27:20 contradicted 79:18 contribute 22:19 56:23 93:15</p>	<p>contributes 92:20 control 37:5,18 38:18 controls 37:22 Convention 1:20 conversation 36:5 110:17 convince 22:18 convincing 22:14,16 coordinator 8:4 copied 64:1 copies 41:8 99:19 copy 99:17 Cormie 2:7 8:11,11 corner 86:2 correct 37:19 111:6 correctly 33:23 34:4 costs 25:4,12,12 Cottage 93:8 council 51:19 81:4 97:1 Councillor 7:16 75:20 79:1 councils 2:21 6:23 7:3 25:20 counsel 2:3,6,9,11 2:17,19 6:7,18,25 7:22 21:12 23:3 24:7,21 97:25 99:4 country 77:7 93:23 couple 13:22 18:16 21:9 32:9 75:23 89:14 93:17 98:25 104:6,18 105:4 110:20 course 47:15 66:5 89:11 90:17 98:6 99:13 102:5 Court 78:12 cover 105:1 covered 38:15 Crab 93:9 Craft 2:9 6:16,17 22:22,23 24:12 38:9 56:13,14 92:9 CRD 26:4 64:22 65:7 creates 81:22 creating 72:10 creator 108:8 Cree 2:18 7:23 67:15 90:10 crimes 60:24 62:10 cross 68:13 70:1 105:18 cross-over 44:12 cross-examination 20:11,16 22:24</p>
---	--	--	--	---

24:11 100:11 cross-examinations 20:14 24:9 101:15 101:15 cross-examining 101:18 Crown 34:16 61:14 61:14,21 62:3,11 77:13 Crown's 63:1 crystal 106:4 cultural 62:10 culture 51:24 52:1,8 108:7 cumulative 17:10 32:13 64:13 current 57:25 86:17 currently 98:15 custom 51:24 customary 61:19 cut 109:9	declining 50:3 decreasing 94:8,17 deems 66:10 deeply 67:2 109:17 defined 18:14 definitely 52:22 74:17 75:6 91:4 91:10,19 deformity 68:14 deliver 15:8 demonstrate 36:14 demonstrated 57:4 denying 42:24 department 32:19 38:5,13 39:10 54:17 departments 110:5 depend 29:3 depends 66:9 describe 53:18 54:12 described 98:3,23 99:5,11 describing 32:24 desecrates 68:2 Desmond 60:20 Desorcy 2:8 6:12,13 56:25 detail 104:23 Details 16:8 determine 30:13 41:17 44:23 66:13 77:24 devastating 62:17 63:2 66:19,23 develop 84:17 developing 75:16 development 3:7 7:10 59:13 107:20 107:20 dictating 28:4 difference 39:4,10 different 10:2,17,23 23:15 28:7,7,14 31:6 34:15 36:5 37:14 38:23 56:17 70:21 71:11,15 79:7 87:14 93:25 95:22 difficult 27:14 30:12 71:6 digest 106:18 digging 48:6 digs 45:21 direct 18:23 91:12 direction 103:5 directional 89:6 directive 104:19 directives 10:20 directly 17:8 25:23	28:23 66:3 71:23 90:12,22 92:23 95:24 director 6:13 discretion 64:20 discuss 73:2 81:4 85:23 discussed 78:17 94:18 discussing 56:22 discussion 19:1 74:1 105:6 discussions 96:6 disease 68:16 distracted 16:14 diverse 87:21 divvying 25:2 doable 25:10 doctrine 78:14 document 16:18,21 17:5 62:7 77:19 97:18 98:1 100:18 101:11,12 103:19 103:22 104:1 106:18 documentation 22:4 82:18 documented 26:16 documents 16:23 20:3 90:1 103:20 110:19 doing 71:11 79:13 84:13 87:16 done 10:25 30:21 34:8,15 36:24 46:3 57:23 64:2 65:23,23 69:13,23 72:2 95:17 door 67:7 doors 64:16 Doug 2:6 8:13 97:17 down 8:24 33:1 49:6 60:4 70:17,24 71:2 72:19 82:20 86:2 downstream 48:8 66:3 81:16 82:13 91:9 dozens 16:25 Drainage 91:14 Dramatically 83:5 drawing 27:3 drink 68:22 dug 89:13 duly 111:4 dump 70:14 duplicate 34:8 duplication 19:12 during 32:1 90:14 107:25	dying 68:12,16 <hr/> E <hr/> each 9:8 16:7 39:18 40:24 53:17 91:7 Earl 3:4 8:6 96:14 96:14 earlier 13:24 23:6 27:10 28:14 56:17 89:5 92:10 105:23 early 38:6 106:17 earth 109:16 ease 26:12 easier 46:17 easily 58:10 east 24:18 71:20 91:24 92:2 easy 45:5 55:16 94:22 ecology 17:20 74:16 96:21 economic 89:21 economies 89:23 economy 90:21 91:4 ecosystem 74:23 effect 13:2 62:24 63:7 68:19 89:2 effective 86:17 101:17 effectively 100:11 effects 13:3 17:10 17:17,18,19 18:23 19:9 32:7 43:19 43:21 48:1 52:19 64:14 80:13 88:23 89:21 90:4 effort 93:15 EIS 31:6 either 18:2 28:22 33:14 70:14 electrical 10:12 electronically 103:25 elegant 57:1 elevation 70:17 elsewhere 61:2 elucidate 37:14 embarking 11:15 emergency 89:12 employee 101:1 employees 40:21 101:2 employs 90:24 enable 62:23 encourage 23:9 54:20 97:23 99:7 encouraged 97:20 end 8:24 13:12 15:16 17:6 19:20 22:9 24:19,20	35:15 39:11 49:1 53:1,12,13 66:11 94:17 105:13 107:21 ended 14:2,7 67:21 94:1 endorse 92:9 98:24 energy 75:16,16 82:7 95:4 engage 17:13 engaged 103:9 engaging 102:18,21 engineering 17:21 engineers 72:9 87:10 enhancing 19:15 Enns 2:13 7:19,19 32:8,9,18,23 33:4 33:15,21 34:17 35:5,12,17 36:3 36:17,24 39:18 47:7,12 48:9 84:23 85:22,25 86:1 89:19 enough 72:3 89:19 ensure 10:25 41:14 57:24 77:13 80:25 83:15 84:17 ensuring 23:14 58:3 enterprise 91:1 entertained 14:20 entire 64:14 entitled 11:3 78:5 entitlement 78:6 entitlements 77:15 78:8,8 environment 1:1 2:2 5:6 9:24 10:4 12:6 44:15 45:11 45:17 46:9,10 58:17,21 60:23 64:21 66:22 67:8 67:20 75:24 76:1 79:6,11,20 83:23 83:24 84:1,3 85:1 97:22 98:8 99:22 102:1,7,9,11 106:10 109:23 110:2,10 environmental 10:7 25:15 35:24 36:21 44:1,5,11,23 47:14 48:5 57:23 57:25 58:11,17,25 59:10 64:20 76:23 76:25 77:5 88:22 envision 100:5 erosion 57:10 88:13 88:17 91:18,21 especially 25:6
--	--	--	--	---

<p>27:22 58:6 75:2 essentially 91:13 even 24:19,24 27:11 28:20 38:6 46:6,8 53:23 71:22 72:16 72:21 83:7 110:9 event 98:18 events 88:7,8 ever 53:6,7 72:5 99:20 every 15:19 27:11 27:11 40:14,16,18 81:19 everybody 46:22 52:2 70:20 71:11 85:9 everyday 53:9 everyone 97:20 everything 41:4 44:14 50:4 85:9 108:11 evidence 12:12 13:16 17:12 23:7 100:7 103:8 exactly 59:24 71:15 77:22 85:1 examine 80:13 examined 14:16 Examiner 111:5,14 EXAMINER'S 111:1 example 48:6 87:18 87:20 101:22 examples 17:16 87:7,10 excellent 62:20 63:7 excluding 26:4 executive 6:13 exercise 44:4 64:20 exhaustive 104:21 exhaustively 103:1 exist 19:25 23:7 42:12 69:7 76:18 77:17 expand 39:16 expect 13:21 21:6 78:23 98:23 103:21 expectation 15:9 86:23 92:12 99:23 expensive 53:23 experience 18:23 23:1 62:19 91:7 99:12 experienced 32:6 62:18 expert 17:12 30:12 101:22,23 102:15 expertise 17:15 18:4 23:6,10 49:14</p>	<p>92:13 95:22 96:1 102:23 experts 17:13 54:3 54:4 62:9 72:2,2,5 72:8 102:2,4,11 102:18,22 103:2,9 expire 55:25 explain 82:1 98:11 explicit 77:3 explored 17:22 93:1 exploring 18:4 96:18 express 67:5,12,13 expressed 23:2 expression 106:9 extended 40:15 extent 70:17 93:3 100:19 extinguish 76:20 extreme 88:7 eye 63:15,16</p> <hr/> <p style="text-align: center;">F</p> <p>facilitate 95:16 fact 10:8 35:1 56:16 88:20 89:1,10,13 109:24 110:6 factors 58:16,25 failure 62:14 failures 13:5 fair 30:1 36:3 78:23 89:19 101:19 105:6,9 fairly 13:21 30:20 32:10 86:21 88:10 94:2 fall 15:5 16:15 83:22 familiar 9:23,25 10:16 25:19 106:13 families 83:7 far 8:24 25:18 29:11 34:23,25 46:1 47:3 51:23 65:19 90:2 fast 2:9 6:20 109:9 fate 65:4,5 Federal 77:2,10 Federally 61:6 Federation 2:10 7:5 7:7 73:12 feedback 10:22 20:17 feel 9:11 27:7 54:7 74:15 80:22 91:2 91:3,15 104:22 feeling 95:2 feels 11:10 fens 88:25</p>	<p>few 9:9 10:14 14:12 15:11 22:25 29:17 49:21,23 55:16 57:24 59:7,9 68:13 field 102:23 fields 102:3,12 figure 77:22 79:8 106:9 file 35:9,19 103:19 filed 32:18 97:21 98:1 101:11 filing 32:12 100:19 104:2 fill 68:20 filtering 96:24 final 11:3,23 12:15 13:9 38:8,14 39:6 55:18,19,19,23 56:1 59:3,6 62:21 63:6 78:5 find 16:25 46:18 71:3 86:3 96:9 103:5 finding 8:21 findings 80:10 fine 27:24 43:24 finish 5:23 43:19 finished 22:8 99:17 firm 60:18 61:25 first 2:14 5:9 7:14 7:16 9:5 12:19 13:4 16:5 19:6 28:16 37:2,4 38:7 38:21 39:18 42:12 42:14 44:3 45:1,4 46:9,23 48:19 49:3 51:4,7 54:1 62:4 70:2,5,8 71:19 77:6,13 79:12 81:8,10 82:10,23,25 83:2 86:10 90:22 91:23 92:3 107:8 108:10 108:14 firsthand 32:7 fish 50:3 57:14 108:8 Fisher 2:18 7:22 81:23,25 90:6,8 90:12,14 91:1,15 92:1,11,12 fisherman 49:4,17 49:18 fishermen 50:1 90:24 fishers 87:19,23 89:22 fishing 49:19 53:7 57:14 77:16</p>	<p>108:21 five 28:15 flood 26:2 83:5,8 flooded 81:25 flooding 81:18 91:5 91:7,10 flow 82:13 94:3 flowing 89:7 flows 55:1 90:12 fluctuation 50:14 focus 12:20 96:2,16 follow 52:8 102:14 108:12 followed 19:1 following 9:7,15 20:22 39:22 57:22 108:12 foot 27:22 footnote 103:24 footnotes 103:22 force 110:8 forefathers 68:1 foregoing 111:6 foreign 61:18 forever 55:17 form 16:12 18:24 23:8 73:16 84:1 93:10 109:10 formal 98:20 99:12 99:14 102:1,3,15 106:12 formally 105:5 formed 95:16 forms 19:2 Fort 60:19 forum 12:7 forward 22:25 23:16 40:25 44:21 45:23 49:25 56:22 58:2,14 82:16 83:15,20,21 84:9 85:4 94:15 99:10 107:1,16 108:5 found 76:4 Foundation 3:3 8:8 8:10 58:20 96:13 96:15,16 four 26:2 41:24 86:4 fourth 74:24 frame 15:3 27:18 42:4 60:16 free 53:23 Friendly 3:2 7:12 75:12 friends 58:19 friendship 61:12 from 6:22,24 8:12 8:13 10:22,24 12:24 14:3 15:8 16:2 19:14 25:9</p>	<p>25:20 30:22,24 32:5 33:5 35:13 37:3,3 38:12,12 39:9,24 42:6,15 43:22 44:3,9,17 44:20 47:6,19 48:2,8,15,16,18 49:2 50:19 53:12 55:21 56:18,18 58:8,19 62:13,25 64:9 65:20 66:12 67:22,24 68:12,21 72:19 78:6,12,19 79:5,21 80:1 81:17,18 82:16,17 83:8,17,17 84:6 85:19 87:22 88:12 88:22 89:24 91:9 93:7,7,8,17 95:8 98:15 99:5,12,25 100:8,16 101:2,12 102:5 105:18 109:13 front 58:3 69:1 fulfill 14:19 78:22 fulfilled 11:12 86:21 fulfilling 85:5 fulfillment 11:3 full 13:16 29:22 64:20,25 105:16 fully 37:13 77:24 function 30:13 fund 19:12,13 24:22 fundamental 64:6 69:7 funded 21:12 23:3 24:6 funding 18:13,14,21 19:4,19 21:4,5 22:16 24:17 30:23 34:7 105:12 further 14:23 21:23 33:1 56:22 64:18 71:2 87:3,4 103:16 106:23,23 110:19 future 13:10 16:19 27:21 58:9 75:4 75:14 95:20 109:6 fuzzy 31:8</p> <hr/> <p style="text-align: center;">G</p> <p>Gaile 2:13 7:19 86:1 Gamble 3:2 7:11,11 75:10,11,18 game 16:10 77:23 gates 81:19,20 gathered 34:10 96:5 gathering 23:13 40:2</p>
--	---	---	---	---

<p>gave 76:23 geez 81:8 general 97:11 generally 57:19 99:20 generates 82:6 generating 14:8 33:24 34:23 37:8 37:17,21,24 38:17 82:2 generation 14:5 16:15 39:2,11,12 genocide 62:10 gentleman 68:15 geographically 87:20 germane 96:6 gets 45:15 46:22 getting 44:9,17 64:5 89:17 give 26:16 27:1 29:25 85:9 87:17 93:11 94:21 100:23 102:6,19 103:2 given 11:16,17 18:18,21 40:23 49:11 56:19 76:15 76:25 78:13 93:9 105:2 106:8 107:5 gives 42:5 76:1 giving 72:4 glad 84:7 88:3 gleaned 19:14 Gloria 2:8 6:12 go 5:15 6:4 8:24 9:3 9:8 11:14 13:20 15:4,16 20:23 25:15 26:1,10,11 27:3,9,10,15 28:13 29:3,9,21 32:4 40:23 42:10 42:18 44:21 46:1 47:9 51:12,15,22 51:24 53:12,16 55:17 59:4 64:6 65:13,20 79:5 80:2,4,16,23 81:3 82:1 84:6,18 85:4 88:11 90:4 103:7 105:21 108:5 goal 52:10 goals 13:6 86:12,13 86:20 goes 32:19 33:6,10 51:1 73:3 88:19 108:7 going 10:6 21:11 24:2,22 25:2 26:1 26:8 28:9,9 31:2,4</p>	<p>31:17 32:25 35:14 35:18 37:10 39:23 41:16 42:16,18 43:18 45:19 46:21 47:4,7 48:4,13,25 49:5,6 50:3 52:2 58:14 59:24 64:19 69:13,14,24 70:17 71:2,5,9,18,20,24 71:25 72:11,17 75:2,4,14 77:24 78:17 80:4,23,25 81:12,14 82:12,18 84:13,15,18 86:19 87:21 88:9 93:23 93:25 94:12,18 95:2,3,7 96:7 100:6 105:10 106:19 107:16 gone 21:8 22:5 27:19 68:8 good 5:3 6:16 7:4,13 21:16 22:18 24:16 30:4 32:5 52:4 84:11 101:21 110:17,17,21 Google 96:9 googling 16:24 gotten 50:19 governed 61:14 government 45:7,9 46:21 49:12 62:14 77:1,2,2,20 83:3 84:1 86:23 grabbing 52:3 Grand 70:24 grandfather 109:5 109:6 grandfathers 68:8 grandmothers 68:8 grant 11:23 58:14 granted 11:6 39:21 80:8 grapple 58:10 grass 107:13 grassroot 72:3 grassroots 107:14 grave 27:22 graves 68:10 great 63:23 70:16 74:8 95:5 green 2:3 6:7 107:6 grips 71:25 Grosshans 74:2 grounds 49:9 group 5:10 9:21 18:25 87:15,23 groups 19:6,20,21 25:15,16 30:23 53:25 87:13 99:8</p>	<p>guards 8:22 guess 31:1,13 39:17 49:1 66:16 67:1 72:8 74:18 75:11 77:21 78:9 79:3 107:4 guideline 30:20 guys 40:2</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>half 31:4 73:9 halfway 67:7 handed 9:4 101:22 happen 13:21 51:18 63:11 64:19 68:18 82:19 95:17 happened 14:1 30:21 33:12 50:16 63:10 93:20 happening 63:13,18 93:16 94:1 happens 93:14 hard 28:5 harms 66:19 Harold 2:19 7:21 90:7 having 5:15 9:12 13:18 19:18 24:6 25:24 28:18 46:4 98:19 100:10 110:15 heading 48:20 health 75:13 90:20 hear 12:12 16:1 25:9 34:4 49:5 51:17 52:18 58:8 58:19 66:12 76:7 85:7,8 88:3 95:2,7 100:6 102:5 heard 14:23 35:8 65:16 66:5,6 70:22 80:1 81:18 82:15 83:6 84:7 88:12 91:6 97:10 105:25 106:3 hearing 44:20 49:5 49:21 59:20 82:17 84:10 87:22 93:13 101:6 104:19 107:16 hearings 12:12,19 14:25 19:17 20:13 24:23 25:5 28:2 30:1 32:1,15 36:11 38:24,24 39:1 43:9,23 44:8 45:17,19 47:19 52:16 55:3 57:4 65:8,10 67:8,20 69:1 71:12 72:4</p>	<p>72:11 76:3 80:3 82:2,23 83:18 86:10,16,25 87:2 87:5,12 90:14 93:17 94:19 102:24 104:25 heart 68:25 69:3 hearts 68:7 Heather 2:9 6:20 heavy 31:7 held 1:20 14:25 25:6 help 30:6,12 43:13 49:14 50:25 62:24 63:7,9 80:25 87:5 98:12 helping 98:12 Henry 3:9 48:19,23 107:2 her 39:18 44:4 hereinbefore 111:8 Hi 7:8,11 Higgins 74:5 high 81:24 92:19,23 103:8 higher 31:2 highlighted 58:4 him 39:7,8 historic 62:1 history 11:16 16:18 22:4 68:11 107:19 107:23 hits 72:21 hold 18:12 26:9 38:16 53:8 62:1 70:15 108:20 holders 31:19,24 87:15 holding 62:6 Hollow 92:5 homes 83:10 honest 79:4 105:10 honestly 33:11 honoraries 60:21 honour 109:4,16,16 hope 5:11 15:4,7,10 15:24 35:20 72:25 85:5 86:24 88:9 88:24 93:12 99:24 103:4 hopeful 90:3 hopefully 97:1 horse 45:24 hospitals 68:20 hour 10:19 29:22 hours 9:2 98:25 House 26:4 huge 65:22 92:21 human 60:22 62:9 66:21 69:7 humanity 60:25</p>	<p>62:11 hundreds 17:1 hunt 44:4 46:13 hunting 77:16 hydraulic 55:1 hydro 2:6 8:12,14 9:16 11:2,9 14:14 16:16,17 17:3 22:8 32:11,17 33:7 35:9,13 38:12 39:19,25 40:2 45:20 46:21 47:17 53:7 55:1 59:25 60:18 62:13 63:2 64:10,14,17 65:24 67:25 68:2 68:4,10,17 70:12 71:2 78:5,10 80:16 82:16 83:3 84:17 93:21 94:11 94:12 97:7 98:4 99:4 100:4 101:2 107:20 hydroelectric 59:13 hydrologists 87:10 92:22 hydrology 74:22 Hydro's 10:11 12:9 38:4 72:14</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>idea 56:6 71:13 84:11 ideas 18:3 identified 27:8 56:17 57:6 103:1 104:11 identify 18:22 48:21 108:2 identifying 96:4 III 14:4 16:14 28:10 71:15,17,19 82:2 IISP 73:23 Iford 26:19 immediately 29:11 immemorial 76:19 78:11 impact 10:7 13:4 25:7 35:24 43:21 43:24 44:1,1 58:23 69:22 71:3 71:4,22 90:15 91:4,12,16 96:22 96:23,24 impacted 15:17 24:23 25:1,23,25 26:17,21,25 27:4 27:8,12 28:8,13 38:11 57:17 70:1 70:9,12,16,21</p>
--	--	---	---	---

<p>90:22 92:24 impacts 12:12,22 16:2 42:21 44:3 44:24 47:19 48:7 57:7,8 62:17 63:2 64:15 66:23 70:23 70:25 94:2,9,18 96:19 implementation 13:6 implemented 12:18 94:25 important 33:18 52:1 53:5 57:2 58:16 59:1,14 74:25 88:10 89:23 94:5 95:19 108:15 impossible 27:14 improve 20:16 improvement 20:15 improving 22:24 incident 50:20 include 17:16 19:8 57:9 included 33:25 34:2 74:16 includes 35:2 including 13:9 61:11 62:18 64:10 increase 31:1,9 indeed 100:3 independent 19:24 64:13 INDEX 4:1 indicated 35:13 indicators 74:21 indigenous 60:23 61:1,7,10,17 62:3 62:11 63:13 64:17 65:24 indirectly 71:23 individual 54:4 individuals 96:4 industry 28:3 50:2 83:3 inflicted 68:17 inflows 36:7,9,10,15 36:18 89:6 inform 87:16 110:11 informal 15:25 information 8:18 16:11,12 17:14 19:13,15 20:2,5 23:13,18,20,25 32:22 33:2,19,25 34:10 40:3 41:14 54:23 55:9,10 60:5 73:15 80:4 80:21 87:4 88:15</p>	<p>94:22 95:1 96:5 97:2 101:14 107:4 informed 51:19 infrastructure 47:20 ingredients 88:21 inherent 77:6 initial 11:13 110:3 initially 11:6 injustice 67:24 injustices 65:23 inland 50:10 input 9:9 10:24 15:15 91:2 110:18 insertion 61:21 62:5 instance 21:11 74:16 87:7 Institute 3:7 7:9 insure 77:16 integral 10:11 integrated 64:23 intend 90:15 98:21 102:14 intended 87:23 intent 15:13 intention 65:21 102:10 interest 6:18 11:17 17:7 57:2,13 74:13 91:20 96:17 101:7 102:3,12 105:12 interested 28:18 57:6 74:11 75:7 interests 57:19 105:14,15 interference 42:24 interim 11:5,5 12:9 13:3 37:7,9,17,20 37:24,25 38:3 55:17,23 59:5 80:8 International 3:7 7:9 74:8 introduce 5:17 6:5 introductions 5:16 invite 17:13 18:1 20:21 69:10 95:21 97:10 104:12 105:9 invited 28:20 103:9 inviting 27:6 102:22 involved 19:20,21 20:12 24:7 75:7 85:6 93:12 95:22 98:7 involvement 64:16 isostatic 17:17 issuance 13:2,9 86:13</p>	<p>issue 33:18 44:6 91:15 94:24 issued 12:16 55:20 55:23 79:16 issues 11:21 12:21 16:18 20:1 21:23 29:21 43:17,18 44:11 45:22 51:25 52:12,19 53:21 57:9,23 59:17 79:10 85:23 87:25 88:4 89:18 90:16 91:14 92:17,21,25 95:24 103:5 104:11,13,21 106:22 107:13 108:3 issuing 39:5 item 9:5 47:8</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>J 111:4,13 Jackhead 51:7,9,14 52:24 92:1 Jared 2:15 7:13 37:1 Jasmine 2:11 7:6 jealous 72:8 Jenpeg 33:24 34:17 34:19 35:2 37:5,7 37:9 38:16,18,25 39:2 66:4 70:15 81:17 82:5 job 32:24 101:21 Johnson 2:3 8:15,15 29:16,19,23 join 73:13 judgment 26:24 judicious 78:23 July 12:3 17:6 22:9 35:15 97:23 98:1 100:19 101:12 103:20 104:2 June 15:9 jurisdiction 76:7 jurisdictions 45:7 just 5:11,15,16,20 8:17 9:13 10:19 14:12 20:21,22 21:2,20 22:6,21 22:23 23:1 24:3 26:13 28:9 29:4 31:15 33:2 43:4 43:15 44:9,21 47:9 50:25 52:2 52:14,23 53:17 54:10,11 55:8,14 67:13 70:6 74:19 75:22 76:6 77:19 84:24 85:15 87:3</p>	<p>95:6 102:17 104:19 105:21 108:6 109:20 justice 64:8 justify 109:5</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>Karen 3:6 8:3 Karla 3:8 7:8 73:24 Kate 2:17 6:24 21:4 60:13 keep 15:24 40:25 70:12 74:25 Keeyask 14:5,8 16:14 20:13 24:7 28:15 31:5 32:1 43:23 44:2 47:2 67:8,20 82:2 Kempton 2:17 6:24 6:24 21:2,3,4,10 21:18 23:3 60:13 60:13 kept 73:16 102:8 key 23:16 keynote 60:20 kick 100:15 kilometres 71:16 kind 26:18 28:5 35:18 52:7 55:11 58:22 67:18 79:22 101:17 kinds 64:6 Kinonjeoshtegon 3:9 48:18 49:3 51:3 81:9 87:19 92:2 Kirsten 3:4 8:6 96:14 Kleer 6:25 know 5:4 8:19,20 9:1,3 10:1 18:5 20:7,13 21:10 23:24,24 24:1,2 24:21 25:21 26:20 27:7 29:22 32:11 33:11,13 34:24 35:25 36:5 40:1 44:22 45:25 46:15 47:18 48:20,25 49:21,21 50:13,15 50:15,20 51:20 52:3,4 54:2,5,8 59:3 67:21,24 73:23 77:9,18 78:2,6,13,17 79:4 79:5,7,12,19,22 80:1,4,6,14,15 81:1,6,17 82:4,5,9 82:9,18,20,22,24 83:15,21 84:2,4,5</p>	<p>84:6,11,13 85:2 90:9 91:8,23 92:19 94:12 96:13 96:21 104:16 107:5,10,12,12,15 107:17 109:10 knowing 27:25 48:12 knowledge 33:19 known 107:22 knows 85:1 Kristofferson 3:6 8:1,1 95:12,13,14</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>laid 69:19 97:9 lake 1:6 2:20 3:2,3,5 5:7 7:12,24 8:2,4 8:7,10 10:9 11:16 12:13,17,21 13:4 13:11,25 14:7,13 15:2,17 16:21 17:15,18,19,20 19:9 24:19,25 25:23 26:3 32:14 33:7 34:2,20,22 35:3 36:7,9,9,14 36:19 37:6,21,25 38:3 40:9 42:23 43:21 47:16,21 48:2,8 50:9,11,12 50:17 57:5,8,14 57:14,18 58:5,19 58:21,23,23 59:4 60:2 64:10 66:1 66:19 68:14 70:2 70:10,13,18,23 71:4,20 74:12 75:3,12,13 81:11 81:21 86:6,14,19 86:24 88:5,5,21 89:2,3,7,8,10,21 90:4,9,13,15,20 91:3,9,11,16 93:20 94:16 95:14 95:15,18,25 96:9 96:12,15,15,20 98:11,14,24 105:19 107:20,22 108:3 Lakes 74:8 lakeshore 50:11 land 44:25 46:13,14 46:14 61:8,8,9,17 69:8 77:14 91:12 91:13,14,17 108:9 108:10 landed 68:15 landing 26:7,18 68:13</p>
--	---	---	--	---

<p>lands 61:13 68:12 69:3 76:17,20 77:10,14 Langham 7:6,6 Langman 2:11 language 16:17 17:5 67:12 large 19:23 54:10 87:20 last 17:3 18:16 29:8 36:4 47:1 63:10 85:12 102:17 late 106:16 later 5:18,24 17:4 29:18 laureates 60:22 law 6:18 61:19,24 61:25 78:12 109:3 110:8 Lawrence 93:21 Lawrence/Lake 94:23 lawyer 100:4 lawyers 21:16 24:8 lay 104:23 laying 10:19 104:19 lead 72:5,7 86:13 leader 28:5 leadership 83:13 107:11 leading 13:2 86:18 leads 29:15 least 24:8 65:7,8 92:3 100:15 leave 59:16 75:17 99:16,18 left 6:5 62:8 81:12 legal 6:7,18,25 7:22 21:12 23:3 24:6 24:21 30:5,11 legislation 58:7,9 legitimacy 109:22 109:24 110:6,13 legitimate 34:13 105:15 less 48:3 lessening 71:3 lessens 71:4 let 9:15 18:4 20:7 24:2 43:19 47:9 54:2,5 67:7 104:16 letter 12:5,11 37:3 38:5,12 55:11,11 63:24 64:12 65:15 66:13 78:3 110:3 letters 12:2,6 85:19 110:4 let's 44:2 level 36:19 70:12</p>	<p>81:20 107:14 levels 16:21 17:19 75:3 81:24 94:16 licence 9:16 11:3,5 11:5,11,13,23 12:9,16 13:3,9 33:6,9,24 35:2,4 37:7,9,14,17,21 37:24,25 38:3,8 38:11,14,15 39:6 39:13,21 40:15 41:2,7 55:18,18 55:19,23,24 56:1 59:4,5,6,12 64:24 65:2,4,11,13 78:6 79:16 80:8 86:14 105:24 107:6 licences 35:1 37:11 62:22 63:6 64:6 65:1 83:12 licensed 37:6,8 licensing 6:10 54:18 55:14 58:1,14 80:6 82:4 84:21 88:22 lie 68:3 96:17 lies 68:4 life 26:15,20 53:9 109:7,12,12,13,15 light 58:16 59:1 107:6 like 5:14 9:3 10:22 10:23 24:17 26:23 28:6 32:3 34:6 37:2 38:20 40:24 47:17 48:13,14 49:13,16,20 50:4 50:11 51:25 53:4 53:17 61:1,7 64:4 67:4 69:18 72:4 73:4 74:21 75:14 75:15 80:19 84:24 85:8 91:2,20 92:21,25 101:14 103:23 104:4 107:7,7 108:11,24 109:20 liked 74:3 likely 18:24 27:9 98:13 106:17 limit 65:2 limited 13:10 18:15 20:6 21:14 51:21 67:6 69:1 105:8 limits 101:4 line 28:1 43:24 70:2 lines 74:15 list 26:16 27:1 51:11 51:15 52:24 90:17 90:18 103:18</p>	<p>104:20,21 listen 31:14 72:5 85:13 listened 66:6 listening 82:3,10 little 10:17,21 16:3 18:3 22:1 28:14 33:1 51:1 63:5 72:8 73:17 88:19 100:23 104:24 108:18 live 45:4 46:13 50:8 50:9 70:3,3 90:11 lived 109:3 lives 19:11 25:21 46:17 66:21 living 67:23 71:16 Lloyd 2:15 7:15 81:3 loading 96:20 97:3 local 16:1 28:17 89:23 90:21 located 50:7 90:9,11 locations 98:24 logic 106:5 logically 100:17 106:1 logistics 27:13 29:4 long 9:2 10:19 17:18 27:13 55:16 90:5 longer 67:17,17 look 14:6 35:1 38:4 39:11 40:4 42:2 42:13 43:17 56:22 78:12 83:13 84:8 104:8,10 looked 41:11 looking 8:20,21 17:21 22:2 38:2 42:4,10 43:19 44:10 47:13 48:4 48:7 63:17 66:15 79:19 83:16 84:2 97:7 looks 45:14 67:4 lost 69:21 lot 35:25 36:9 50:13 50:16 56:19 59:8 72:4 80:20 88:21 91:23 93:24 94:17 95:8 LWR 18:23 64:22 65:9</p>	<p>70:4 75:25 84:7 85:15 92:9 94:25 102:25 107:12 main 85:2 93:15 maintain 53:8 major 60:19,21 make 9:17,19 20:20 26:24 31:13,15 33:22 38:20 39:3 39:10 40:17 41:3 41:12,12 46:5,8 46:17 47:5 56:15 63:19 73:1 76:3 80:2 83:3 84:15 84:16 95:17 99:10 99:15 102:22 103:25 105:16 109:8 110:7,8 makes 39:5 making 27:6 28:12 29:8 69:6 93:13 manage 6:9 managed 51:21 75:4 management 74:11 74:12 manager 38:13 mandate 10:14 11:1 33:11 36:11 39:14 47:15,18,24 48:1 67:22 80:23,24 85:2,5,16,17,20 86:8 88:11 101:9 106:7,10 manipulating 68:6 manipulation 62:5 63:1 Manitoba 1:1,21 2:4,6,8,10,12 5:5 6:11,14 7:5,7,20 8:12,14 9:15 10:11 11:2,9 12:8 16:16 24:25 25:6 31:15 32:11,17 33:7 34:14 35:9 35:13,23 38:4,12 39:19,25 45:7,20 47:17 50:10 58:2 59:12,25 60:1 62:14 64:17 65:19 68:2,4,10,17 71:6 72:21 73:12 78:5 78:10 82:16 86:1 93:8 97:7 98:4 100:4 101:2 108:22 111:5 Manitobans 68:20 87:14 105:19 manner 34:12,12 many 15:16 25:22</p>	<p>25:22 30:7 46:20 47:3 51:10 60:21 62:9,15 71:12 72:18 81:8 96:5 99:7,24,24 104:9 106:13 107:5 Marci 2:11 7:4 73:10,12 marked 67:23 Marlo 3:4 8:9 marsh 17:20 74:16 96:21,23 marshes 88:18,25 material 32:14 materials 35:14 matter 17:7 19:21 78:16 Matthews 2:5 6:9,9 32:23 37:3,13,16 37:23 39:24 54:11 54:14 56:8,12 59:3 maximize 15:14 may 1:22 5:1,4,21 5:25,25 13:8 14:1 15:9,18,20 17:16 17:23 19:21,23 20:5 21:14 23:7 25:16,16 26:10 27:9 29:23 30:6 33:17 35:7 36:15 36:15 42:21,21 43:17,17,22,24 44:7,12 46:11,13 46:16 48:11 49:2 51:12,12 53:1,1 53:12,13 57:17 58:8 63:24 65:16 77:20,23 89:12 90:9 96:4,6 103:9 103:15 104:13,13 maybe 24:19 32:23 39:24 45:17 50:5 54:11,21 56:4,15 81:4 82:20,21 83:20 mayor 27:25 McCorrister 3:4 8:6,7 96:14,15 97:6 McMurray 60:19 Mead 2:22 7:2,2 24:15,16 25:11 26:14 27:17 29:6 29:17,20 30:2 69:19,21 72:23 mean 10:8 39:3 44:2 44:6,20,24 87:6 107:19 meaningful 67:5</p>
M				
		<p>Madden 73:13 made 11:23 16:7 21:2 23:22 40:11 41:14 43:23 62:23 64:25 65:12,12,17</p>		

<p>92:15 93:16 meaningfully 92:14 measurements 74:22,23 mechanicals 82:8 meeting 1:7 8:23 9:21 10:15,17 48:12 49:23 52:14 81:4,6 85:3 101:6 103:17,17 104:8 106:16,20,21 meetings 5:9 14:25 15:5,12,22 17:25 48:24 52:16 77:24 82:20 98:22 100:15 member 70:1 members 16:2 19:1 19:8,10 71:8 99:7 99:21,25 100:21 100:25 mention 70:22 mentioned 13:18 25:3 26:17 42:7 58:18 59:3 70:11 72:2 74:14,24 88:18 91:18 96:20 mercury 50:17 mess 72:1 met 49:21 81:1 84:19 Metis 2:10 7:5,7 70:6 73:12 MMF 73:10 mic 5:22 6:6 84:23 107:1 Michael 2:3 microphones 5:21 mid 93:24 midsummer 48:4 might 5:13 10:24 17:21 20:16,18 22:1,1,13,21,25 32:25 53:19 56:8 56:18,20 58:19,22 66:23 74:6 75:21 77:8 84:11 97:12 104:9 105:2 Mike 2:14 6:7 7:16 75:21 79:1,1,2 million 31:4 mind 70:11 72:6 107:3 Minister 11:18,24 13:17 14:3,18,22 14:24 15:8 30:24 39:5 58:13 63:25 64:19 65:16 66:12 66:15 69:3 78:4 85:20 105:17</p>	<p>109:25 110:1,11 Minister's 12:2 minutes 10:14 29:17 68:13 69:19 73:5 missed 56:8 missing 71:10 mistake 31:21 misunderstanding 43:12 mitigate 63:4 mitigated 108:4 mitigation 64:8 89:25 90:3 MMF 28:6 mold 92:21,21 moment 7:18 100:5 101:11 money 21:15 25:2 95:4 monitored 108:5 monitoring 13:10 74:20,21,23 month 49:2 months 89:14 moose 44:25 more 14:21 16:9 18:15,20 20:6 24:8 43:23 46:6,8 47:8 48:3 54:23 57:1 60:15 62:8 64:7 67:22 68:22 69:15 73:9 74:10 75:6 83:8 89:15 96:9 98:20 99:9 99:14 100:23,25 102:3,15 104:23 104:25 106:12,17 106:19 morning 7:13 most 12:1 15:17 16:3 27:15 29:14 32:3 42:14 46:2 57:11 65:25 67:19 71:21 74:16 96:2 104:20 mother 109:16 mouth 70:24 move 9:14 45:22 54:10 59:6 83:15 83:21 84:9 104:5 moves 58:2 moving 40:25 83:19 much 13:24 18:15 20:4 25:7 29:7 34:21 73:3,21 75:5,9 77:25 110:21 mussels 58:21 74:7 myself 28:6 50:11</p>	<p>56:7 108:19 <hr/> N <hr/> NACC 28:23 29:25 name 5:4,25 6:2,12 7:21 29:10 48:19 48:23 51:2 73:23 96:13 named 34:18 names 29:12 narrow 60:4 narrowly 99:9 Nation 2:14,18 7:14 7:16,23 16:5 37:2 37:4 38:21 42:12 42:14 48:19 49:3 51:4,7 70:2,5,8 Nations 19:6 28:16 44:3 45:1,4 46:9 54:1 77:6,13 81:9 81:10 82:10,25 91:24 92:3 107:8 nature 18:18 103:21 104:25 near 20:10 nearby 15:22 necessarily 58:10 98:20 107:23 necessity 100:20 need 9:2,19 19:24 20:4,5 21:22 22:11,14,15 24:4 29:20 30:23 31:8 31:10 66:11 74:20 74:20 100:20,23 101:3 103:5 105:15 106:23 needed 86:18 87:2 needs 31:7 65:7 66:5,5,6 78:21 negative 94:8,17 negotiated 85:10 neighbours 91:6 Nelson 26:4 never 9:3 21:16 50:19,20 102:5,5 new 5:22 14:9 19:21 19:24 22:2,17,17 23:6,7 88:6 89:14 news 37:12 next 9:14,21 13:22 15:9 18:2 31:12 33:21 59:9 80:12 104:6,17 106:15 nice 51:17 Nobel 60:21 nobody 53:6 nomenclature 55:15 none 65:17 101:6 non-expert 72:7</p>	<p>non-lawyers 24:10 normal 10:18 106:12 north 15:1 24:19 83:1,4 87:19 107:20 northern 2:21 7:3 15:2,5,12 16:5 25:6,19,20 26:2,5 26:7,9,15,20 29:2 31:15 71:5 107:21 note 13:19 46:25 57:2 101:10 102:17 noted 28:14 47:2 54:6 59:18 103:24 105:7 notes 31:22 111:7 nothing 30:18 76:13 76:22 notice 21:6 November 16:13 nowhere 20:10 NRTA 77:8,9 number 9:4,7,23 10:20 11:21 22:7 25:24 26:12 27:9 27:14 32:5 45:8 51:10 83:13 89:7 89:9 90:16 92:3,5 92:17 104:11 nutrients 96:24 <hr/> O <hr/> objective 99:6 observation 106:6 obvious 101:5 obviously 10:1 56:21 90:19 occasionally 103:22 occur 94:16 occurred 62:5,16 odd 24:20 off 5:14,23 6:4 43:20 50:17 100:16 offend 52:4 offered 98:25 official 21:6 111:1,4 111:14 officials 39:9 often 47:2 65:19 Oh 6:6 okay 22:6,22 29:6 33:13 41:4 45:15 47:6 48:10 51:8 85:21 Okimawin 2:16 6:22 old 27:21</p>	<p>Olthuis 6:25 once 16:9 43:24 63:19 66:7 97:21 106:17 one 8:17,23 10:1 14:21 20:8 23:1 23:19 24:1,8,20 25:21 26:20 27:11 27:11,22 28:19 29:7,8,13 31:4 33:22 34:19 35:2 35:6 36:3 37:2 38:20 40:3 43:10 50:16 51:11,14 52:25 54:25 55:13 58:16 59:13,20,23 63:16 64:15,23,24 65:2,5,11,14 71:14 72:25 74:18 76:11 77:23 79:14 81:7 82:3,6,7,20 83:9,13 90:19 100:21 101:5 102:19 107:8 110:5 ones 26:16,17,25 27:1,2 28:5 65:8 77:15 83:2 108:10 109:6,14 ongoing 60:24 66:19 96:7 only 43:19,20 55:16 55:19 56:7 59:5 69:5 70:11 72:6 72:20 81:10 99:19 101:11,16 108:20 Ontario 94:23 Ontario/St 93:21 onward 42:7 open 8:19,22,23 22:5 79:4 89:13 opened 81:19 opening 4:2 21:1 98:19 operate 39:22 40:6 40:22 41:2 46:14 operated 94:11 operating 10:10 34:23 94:13 operation 11:8 12:21 13:5 47:23 48:3 88:23 94:15 operations 39:20 93:21,22 94:7 opinion 12:15,17 53:21 opportunities 15:14 62:15 opportunity 5:18 60:3 62:15,21,21</p>
--	---	--	---	---

<p>63:4,7,19,23 94:10,14 101:19 opposed 37:18 optimistic 97:25 options 17:21 orally 102:8 order 39:21 40:5,22 40:23 41:2 45:21 94:7 109:4 organization 5:17 9:13 69:20 87:21 95:21 96:25 organizational 52:14 103:16 106:21 organizations 53:25 87:8,8,13 99:8,25 organizing 52:15 originally 14:6 other 9:19 14:15 15:2 17:23 18:3 19:2 22:10 25:12 27:23 29:1 30:21 43:10 45:12,13 53:25 60:21 61:6 61:7 65:3,5,13 67:6,13 68:14 71:14,14 76:11,15 76:21 78:16 79:9 81:7 82:25 84:8 91:22 93:18 98:7 98:11 100:21 102:22 103:11,13 103:18 104:3 others 28:6 60:22 64:9 92:5 otherwise 40:25 ourselves 98:9,16 out 7:17 9:4 10:19 15:23 16:8 21:6,8 22:13 23:4 25:4 25:13 31:25 45:6 46:18 50:25 54:16 55:24 59:4 63:24 64:11 65:15 68:12 69:20 70:7 72:18 75:22 77:22 79:8 81:6,12 83:7,10 85:9 93:11 94:4 95:6 96:9 97:9 104:19,19,23 106:10 108:1 110:16,20 outcome 55:2 78:23 95:6 outlining 16:18 outset 20:24 outside 76:15 106:12 outstanding 59:23</p>	<p>over 9:10 17:2 27:19 31:15 47:22 49:18 69:13 77:3 83:6,6 84:23 96:5 overall 10:11 90:19 overlap 17:9 overview 9:6 own 51:22 53:4 84:12 88:5 Owners 93:8</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>package 42:16 pages 55:16 111:6 paid 25:12,13 painful 24:9 panel 5:7 13:14,15 13:16,18,19,23 14:1,6,7,11 18:25 19:16 40:12 97:13 97:14 paper 52:25 papers 103:3 paragraph 78:4 parameters 79:12 84:9 part 6:3 10:11 14:14 14:16 19:23 24:25 31:1,21 32:15 34:3,22,25 38:17 39:7,13,13 46:2,9 52:12 54:21 58:1 66:21 69:4,5 75:15 76:12 77:5 77:9,20 86:24 93:22 103:3 participant 18:13 21:3,5 49:13 98:9 104:24 105:5 participants 3:1 9:10 16:3 30:9 69:15 87:5,6 91:23 99:2 100:3 100:24 participate 31:17 36:2 56:20 60:4 66:8,17 87:16 92:14 98:22 participated 67:9 participating 23:11 83:1 92:7 participation 19:2 92:16 particular 9:22 18:18 28:21 42:14 46:18 53:20 57:4 73:25 98:5,10 99:9 100:13 102:2 106:5,11 108:2 109:23</p>	<p>particularly 15:12 47:3,21 104:14 parties 40:12 57:11 57:22 61:11 66:4 parts 14:15 past 9:24 16:19 20:7 23:1,2 25:21 26:15,19 55:11 57:4,24 67:25 pattern 88:6 patterns 88:8 Paupanakis 2:17 6:21,21 30:3,4 31:12,25 60:14 66:25 peace 49:7 61:12 68:9 peel 27:23 Peguis 2:14 7:14,16 37:1,3 38:21 76:12 78:20 80:22 81:9 84:11 85:6 85:13 91:6,9 92:1 Penner 38:13 people 21:12 28:7 28:24,25 29:1,5 30:7 32:6 35:21 36:1,1 47:9 51:13 52:12 53:11 54:20 61:1,17 62:4 67:16,22 68:19 69:7 70:5 72:3 83:3,10 84:12 90:10,24 95:8 101:18,20 103:16 104:4 106:4 107:5 108:9 peoples 60:24 61:7 62:11,17 63:14 64:9,17 65:24 78:15 people's 93:18 per 70:4,7,8 91:12 91:17 100:6,8 103:6 perceived 59:25 perceives 60:9 performance 12:9 perhaps 13:22 17:23 53:15 56:5 73:14 86:7 88:15 94:13,16 period 55:22 permanent 33:23 41:1 89:12 permission 73:14 permit 33:6,9 permitting 100:11 perpetrated 60:25 62:8</p>	<p>perpetuates 68:4 person 9:14 44:3 52:7 personal 99:24 personally 101:16 person's 71:13 perspective 45:21 57:13 perspectives 23:15 pertains 60:23 phase 17:10 phosphorous 96:17 96:19 97:3 pick 44:21 picking 22:23 71:8 piece 52:25 Pikwitonei 26:22 29:2 Pimicikamak 2:16 6:22 7:1 31:16 60:12,17 61:1,5,7 61:19,20 62:18,25 65:25 66:5,10,17 66:20 67:1,16 70:2,8 78:16 81:18 Pimicikamak's 63:23 place 11:8 12:19 13:19 14:2 16:10 25:5 33:6 37:15 47:20 48:3,13,25 49:6,8 50:14 52:6 60:6 111:8 places 49:10 51:23 plain 16:17 17:5 plan 16:10 77:23 plane 68:13 play 77:9,20 played 98:6 playing 96:8 98:9 plays 34:21 please 5:16,23,24 6:5 9:11 18:4 48:22 54:2,5 104:16 107:1 point 5:16 15:4 19:17 22:13,21 23:23 31:10,21,25 33:18 36:3 38:21 42:6 43:23 45:16 54:15 67:2,10 86:15,15 90:18,22 103:18 108:19 pointed 23:4 points 21:1 73:1 103:13 poisoning 50:17 policy 13:1,6 30:10 59:22 60:1 86:5</p>	<p>86:11,13,17,20,22 86:23 polluted 68:21 pontificate 10:18 Poplar 92:5 population 71:22 populations 44:25 Portage 29:2 portions 78:21 pose 9:9 posed 99:21 position 45:8 63:24 103:3 positive 95:6 possibility 30:8,16 possible 15:21,23 15:25 51:15 possibly 22:11 95:5 posted 55:5 posting 35:23 potential 87:6 potentially 90:2 power 10:5 11:2 54:18 68:7 76:4,5 76:8 78:7 84:3 practice 58:3 61:25 101:25 102:14 practices 58:1,11,18 practise 109:15 preface 56:15 preferences 64:12 preliminary 56:21 60:9 90:18 preparatory 103:17 prepare 97:19 prepared 30:25 103:25 preparing 93:17 present 7:17 16:19 34:11 97:20 98:21 99:23 101:21,24 102:23 103:3 presentation 32:5 93:7,13 99:16,18 100:7,16,17 101:3 presentations 18:25 99:11,14,25 100:7 101:20 102:22 103:7,10 presented 51:24 62:20 103:9 presenters 99:20 100:3 presenting 19:16 president 7:2 93:9 pressed 9:11 54:7 pretty 69:2,19 prevails 98:15 previous 40:21 45:16 83:8,18</p>
---	--	--	---	---

<p>primary 96:16 principal 13:13 prior 42:25 69:23 78:8 priority 18:21 57:24 78:14 privy 39:23 85:17 probably 11:10 13:13 21:9 46:8 54:23 87:5,11 94:18 102:23 103:14 105:4 problem 73:19 92:21 problems 72:9,10 96:2 107:8 108:1 procedural 10:20 proceed 53:2 77:23 proceeding 18:19 56:19 60:6 proceedings 1:19 4:1 5:12 13:14 15:15 18:8 34:13 73:6 78:24 98:7 102:1,4,15 104:10 107:25 process 9:25 10:16 11:15 19:7,22,25 20:1,2,17 22:19 23:16,21 24:3,11 31:6 34:9,11 35:8 37:10 39:4 42:9 42:10,17 47:11 49:2 52:15 53:19 53:20 54:13 55:24 56:1,18,21 57:20 58:1 59:9,11,18 59:25 63:16 65:18 66:10,18 67:4,11 67:18 69:6 73:2 73:17 75:7,15 76:7 77:9,21 78:18,19,22 79:18 79:22 81:13 85:6 85:8,10,24 86:9 86:15 87:1 92:7 92:14 97:3,12 98:2,5 99:2,6 103:12 104:22 106:6,11,13,20,24 110:20 processes 19:14 31:17 47:4 61:6 67:6,19 98:20 99:13,15 production 10:12 professional 87:9 92:11 program 8:4 18:13 104:24 105:6</p>	<p>prohibit 65:3 project 7:25 10:6 38:13 44:2 55:21 60:18 62:13 63:2 64:10,14,23 65:24 80:8,14,18 84:18 projects 34:20 83:1 83:4,19 proper 45:21 proponent 98:5,17 105:22 proposal 72:14 propose 66:8,22 proposed 10:5 protocol 109:11 provide 12:7,15,17 13:15,17 15:15 16:22 17:14 35:14 40:6 64:7 73:15 79:15 80:5,5,10 80:25 97:2,11 98:12 provided 14:17 40:5 41:8 55:10 80:21 104:9 provides 39:19 providing 79:16 80:16 84:20 province 10:12 24:25 45:18 77:11 87:9 99:9 107:24 111:5 province-wide 87:8 Provincial 77:2 Provincially 61:6 public 6:17 11:17 12:7 13:1 18:22 18:24 19:2 40:3 45:12 59:22 60:1 86:5,11,13,17,22 86:22 99:7,7 100:1,25 102:25 pull 72:18 pun 105:2 purpose 13:13 79:17 85:3 93:2 98:17,19 99:2 106:5 put 18:22 19:14 21:6 22:7,25 23:16 33:15 47:20 48:2 54:8 62:22 62:22 64:2 67:14 69:25 88:14 94:14 95:23 104:18 105:9,9 puts 55:12 putting 45:23 46:5 puzzled 84:5,21 p.m 5:2 73:6,7</p>	<p>110:22 <hr/> Q qualify 103:10 quality 57:10 74:22 88:13,17 90:18 96:3 quantity 74:22 question 23:17 29:7 30:5,15 31:12 35:7,17 36:4,8 37:4 39:18,22 40:1 47:6,14 56:24 80:12 92:16 107:3 110:13 questioning 100:2 100:22 questions 9:9,17 12:20 20:21,25 22:7,9 30:14 32:10 59:23 60:7 75:23 80:20 81:14 84:14 88:15 97:13 99:19,21 101:1,8 103:11 queue 59:7 quick 29:7 32:10 35:6,6 quite 9:23 10:2 17:11 27:13 34:6 35:7 46:1 47:5 59:6 103:8 106:1 107:22 quo 95:7,8 quotes 18:22 Q.B 111:14 <hr/> R radically 31:2 raised 13:8 26:13 109:21 rambling 84:22 range 31:4 88:15 94:16 ranging 105:18 Rapids 70:25 ratepayers 57:3 rather 93:10 rationale 13:1 59:22 60:2 RBC 1:20 read 11:25 12:2 37:2 55:15,16 84:6 93:11 97:20 101:19 103:23 106:7,18 readers 103:22 reading 80:20 82:17 ready 65:12 real 65:21 94:9</p>	<p>realities 89:15 realize 108:19 realizing 69:24 really 27:2,5 28:2 33:1 40:1 52:10 52:13,18 56:2 63:17,18 79:4,7 79:23 85:23 88:21 94:22 95:1,5 99:1 101:16 reappointments 14:10 reason 30:10 107:10 108:14 reasons 53:3,4 108:15 reassurance 82:19 reassurances 83:14 rebound 17:17 recall 43:22 received 14:3 90:2 recent 20:12 47:3 recently 67:19 recessed 73:6 recognize 14:13 recommend 92:6 recommendation 69:4,5 recommendations 76:3 79:15 80:5 80:17 83:20 84:16 94:6,24 105:17 110:10 recommendatory 110:9 reconcile 65:22,22 78:1,10 reconciliation 62:24 63:8 reconsider 30:8 reconvene 73:8 reconvened 73:7 record 6:3 13:16 33:3 90:8 97:17 102:21,25 105:16 recorded 48:14 recreational 57:15 57:16 Red 36:21 reduction 96:17 refer 41:21 43:9 62:1 86:5,11,12 reference 12:4,10 12:25 13:7 14:3,5 14:18,20 34:18 47:15 59:19 74:19 74:25 75:25 85:19 88:3 103:24 referenced 85:12 references 16:22</p>	<p>89:25 103:21 104:1 referred 43:4,16 51:5 referring 24:13,14 refine 106:23 Reg 2:22 7:2 regard 14:23 19:8 33:20 87:18 regarding 12:8 16:19 30:5 32:13 33:9 regardless 83:11 regards 40:2 regime 98:15 regimes 45:2 regional 17:10 64:13 87:7 registered 99:15 registry 35:23 regreated 11:7 regrets 74:3 regular 73:1 regulated 36:10 89:8,11 regulating 86:19 regulation 1:6 5:8 10:9 11:2,16 12:13,18,22 13:4 13:25 14:7,14 15:18 16:20 17:15 17:20 19:9 25:23 26:3 32:14 33:7 34:1,21,22 35:4 36:14,18 38:1,4 40:9 42:4,23 43:22 47:16 48:2 57:5,18 58:6,24 59:5 60:2,17 64:10 66:2,20 70:10,19,20 86:6 86:14 88:23,24 89:2,3,21 90:4,16 91:3,11,16 92:24 94:3,3,4 96:19 98:11,14 105:20 108:3 regulations 55:17 74:13 76:5,8 78:7 regulator 33:8 regulatory 57:25 59:10 110:7 Reid 111:4,13 Reil 2:11 reinforce 74:20 reiterate 23:2 related 11:21 17:8 23:6 74:21 relates 90:19 relating 59:12,18</p>
--	--	--	--	--

<p>relation 23:15,17 57:5 86:5 relationship 61:16 relay 79:9 relevance 100:20 101:4 relevant 16:20 34:12,12,24 36:11 36:16 40:8,10,13 41:13,17 42:20,25 101:8 104:22 remain 102:16 remains 61:8 remediate 63:4 remediation 64:8 remember 24:8 remove 67:24 renegade 27:25 renew 56:1 renewal 59:8 61:3 renewals 59:2,8 repackage 34:11 repacking 42:17 repeat 98:16 report 15:8 17:5 22:8 32:13 33:5 39:7,8,19,23 40:16,17 44:6,7,7 55:1,6,8,13 80:14 101:22,24 reporting 33:8 reports 17:2 23:7 32:12 40:5,6,11 40:22 41:3,8,9 47:1 80:2 101:20 represent 24:17 representatives 39:24 representing 83:25 99:8 request 16:17 20:2 23:25 94:14 requested 14:24 97:19 requesting 38:14 requests 20:5 23:18 23:20 101:14 require 92:13 required 18:7 55:8 research 3:5 8:2,4 13:10 17:2,9 19:24 21:23 22:3 22:3,17 34:8 74:9 95:15,15,17 96:10 108:19 researchers 95:21 researching 16:24 reside 49:7 50:10 residential 66:3 resolve 29:21</p>	<p>resources 61:13 respect 13:25 17:12 20:11,18 21:1 29:14,15 46:16 98:2 100:8 106:15 108:3 110:14 respecting 92:10 respond 9:12 36:1 54:7 response 35:13 66:12 responses 97:8 responsibilities 98:10 responsible 109:14 responsive 58:24 rest 68:9 restricted 17:17 restrictions 21:11 21:14,15 rests 109:24 110:6 resubmission 42:17 results 95:18 retain 77:5 102:2,11 retiring 56:5 review 5:7 9:22 10:8,23 11:1,21 12:23 13:1 14:13 14:17 16:13 17:8 22:13 34:3,23 35:8,19 37:10 40:9,10,13 41:13 41:22,25 42:20 43:1 45:13 46:19 47:19 53:20 64:5 80:7 86:10,24 89:24 90:5 104:7 105:2,11 109:24 110:2 reviewed 40:21,23 41:4 107:24 reviews 9:24 13:13 16:15 18:7,16 36:2 46:20 85:12 86:16 re-packaging 19:15 Richard 74:2 Rick 3:2 7:11 Riel 7:4,5 73:11,12 73:21,22 right 20:22 30:11,14 30:14 37:23 41:2 41:19 44:17 45:23 46:11,12,13,15,17 46:22 49:10 50:8 50:10,23 51:25 54:8 63:19,21 69:7 73:4 77:21 78:19 80:19 82:19 91:9 94:10 96:2</p>	<p>108:10 rights 31:18,24 42:11,11,11,22,24 43:5 44:1,4,13,16 60:22 62:8,9 76:15,18,20,23,25 77:3,5,6,17,17 78:2,10,10,14 87:15 108:21,21 ripple 68:19 rips 68:10 River 2:18 7:22 36:22,22 70:23,23 90:6,8,12,14 91:1 91:15 92:1,4,4,5 92:11,13 93:21 rivers 89:7,9 RM 81:24 road 33:1 49:6 82:21 Rob 2:5 6:9 37:3 robust 23:14 rocket 106:9 role 9:12 16:3 34:21 47:10 53:18 54:9 54:12,12 59:17 60:9 96:3,8 97:4 98:6,9 99:2 roll 81:6 room 7:17 40:12 61:1 66:4 75:22 97:14,15 106:4 roots 107:14 round 23:25 24:24 26:18 rounds 23:20 ruined 72:20,21 rule 109:3 rules 10:20 110:7 run 105:13 107:10</p> <hr/> <p style="text-align: center;">S</p> <p>sacred 109:2,12 sacredly 109:17 safe 105:24 salary 25:4 same 28:22 32:19 33:10 34:1 36:1 44:8 45:20 46:3 47:4,13 54:3 69:11,12 71:15,17 72:9 76:4 84:14 87:22 91:25 109:7 Sargeant 2:2 5:5 49:22 97:16 98:3 Saskatchewan 36:23 70:22,23 satisfaction 22:10 satisfied 83:19 Save 2:20 7:24</p>	<p>saying 22:15 23:12 28:12 40:13 43:15 52:23 68:23 71:24 76:14 79:4,19 105:13,14 says 58:15 78:5 79:13,14 84:20 schedule 51:14 scheduled 9:1 science 8:3 23:8 95:20 96:25 97:1 106:9 scope 14:12 38:22 38:23 41:22,25 47:24 48:1 59:20 59:21 69:1 79:7 SCOPING 1:7 Scott 3:6 8:3,3 74:5 sealed 65:4 sealing 65:5 seat 57:20 second 12:5 42:3 75:22 78:4 79:14 84:20 87:24 seconds 101:23 secretary 2:3 6:22 8:16 29:16 93:11 94:21 section 6:10 19:7 34:9,14 38:22 39:8 42:8,16 43:9 43:16,25 44:5,8 44:20,24 45:10,20 46:22 54:16 79:13 105:19 security 8:22 see 6:1 9:12 16:1 30:24 32:3 35:22 41:8 47:10 51:18 52:2 53:2,11,18 54:9 63:15 66:16 77:8 85:17 96:3,8 97:4 98:5,8,16,17 98:19 99:1 102:4 105:12,22 108:4 seek 30:24 31:9 40:11 85:3 100:1 103:2 seem 63:14 seems 82:3 83:2 94:9 95:3 seen 20:3 65:19 68:3 83:17 106:17 sees 13:15 60:17 select 77:14 sell 68:6 send 74:2 sense 5:11 46:4 58:6 106:1,19 sentence 37:2 68:18</p>	<p>79:13 separate 44:19 Sepewick 68:1 September 12:3,10 78:3 106:17 series 64:11 seriously 22:20 85:14 serves 105:12 session 18:9 32:2 54:22 110:17 sessions 13:25 14:25 15:25 16:4 18:12 26:10 52:16 53:1 73:1 set 63:24 64:11 65:1 65:15 setting 51:14 settlers 61:14 seven 72:19 92:3 several 47:22 88:1 severely 66:1 sham 63:22 66:10 67:11 69:15 shape 109:10 share 61:13 69:8 106:6 shared 73:16 shore 50:9 shoreline 50:12 88:16,16,25,25 89:1 shorelines 89:10 shores 68:1 short 69:18 83:9 shorter 33:22 shortly 14:10 show 52:24 sick 68:21 side 24:18,18 44:11 71:20,21 82:6,6 90:10 91:24,25 92:2 sign 108:18 signed 42:13 49:7,8 49:9,20 61:9,11 62:4 76:13,22 77:10,15 significant 19:22 86:22 89:11 90:25 91:14 94:2 similar 65:8 93:19 94:11 95:2 simple 101:5 simply 11:11 16:24 19:25 27:12 95:21 96:9 since 13:4 42:4 50:14,15 55:2,4 62:4 76:18 78:11</p>
---	--	---	---	---

80:9 93:23 110:3 single 15:19 87:14 87:15 sir 48:12,17 Sisters 72:19 sit 10:18 66:3 67:21 68:25 69:23 81:3 site 54:21 sites 68:2 sitting 35:21 80:19 81:10 situation 62:16 64:7 74:7 101:6 six 28:15 slightly 94:7 slot 29:22 small 25:8,9 smile 24:12 snack 8:25 socio-economic 44:11,15 45:3 57:7 79:21 soil 91:17,21 solid 30:20 solidify 59:11 solution 24:10 solve 108:1 solved 100:10 some 5:11 9:19 10:13,22 13:24 14:9,9 15:20,22 16:1,23 17:9,25 19:1,5,17,19 20:1 20:14 21:20 22:14 22:15,17 23:14,23 24:7 25:1 26:9 31:8 35:21 42:7 46:4 52:12 54:19 54:19,23 56:4 57:8,15 58:22,24 62:1 70:7 74:14 80:21 84:1 85:3 87:3,11 89:14 91:19 93:7 94:5,8 97:2 98:12,14 100:7,16 101:4,19 103:4 104:5,23 106:4,16,19 107:24 110:19 somebody 22:16 27:19 34:10 44:7 82:12 83:15 somehow 51:21 52:6 someone 83:25 something 6:2 21:21 48:11,14 50:5 53:4 56:9 58:20 72:15 74:6 76:9 86:7 93:16	94:10,20 100:22 106:2,25 sometimes 46:2 99:15,18 102:4 107:10 somewhat 20:6 25:19 74:10 93:19 somewhere 28:1 soon 13:21 17:11 38:19 54:21 65:1 sorry 21:4 32:16 35:11 69:14 73:23 89:15 96:13 sort 35:22 87:23 92:4 100:16 sorts 104:19 sound 13:17 south 15:1 24:20 36:22 68:20 82:25 southern 15:6 36:23 span 33:10,10 speak 5:22,24 56:7 66:18 71:8 91:6 91:21 speaker 60:21 speaking 5:23 60:22 75:11 97:17 100:25 specific 45:9 52:11 52:19 89:16 specifically 12:25 45:14 47:8 59:19 specifics 60:15 speed 73:17 spend 95:3 spirit 68:9 69:9,10 69:11 splits 45:6 spoken 20:21 67:15 St 94:23 staff 16:9 28:23 29:25 95:20 stage 60:9 stakeholder 17:24 stakeholders 12:8 15:14 31:14,18 stand 68:22 101:23 start 5:14,20 49:17 53:16 56:2 60:14 started 49:2 50:23 starting 6:4 42:6 64:12 107:21 state 5:19,24 6:2 13:7 stated 40:21 62:9 111:8 statement 10:8 31:13 35:25 79:10 84:20 statements 84:8,14	84:16 98:19 States 68:5 station 14:5,8 16:15 33:24 34:24 37:8 37:17,21,24 38:17 39:3,12,12 81:17 status 95:7,8 statute 18:7 stays 85:6 Stenotype 111:7 step 43:20 108:13 108:24 steps 79:24 Stevenson 2:15 7:15 7:15 41:20,21,24 42:2 43:6,16 75:19,20 84:7 109:22 stewardship 2:4 6:11 7:12 11:19 11:24 32:13,20 39:20 40:7 54:17 61:16 75:12 109:25 still 19:19 27:20 76:18 77:4 83:7 83:10,19,21 stolen 62:25 stone 29:12 30:17 30:19 stop 89:20 story 68:6 83:6 strange 10:3 strengthened 78:21 strike 13:23 14:11 structure 37:5 38:18 83:12 89:1 structures 35:3 37:18 82:6 studies 17:1 study 94:2,5 stuff 22:4,18 24:3 104:20 sub 59:21 subject 57:1 59:8 60:7 88:6 98:18 subjects 101:14 submitting 55:2,4 subsequent 14:4 subsequently 11:7 successes 13:5 successful 25:17 suffer 64:9 suffered 67:24 sufficient 13:16 18:20 77:13 suggest 100:1,9 101:7 103:14 suggesting 46:16 suggestions 53:25	59:17 suitable 16:7 suits 73:14 summarizes 55:9 summary 67:16 supporting 16:22 suppose 103:8 supposed 50:3 71:10 Supreme 78:12 sure 8:18 11:10,25 20:2 22:21 23:11 27:25 33:2,22 35:7 38:6 41:3 47:5 66:9 69:2 76:3,9 79:24 80:24 91:18 103:7 surface 11:9 surprise 57:21 surrender 61:16,22 62:6 surround 88:20 suspect 23:25 38:15 38:16 sustainable 3:7 7:10 74:12 Sutherland 2:14 7:17 8:20 39:15 39:16 40:17,20 41:16,19 43:2,3,8 43:13 44:14,19 45:15 46:7,12,20 75:21 79:1,3 84:25 85:15,21 109:21 swamp 91:14 switch 47:7 system 10:11 14:14 14:16 88:5	takes 101:23 taking 19:13 25:5 27:19 29:7 38:24 39:2 52:3,6 60:6 63:19 93:10 talk 9:20 10:14 28:4 28:24,25 29:1,23 51:12 52:11,19 53:10 60:15 70:20 81:16 82:5 90:15 talked 71:19 81:2 92:18 talking 9:6 49:17 51:25 52:14,15 54:2,5 70:18 85:24 88:20 89:9 105:3 107:7 109:1 target 67:23 task 101:18 tasked 79:14 TCN's 44:3 team 95:23 technical 8:18 16:22 23:5,8,10,12 30:6 92:10,18 tell 28:6 41:11 50:6 98:3 telling 81:12 ten 69:19 73:5 101:22 term 17:18 31:22 55:17 59:20 105:23,24 terms 11:4,13 12:4 12:10,24 13:7 14:17,19 23:3 34:18 36:6,11 47:18 57:13 58:13 58:21 59:17,19 74:12,19,24 78:14 85:19 86:9 87:1 87:25 88:4,7,10 88:14,16,22 90:3 terrible 63:9 territory 66:2,20 Terry 2:2 5:4 testify 102:6 testing 23:14 text 62:7 76:14 thank 8:17 25:11 26:14 27:17 29:6 30:2 33:21 35:5 36:24 47:12 48:9 52:9,21 53:14 54:14 56:11,14 60:10,11 66:25 69:16,17 72:21,23 73:3,11,21,22 75:9,17,18 85:25 90:5 93:4 95:10
T				
table 5:15 6:5 9:8 9:23 20:23 30:7 30:13 35:21 47:9 52:5 53:16 56:25 57:12,21 67:14 69:24 70:13 72:12 73:9 76:23 81:11 tables 92:20,23 tail 49:1 take 24:4,12 27:13 34:10 39:9 43:20 44:2 45:5 46:21 47:6 48:13,25 49:6 62:14 69:18 73:4 77:3,23 84:15 94:8 taken 12:24 45:8 62:2 71:13 82:16 109:1 111:7				

<p>95:11,13 96:11 97:4,5,16 104:2,3 107:18 109:18,19 110:15,20 thankful 59:2 Thankfully 83:8 thanks 21:18 41:19 85:21 their 11:5 15:15 17:14 19:10,10,10 19:11 24:9 25:3,4 41:3 47:10,10 61:8,8,8 66:21 68:6 74:3 77:14 80:23 84:12 89:9 93:8 94:3,3 99:17 102:23 theme 61:2 themselves 63:14 99:22 103:23 Thicket 29:2 thing 44:8 54:25 69:13 71:16 76:21 77:21 things 9:4,7 22:25 30:11 40:3 46:8 50:14,16 51:23 53:8 68:18 74:21 75:1,1 88:1 95:2 98:12 107:15,17 108:25 109:10 think 20:3,15 21:25 22:2 23:22 26:6 28:8 32:10 33:22 43:10,11 46:5 47:1 53:21 54:4 56:5,9,24 57:1 58:4 59:13,16,18 61:24 65:18 69:23 70:5 72:17 74:15 75:5,8,20 78:25 81:7 83:1 86:9,10 86:21 87:3 89:6 92:18 95:5,7 96:20 97:11 100:9 100:23 101:3,4 103:6,7 104:13,15 106:6,16 107:19 108:18 110:12,16 thinking 87:10 101:13 third 86:11 Thompson 25:7,9 26:10 thoroughly 10:25 thought 32:17 thought 28:20 54:15 69:22 87:4 100:23 101:16 thoughts 20:18,24</p>	<p>53:19 56:19 72:24 72:24 thousands 17:1 three 9:1 11:19,19 29:22 91:5,25 102:19 through 9:3 11:14 13:20 17:24,25 19:6 28:10 35:9 42:10 55:5 59:10 62:25 63:1,5 67:3 67:6,18 78:17 80:2 82:22 84:18 100:9 101:4,13 106:7 throughout 54:21 55:12 THURSDAY 1:22 5:1 tied 26:18 time 9:13 13:2,23 15:3 18:2 20:20 27:18 29:7,18,23 33:10,10 34:1 42:3 46:3 47:4 50:16 51:20 54:22 56:10 67:2,10 74:1 75:6 76:18 76:24 78:11 80:9 81:19 93:10 95:4 101:7 102:10 105:8 106:16,22 109:18 111:8 times 20:13 36:5 51:10 timing 103:16 title 76:17 78:2 tobacco 51:24 52:13 today 5:11 10:17,20 11:15 29:21,22,24 33:2 41:11 49:8 49:16 51:20 52:2 52:5,10,13 54:1 55:7 56:16 57:21 58:8 62:12 63:11 67:21 68:1,4,9,15 68:19 73:2,13 74:4 80:1 81:2,4 81:15,18 84:7 85:23 87:2 93:2 97:9 103:4,15 104:14,15 105:7 106:3 107:9,16 109:4,8,16 110:16 today's 85:3 104:7 toes 108:13,25 together 19:14 46:5 55:12 64:22 65:1 65:14 72:1,15,16 88:17 95:23</p>	<p>told 50:18 92:22 tolerate 67:17 tools 62:3 top 47:21 topic 5:10 11:18 16:24 54:23 topics 17:23 74:14 103:1 total 18:17 totally 69:21 71:15 touch 29:24 52:23 98:18 Townshend 6:25 track 74:25 traditional 66:2 transcribed 18:8 transcriber 5:25 transcript 1:19 111:7 Transcriptions 18:6 transcripts 104:7 transferred 77:11 transpired 80:9 trapping 45:2 77:17 travel 51:20,22 Traverse 3:9 48:11 48:18,19,23,24 50:8,23 51:3,7,17 52:10,21 53:3,14 106:25 107:2,2,19 108:6 109:20 Traverse's 87:17 Treaties 62:2 108:20,21 109:2 Treaty 42:11,13,22 43:4,25 44:12,16 49:8,9,20 61:3,9 61:11,11,12,12,22 63:1 76:12,13,14 76:16,17,19,21 77:4,14 108:16,17 108:18 tried 82:1 trouble 8:21 true 28:2 111:6 trust 61:10 77:11,12 78:18,20,22 try 15:21 63:4 71:3 72:1,14 109:4 trying 20:15 59:11 60:4 77:22 79:7 108:13 turn 5:22,23 9:10 63:5,9,15 71:4 84:23 107:1 turned 63:17 86:2 Turning 11:1 Tutu 60:20 twice 59:21 82:23 two 23:19 24:1 31:4</p>	<p>45:16 46:5 58:16 64:22 65:14 71:16 75:21 77:23 79:2 81:6 82:6,20 85:12,18 86:4 89:6 90:21 102:19 103:13 108:20 110:4 type 10:23 32:2 56:20 92:13 types 64:4 65:3 typically 18:8 30:20</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ultimate 11:22 61:2 110:12 ultimately 39:4 58:13 63:17 66:11 unanswered 80:20 uncertain 15:4 under 10:3,5 11:2 12:9,23 34:8,20 35:3 37:6 41:25 49:10,11 61:22 64:21 75:25 76:5 76:8 77:11 79:6 80:7 83:22 110:9 underlying 103:23 understand 23:5 31:20,23 37:13 42:19 43:13 52:6 75:1,25 79:8 92:19,24 94:22 98:13 99:11 108:23 understanding 17:3 33:5 39:17 40:15 41:7 61:10,23 81:5 84:12 99:4 understood 33:23 61:18 undertake 14:18 73:15 unfair 24:3 unfold 5:13 unfolds 77:21 United 68:5 Unnamed 24:15 unsure 80:22 until 20:3 29:22 45:19 unusable 91:13,17 upcoming 59:2 upstream 74:10 81:17 82:14 91:8 urge 11:25 12:1 use 6:10 31:22 42:5 47:16 58:7 70:3 84:22 106:8 used 19:23 20:14</p>	<p>55:18 56:18 59:21 62:2 69:25 89:13 105:23 using 19:16 52:13 62:7 usual 19:19 Usually 10:18 Utilities 45:12 utility 47:22 utilizing 42:8,16</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>valuable 22:19 72:24 97:2 value 92:16 various 18:1 28:24 30:22 98:23 vast 66:20 venue 87:13 versa 89:3 very 22:20 27:14 30:12 31:6 32:5 49:4,12,15,15 52:1 53:5 54:9 56:21 58:16 60:9 63:20,20,20 65:7 67:1,1,6 73:3,21 75:9 90:2 94:5,22 95:2,19 101:21 108:15 109:2,15 109:16 110:21 vice 89:3 Vicky 2:20 7:24 video 68:5 view 71:17 views 5:19 10:24 56:22 70:21 71:12 vis 97:2,2 visit 15:19 54:20 visits 52:17 voice 61:5</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>Wabowden 26:10 27:24 29:1 wait 14:9 66:16 waiting 13:20 35:12 55:5 walk 81:14 wall 65:20 81:23 want 6:1 16:1 20:20 21:20 23:9 27:3 29:10 33:1,3,22 39:16 40:4 41:8 41:21 42:2 49:16 49:24,24 50:4 52:3,18 53:4 55:6 63:15,22 67:12,23 69:15 70:3 77:8 81:21 82:15 85:7</p>
--	---	---	--	---

<p>85:9,23 96:9 101:21 107:15,17 108:6,24 109:6,7 109:8,9 wanted 22:6,16 31:13,15 34:10 51:18 56:9 60:16 75:23 86:6 89:20 107:5 109:17 wants 69:20 washed 68:12 washroom 8:21 washrooms 8:19 wasn't 35:7 41:5 52:11 72:3 73:13 95:17 water 2:4 6:10,11 10:5 11:2,18,24 16:20 17:18 32:13 32:20 36:19 39:20 40:7 49:10,11 50:15 51:25,25 52:20 54:17,18 57:10 68:16,21 70:13,16,17 74:22 76:4,5,8 78:7 81:24,25 82:13 84:3 88:13,17 90:18 92:5,19,23 94:3,4 96:3 108:8 108:17,20 109:11 109:15,25 waterfront 105:1 waters 76:20 83:9 watershed 70:19 71:5 72:20 74:11 way 5:20 8:24 15:20 24:24 25:1 26:18 41:5 44:9 49:19 50:2 51:22 52:4 66:14 67:6,13 72:19,19 87:13 90:5 92:15 108:7 108:7 109:9 ways 10:13 20:15 35:25 66:22 71:3 108:4 weather 88:5,7,8,8 website 18:10 54:18 64:2 94:23 weeds 55:6 week 104:17 weekend 60:20 weeks 13:22 21:9 104:7,18 105:5 110:20 welcome 53:24 60:3 90:13 97:12 welfare 83:16 well 10:2 12:3 14:2</p>	<p>17:20 19:1 20:5 21:25 23:22 24:9 27:4,5 28:11 29:13 31:13 33:4 33:15,17 34:5 35:20 36:13,17 37:12 39:3 43:6 45:4 46:11,12,13 46:16 51:8 53:13 54:3 55:22 60:5 62:13 67:7 69:19 70:24 79:25 80:9 81:16 84:9 85:18 91:8,12,24 92:6 94:21 103:8,10 107:22 well-being 83:16 went 8:20,21 11:8 28:15,22 32:1 49:22 83:9 were 12:4 13:24 20:12 22:7 24:7,8 26:3 27:7 28:17 28:20 48:25 50:17 50:18 62:4 67:7 69:22 76:25 77:10 77:12,16,18 78:11 79:19 86:20 108:9 110:4 weren't 104:14 Wes 38:7,13 west 24:18 71:21 90:10 91:25 western 24:24 wetlands 88:19,24 we've 18:16 20:3 58:18 Whelan 2:13,15 7:13,14,19,19 32:8,9,18,23 33:4 33:15,21 34:17 35:5,12,17 36:3 36:17,24,25 37:1 37:1 38:20 39:18 47:7,12 48:9 75:19 84:23 85:22 85:25 86:1 89:19 while 14:13 18:3 68:7 whole 54:13 65:14 67:11 70:6 71:10 79:6,18,22 80:17 81:13 88:14 wide 87:21 90:3 wider 94:16 widespread 11:17 Wildlands 2:12 7:20 86:1 willingly 68:11 Winnipeg 1:6,21</p>	<p>2:20 3:3,5 5:8 7:25 8:2,4,7,10 10:9 11:16 12:13 12:18,22 13:4,11 13:25 14:7,13 15:2,3,6,17 16:21 17:15,18,19 19:9 24:19 25:23 26:3 34:2,20,22 35:3 36:9,10,14 37:6 37:22,25 38:3 40:9 42:23 43:22 48:2 50:9,11,13 57:5,15 58:5,19 58:22,23 59:4 60:2 64:10 66:1 66:19 70:10,13,19 70:24 71:4,21 75:13 81:11 86:14 87:2,4,12 89:8 90:9,13,16,20 91:3,11,16 95:14 95:15,18,25 96:10 96:12,15,16 98:11 98:14 100:15 101:3 102:24 105:20 107:21,22 108:3 winter 15:7 wish 19:21 97:14 103:15 wishes 11:10 withdraw 69:14 witness 73:10 101:23 witnesses 20:11 woman 109:15 women 109:13,16 wonder 46:3 wondering 76:6 77:20 79:22 word 55:14 58:7 61:21 62:6 words 14:12 15:11 61:15 work 5:21 29:14,14 29:15 47:21 72:1 72:15 74:10 96:25 97:12 101:8,17 workable 86:7 worked 16:8 working 25:20 works 10:1 15:23 70:6 world 62:10 63:12 68:9 worry 27:18 wouldn't 34:7 41:1 41:6 42:25 71:22 writing 31:21 65:20</p>	<p>102:7 written 14:22 29:12 30:16,19 38:6 62:7 73:16 76:14 78:3,9 93:10 94:20 99:17,19 110:3,4 wrong 63:20 72:18 wrote 16:16 38:7 Wuskwatim 55:3</p> <hr/> <p style="text-align: center;">Y</p> <p>yeah 30:5 80:6 year 15:8 39:19,22 40:14,16,18,24 41:5,5 55:12,22 55:25 83:5,5,6 91:7 yearly 40:6 41:3,8 years 10:10 11:19 11:20 17:3 45:8 47:3,22 49:19,22 49:23 51:10 55:20 55:20 57:24 59:9 63:10,13 86:19 93:18 94:12 96:6 Yep 42:1 York 26:7,18</p> <hr/> <p style="text-align: center;">Z</p> <p>Zebra 58:21 74:6 Zubrycki 3:8 7:8,9 73:24,24</p> <hr/> <p style="text-align: center;">\$</p> <p>\$500,000 18:17 25:13,13</p> <hr/> <p style="text-align: center;">1</p> <p>1 76:12,13,16,21 78:3 1st 12:3 42:5,18 1:00 5:2 10 76:18 12 70:5 148 90:23 150 63:10 1871 42:15 76:13,22 1875 42:15 49:8 1900 90:10 1930 77:10,19 1960s 93:23 1969 50:21 1970 13:3 50:22,24 1972 11:6 1976 11:7 13:5 35:2 42:5,18 43:18 47:17 48:4 50:15 55:23 1998 95:16</p>	<hr/> <p style="text-align: center;">2</p> <p>2 13:3 76:17 2-Mile 48:6 2:45 73:6 2008 55:4,4 2010 38:7,9,10,12 2011 12:3 14:2 16:13,16 38:7 78:3 110:3,4 2012 55:5 2013 55:5 2014 1:22 5:1 63:25 97:23 98:1 2026 55:25 56:2 59:4 225 90:24 29 1:22 5:1</p> <hr/> <p style="text-align: center;">3</p> <p>3 13:5 47:8 76:17 3:00 73:7 3:45 110:22 30 35:22 31 97:23 98:1 101:12 103:20 104:2 31st 100:19 35 19:7 34:9,14 38:22 39:8 42:8 42:16 43:9,16,25 44:5,8,20,24 45:10,20 46:23 79:13</p> <hr/> <p style="text-align: center;">4</p> <p>4 76:17 40 10:10 17:3 49:18 86:19 94:12</p> <hr/> <p style="text-align: center;">5</p> <p>5 4:2 61:11,22 63:1 76:17 108:16 5th 12:3 63:24 65:16 50 55:20,20,22 71:16 50-year 41:6 500,000 25:2,4 30:16 52 24:17,22 25:18</p> <hr/> <p style="text-align: center;">6</p> <p>6 49:2 76:17 60-day 35:23</p> <hr/> <p style="text-align: center;">7</p> <p>711 81:22 716 81:22 75 91:12,17</p>
---	--	--	--	---

<hr/> <p style="text-align: center;">8</p> <hr/> <p>80 70:7,8 87 70:4</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>90 70:7 90s 93:24 99 100:6,8 103:6</p>				
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