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THE CHAIRMAN: Good morning. We'll reconvene. We'll pick up where we left off yesterday, part way through Ms. Larcombe's presentation.

MS. LARCOMBE: Good morning panel members, ladies and gentlemen.

We left off when I was on, I believe slide number 11, which somebody has very carefully figured that out for me. And hopefully today I can actually read and see the slides at the same time.

MR. MADDEN: Pull the microphone closer to you, please.

MS. LARCOMBE: All right.

So the next few slides, I'm just going to quickly review some of the profile information about the interviewees that participated in the TLUKS study.

Again, the figures that are on the slides and the figures that I'm going to be referring to today, except for the maps, are based on 30 interviews. As I explained yesterday, there were an additional five interviews that for
various reasons didn't make it into the slide deck.

So of the 30 individuals that were interviewed, there were predominantly men, 27 men and three women. The age groups are illustrated on the slide here, number 12. The majority of the interviewees were aged 40 and older, although we did have opportunity to interview a couple of individuals that were younger than 20, which is it's kind of special, because you don't often get to interview people that young.

Twenty-one of the 30 interviewees live within the Keeyask study area as we have defined it, and the remaining interviewees were living at the Interlake, the southwest of Winnipeg MMF regions at the time. Three of the ones that were no longer living in the study area had lived there at some point in their life.

It's indicated on this slide here, number 13, 43 percent of the interviewees were born in the MMF Thompson region, 17 had been born in the Interlake region, 10 percent in the northwest region, and 10 percent from the Winnipeg region.

For interviewees, one of the questions
that we asked during the interviews is where the interviewees' parents were from. And it's indicated on this slide, just less than half of the interviewees' parents were born -- the majority of the interviewees' parents came from the northwest of the -- the northwest MMF region. 15 percent of their parents were from the Thompson region, 12 percent from the Interlake, and then smaller proportions from the remaining MMF regions.

This next slide, number 14, just is some high level demographic information about the interviewees. They came from household size of two and a half, ranged from one to eight. A quarter of them, just less than a quarter of them had grade nine or less education. About half of them had between grade 10 and a high school equivalency, and just under a quarter of them hold a diploma or certificate.

Fifty-seven percent of the interviews were employed full time, 10 percent part time, but year-round, 14 percent full time or part time on a seasonal basis, and 20 percent were retired.

When asked about their personal income from all sources, 20 percent of the interviewees
had personal income of less than $20,000 per year,  
50 percent had income between 20 and 60,000, and  
just slightly less than a quarter had personal  
income of greater than 60,000.

They were then asked a second question  
which was their family income, including all  
people living in the home who drew income.  
7 percent of the families had incomes of less than  
20,000 a year, 27 percent had incomes between 20  
and 60,000 and just over half of them had family  
incomes of greater than 60,000.

I'm on slide 15. One of the questions  
that we asked during the TLUKS interviews is what  
type of equipment the interviewee personally owns.  
This gives an idea of what kind of equipment they  
might be using when they are engaged in  
traditional use activities.

As shown on this slide, 80 percent of  
the interviewees own a truck. Almost as many have  
a skidoo, as well a boat. Forty-seven percent own  
an all-terrain vehicle, and 37 percent own a  
canoe. Just less than half of the interviewees  
own four or more of the types of equipment on that  
list. Just less than a quarter own three of these  
types of equipment. And 30 percent own less than
three of those pieces of equipment, with the truck and skidoo and boat being the most commonly noted pieces of equipment.

In terms of traditional food consumption, the interviewees are asked in the previous 12 months of the interview to tell us how often they consume a meal of traditional foods. Seventeen percent of the interviewees reported consuming country food four or more times a week. 30 percent reported they consume traditional food two to three times a week. Twenty-seven percent reported they consume about once a week, and the remainder, just about a quarter, indicated they consume it less than once a week.

Slide number 16 here provides a perspective on what proportion of the interviewees participate in various types of traditional activities. Food fishing was identified by the greatest proportion of the interviewees. Eighty-seven percent indicated they engage in fishing. Sixty-three percent reported that they participate in moose harvesting.

Forty-seven percent report involvement in waterfowl harvesting and trapping activities.

Forty-three percent reported involvement in
gathering of plants such as berries. A third of the interviewees reported harvesting upland birds,
grouse and ptarmigan. Less than one-third of the interviewees reported harvesting caribou. And
finally, 27 percent reported harvesting plants of various types for medicinal purposes.
Forty percent of the interviewees participate in five or more of these activities.
Seventeen percent participate in three to four of the activities. And 43 participate in less than three of these activities.

Slide number 17 is an indication of the frequency that the interviewees make a trip from home onto the land to engage in a traditional activity, and how many days in a year they spend in total.

So I'm only reporting on the data for the decade from 2000 to 2010, because a portion of the interviewees who were interviewed for the Bipole, obviously I hadn't reinterviewed them in 2013, so that's why I'm reporting on this decade.

So the average number of trips made in a year by the interviewees was 38, and the average number of days on the land was 59. What's showing there is the median number of trips is 21 and the
median days is 50.

In terms of trips, the range was from one trip a year to 134 trips a year. And for days, it ranged from six days in a year as high as 208 days in a year.

Collectively, the interviewees spent approximately 1,350 days annually engaged in traditional activities, excluding trapping, in the study area.

We asked the interviewees who they learn, who they have learned from to go to a particular place to do a particular activity. Half of the locations that were identified during the interviews, the interviewees indicated that they had learned about that place from a family member. Thirty-two percent said they had learned from a friend or others. And 17 percent discovered the place on their own.

Generally, the interviewees begin their learning the skill-sets and knowledge of traditional activity in the company of their parents and grandparents, aunts, uncles, siblings and cousins. And as they progress in their life and marry and have their own children, they spend more time with their immediate family, including
their partner or spouse's family. And as you -- as I interview individuals who are older, they will then say they are now taking their grandchildren or their great grandchildren out on the land.

So for the next few slides I'm going to be walking through a series of maps that present the geographic information that came from the interviews. And once again, the maps I'm about to show you include the full set of information from 35 interviews, not the 30 that the non-spatial data, on the slides.

I caution that these maps represent the findings of a very small sampling of Manitoba Metis harvesters and they should not be viewed as a complete picture of traditional use in the Keeyask study area. They do not -- I wouldn't want anyone to sort of feel that, you know, we captured it all. I don't have that confident level.

So this slide is showing the locations that were identified for moose harvesting throughout the period from 1900 to 2013. And the areas that are in various shades of pink or purple, depending, I think it's purple if you're
looking at that on the wall slide. So you can see that areas that were identified for moose harvesting include downstream of Stephens Lake along the Nelson River. There's some areas along the south of Ilford, the highway from Thompson up toward Split Lake, an area near Limestone Lake, various inland lakes south of Ilford. And the biggest block of colour is largely south of Split Lake and down through the Thicket Portage, Pikwitonei area. Two-thirds of the areas that are shown on this map were areas that the interviewees had identified that they had been using it for harvesting purposes for 30 years or more. And 25 percent of the interviewees had used their areas for five decades or longer.

In the decade of the 2000s, the interviewees made an average of 10 trips per year to go moose hunting, and they spent an average of 28 days each engaged in that activity.

This next slide is showing caribou harvesting areas for the period from 1990 to 2013. As I said earlier, 30 percent of the interviewees identified caribou harvesting in this area. Some of these interviewees have been going and harvesting caribou in these areas for three
decades or more. On average they make two trips a year and spend between nine and 16 days a year engaged in caribou harvesting in these areas.

The interviewees also engage in waterfowl harvesting, which you can see on this map is that, based on the people we spoke with, the concentration of waterfowl harvesting is south of the Split Lake area and south and east of Thompson. Interviewees make six to eight trips a year and spend 10 to 12 days per year harvesting waterfowl.

This is the map for upland bird harvest areas, grouse and ptarmigan. It looks quite similar to the map I just showed you for waterfowl, with the exception that highway 280 is used as an access corridor for harvesting upland birds, as well as the highway from Thompson towards Nelson House.

The interviewees made an average between 19 and 20 trips a year to engage in upland bird harvesting and spend approximately two weeks a year doing that activity.

This map number, slide number 23 is the locations that were identified where food fishing occurs. As I said earlier, 86 percent of
the interviewees said they engage in food fishing.

Species that they harvest in order of most frequently identified are pickerel, jack fish, whitefish, trout, sucker, perch and sturgeon.

Fish are harvested by net in the lake south of Thompson and along the Nelson River south of the Kelsey Hydro Station, and by angling method primarily along the Burntwood River and then some of the inland lakes shown on map.

Harvesting of fish occurs in all seasons of the year. Fifty percent of the interviewees had been harvesting in the areas for three decades or more. On average, they make 26 to 30 trips a year to fish, and they spend about an average of 40 days a year engaged in fishing.

During the course of my doing the interviews, I'd like to point out that a number of the interviewees indicated that they don't like to fish in the Burntwood River, Split Lake or Stephens Lake, and they had concerns about mercury and water quality, and that was the reason they preferred not to go there.

Access to fishing on the Burntwood, Moak Lake, Assean Lake is either they go by road and fish from shore, or they will go by boat from
Thompson. Access to fishing within Stephens Lake is by boat from Gillam.

This slide number 24 is showing locations identified where plant gathering occurs. Forty-three percent of the interviewees indicated they engage in plant harvesting activity. These are plants that are used for food and/or medicine. A number of interviewees identified harvesting fuel wood for home heating. Berries are the most sought after food species. They include raspberries, strawberries, moss berries, cranberries and blueberries. Plants are harvested both for nutritional purposes and also for medicinal purposes. Some of those include mint, water parsnip, tamarack, mushrooms, wheatgrass, Labrador tea.

Plants are harvested -- while interviewees are engaged in other activities such as harvesting moose or upland birds, but they also will make specific trips to go plant gathering. And plant gathering is the one activity that the interviewees who are old enough identified as a very special thing that they did with their children and grandchildren.

With respect to trapping, half of the
interviewees I spoke with had trapped in the study area at some point in their lifetime. I'm not showing a map of where they trap. For northerners, as soon as you put something on the map, it's too identifying to know -- people know who has which trapline, so that's why I'm not showing a map. However, I will say that the trapping has in the past occurred primarily south of Thompson and southwest of Ilford. The species that have been trapped and continue to be trapped are the aquatic fur bearers, muskrat, beaver, mink and otter, and upland fur bearer species, rabbit, fox, lynx, marten, fisher, weasel, wolverine, coyote and wolf.

This map now that's on slide number 26, the top map is showing the traditional use locations that were identified between the 1940s and the 1980s. And the map at the bottom right is comparing for the 1990s to 2000 period. The one on the latter period looks more colourful, and that's because fewer of the interviewees were old enough to contribute to the map on the top. So what I'm trying to say is some of our interviewees were old enough to have actually been engaged in traditional activities in that earlier period, and
some had only just begun in the '90s. But there
is a consistency in terms of where people are
going on the land there.

So based on the limited research
undertaken, this study has documented no
contemporary traditional use by the Manitoba Metis
specifically within the Keeyask footprint. And
when I say the footprint, I mean where the actual
Keeyask Generating Station is proposed to be built
and the area of the river that is proposed to be a
reservoir.

However, there is evidence of Manitoba
Metis traditional use throughout the regional
study that was identified in the EIS, and also
within the geographic areas where the adverse
effects agreements are proposed to be implemented.

The limited research today generally
indicates that Manitoba Metis participate in
traditional use along the Burntwood River to Split
Lake, along highway 280 from Thompson east toward
Stephens Lake. There is some indicated fishing
within Stephens Lake. Traditional use primarily
is south and east of Gillam and south of the Split
Lake Road, and based on the interviewees that we
spoke to, the most extensive use is south of
Thompson.

I'm just going to briefly talk about some of the constraints or disturbances to traditional land use within the study area that we used.

I know President Chartrand spoke directly to the issue of Metis rights in the 2012 Manitoba agreement recognized rights, and what was affectionately referred to as the pink area on the map. So I just want to reiterate that Manitoba Metis have asserted rights within the Keeyask study area. The 2012 arrangement with the Manitoba Government is a legal recognition of rights in a portion of the province. It's not a done deal. There's future discussions on the horizon, and so it's not that Metis don't have rights in the Keeyask area, they have asserted rights, they just haven't been recognized through the 2012 agreement.

In reading the environmental assessment, and just about every map that's put before this panel, there is a lot of First Nation land in the Keeyask area. There's an unwritten protocol amongst the Metis, and that is that they don't engage in traditional use on reserve lands.
unless they have specific permission to do so.

But generally, Metis people will avoid harvesting on reserve land.

Also through this Clean Environment Commission process and Environmental Impact Statement, there's been talk about the Keeyask Cree Nation resource management areas. My understanding is that the concept of the resource management areas evolved out of the Northern Flood Agreement in the late '70s, and has been carried forward in subsequent agreements for four of the original five NFA bands or First Nations, and has also carried through with subsequent agreements, for example, with Fox Lake Cree Nation in 2004.

The majority of the land, with obviously the exception of First Nation land, in these resource management areas is Crown land. But based on my interviews with Manitoba Metis harvesters, at least among some of them there's a perception land and waters within the resource management areas are not available to them.

There's also been a substantial alteration of waterways and landscape changes such as flooding within the Keeyask study area as a result of hydroelectric development. This began
in the 1960s and is showing on this slide number 28. I just bulleted out the major features of hydroelectric development that have had, or caused changes in our Keeyask study area, or will, or are planned.

So this slide number 29 is showing again the purple-ish colours as the Manitoba Metis personal use that was identified in the TLUKS, overlain with a number of the existing and proposed hydroelectric generating stations or water control structures. It's showing in green the route of the recently licensed Bipole III transmission line. It's also showing the Bipole I and Bipole II lines. It's not showing all of the converter stations or the smaller transmission lines, otherwise the map would be just too busy and it wouldn't illustrate anything.

I put this slide together just to show that there's a lot has gone on and there's a lot going on, and there's more to come, if approved, in the Keeyask study area where the Manitoba Metis do engage in traditional use activities.

The previous panel for the Bipole III project, I believe also noted there was a lot going on and actually made the recommendation,
panel recommendation 3.2 in their report said:

"Manitoba Hydro, in cooperation with the Manitoba Government, conduct a regional cumulative effects assessment for all of Manitoba Hydro projects and associated infrastructure in the Nelson River sub watershed and that this be undertaken prior to the licensing of any additional projects."

So some concluding comments. The traditional use information presented, beginning yesterday by myself again this morning, is a step towards addressing some of the gaps in the Environmental Impact Statement and to meeting the guidelines. It's based on a very small number of interviews. However, that limited research done today does show Manitoba Metis current use of lands and resources in this Keeyask study area. It also shows some traditional use in the proponent's local and regional study areas that they have identified in the EIS.

I'm not confident that this small sample can be considered an adequate representation of Manitoba Metis traditional use, and I believe further work needs to be done to
feel confident that we have captured it all. The EIS guidelines require an assessment of effects and assessment of significance of any residual effects. Similar to the process with the Keeyask Cree Nations, this assessment needs to be done in consultation with the MMF, on behalf of and with Metis harvesters. An understanding of how this project alone or cumulatively may affect the Manitoba Metis community in general, and specifically effects on traditional use, social, economic and cultural well-being is necessary to meet the guidelines. And so there does remain work to be completed. Several presenters before me, including President Chartrand, have made the statement and the truth that Manitoba Metis are a distinct Aboriginal group. We have now demonstrated there is traditional use in the area of influence of the proposed Keeyask generation project.

Mitigation measures of general application to individuals may not suffice in addressing all of the effects on Manitoba harvesters or the Metis collective interests. A process is needed to fully assess
project effects. First, in my opinion, a more
fulsome understanding of the current use of land
and resources by Manitoba Metis is necessary and
needed. And secondly, I would recommend that the
Manitoba Metis Federation and the proponent need
to jointly assess what those potential impacts
are, identify the utility of the mitigations that
have been proposed to date, and identify any
additional mitigation measures as necessary,
assess if there's any residual effects. And then
finally, if there is a determination of residual
effects and they are significant, that the two
parties will have to work out how they are going
to deal with that.

If effects are identified, the MMF and
the proponent also need to work jointly on the
design of environmental, socio-economic and
traditional use management plans and monitoring
plans that would be relevant to both the
construction and the operational phases of the
project if it's approved. These plans should
address both short-term and ongoing arrangements,
the protocols and the roles with respect to the
MMF and the proponent.

It's very late in the environmental
review day, and I'm not sure that the type of work I have just outlined could be done in a matter of weeks. So my recommendations to say the panel are that you acknowledge the necessity and importance that further work needs to be done, and you do this by allowing time for this to be done before you complete your report to the Minister.

And in the alternate, if you decide to proceed with your report and you recommend that the project be approved, that you do the two things, one of two things. You include the recommendations that I have made as a licensing condition, if you recommend to the Minister the project proceed, and you stipulate that the licence for the project not be issued by the Minister until arrangements or agreements between the MMF and the proponent have been reached on these issues.

Thank you very much.

THE CHAIRMAN: Thank you,

Ms. Larcombe.

Mr. Madden, do you have any further examination? Thank you.

Proponent, Mr. Regehr, Mr. Bedford?

MR. REGEHR: Yes, I have some
1 questions for Ms. Larcombe.
2 Thank you, Ms. Larcombe, for joining
3 us and thanks for your presentation. The first
4 thing I would like to do is turn to slide four of
5 your presentation.

6 Now, are you aware that Manitoba Hydro
7 and the MMF entered into a funding agreement on
8 June 21st, 2013, so that the MMF could conduct a
9 single report that would consolidate a traditional
10 land use and knowledge study, a Metis
11 socio-economic impact assessment, as well as a
12 historical narrative documenting historic and
13 contemporary Metis use, and presence in Northern
14 Manitoba, generally, and the Keeyask local and
15 regional resource use study areas specifically?
16 
17 MS. LARCOMBE: I have a general
18 awareness that there was an arrangement reached
19 between those two parties.
20 MR. REGEHR: And your firm and you
21 specifically were contracted to conduct the
22 traditional land use and knowledge study; is that
23 correct?
24 MS. LARCOMBE: That's correct.
25 MR. REGEHR: You weren't contracted to
26 do the socio-economics assessment, were you?
MS. LARCOMBE: I think at one time I was asked to do that work, and we had a very short period of time to actually get going on this. And my recollection is that, due to workload and family issues, the MMF brought in, or tried to get someone else involved in doing it, but also ran out of time.

MR. REGEHR: So you're not doing a socio-economic assessment study?

MS. LARCOMBE: I initially got involved and started looking what the baseline information may or may not be available, but I didn't get any further than that.

MR. REGEHR: So you can't tell me, yes or no, whether you are doing the socio-economic assessment study or a portion of this study?

MR. MADDEN: Mr. Chair, Ms. Larcombe's presentation is on the TLUKS. She's not presenting on the socio-economic and she's not speaking to the agreement that is between the Manitoba Metis Federation and the proponent. And so she's not presenting on that.

And as you are aware, we asked for an extension so the socio-economic study could, something could be tabled. That was refused, and
it's not before the panel.

And so Ms. Larcombe can speak to her presentation today, but the machinations of the contract between MMF and the Partnership and how that will ultimately be delivered is not her wheelhouse, and she doesn't have knowledge of how that's going to be done.

THE CHAIRMAN: Where are you going with this, Mr. Regehr? I am inclined to agree with Mr. Madden.

MR. REGEHR: I would like to know the nature of her retainer for the work that she did. She has done some work which would seem to indicate some sort of socio-economic baseline, and then they have done a study area which is much larger than the resource use regional study area. So I'm trying to get an understanding of what exactly it was that she was contracted to do?

THE CHAIRMAN: I think Mr. Madden is correct. What's covered in her presentation yesterday afternoon and this morning is what should be subject to the examination today. Insofar as there's anything in this presentation on socio-economic, you may pursue that.

MR. REGEHR: So you have stated that...
you are aware of the June 21st, 2013 agreement.
That means you haven't seen it?

MS. LARCOMBE: I don't think I have seen it in recent days for sure, and it wasn't part of my -- I was tasked to do the traditional land use and knowledge study, and that's what I presented on today, and that's what I'm prepared to answer today.

MR. REGEHR: Thank you.

So are you aware that clause 2.6 of the agreement requires the MMF to provide Hydro with an opportunity to review the deliverables of that agreement before they are finalized?

MS. LARCOMBE: I think that's a question you should ask a representative of Manitoba Metis Federation. I am an independent consultant tasked with something, my arrangement is between the MMF and my firm.

MR. REGEHR: So then you wouldn't have been aware that before a party uses the deliverables from that contract in any regulatory process, including this process, that they should have given the other party seven days notice, and that no party should have filed draft deliverables within the regulatory process. You wouldn't have
been aware of that?

MS. LARCOMBE: It's not my job to monitor and read arrangements between my client and the proponent, or Manitoba Hydro in this case.

MR. REGEHR: The work that you did on the traditional land use, that was funded by this June 21st, 2013 agreement?

MS. LARCOMBE: For me it was funded by the Manitoba Metis Federation.

MR. REGEHR: President Chartrand testified two days ago, and he testified that the study contemplated by the June 21st agreement was completed. Do you know anything about that? Is the study completed?

MS. LARCOMBE: I don't know which study he was referring to.

MR. REGEHR: The study contemplated by the June 21st, 2013 agreement we have just been talking about?

MS. LARCOMBE: The only thing I can speak to is that I was hired to do the TLUKS. I have -- the interviews are finished. You have -- not a report but a presentation, and that there will be a report prepared by me for the MMF to provide to Manitoba Hydro.
MR. REGEHR: Now, in doing your research, was a database of members for the Thompson region made available to you?

MS. LARCOMBE: What do you mean a database?

MR. REGEHR: Well, the MMF keeps a database of their members, don't they?

MS. LARCOMBE: I believe they do.

MR. REGEHR: Was that database made available to you in terms of where people were located?

MS. LARCOMBE: No, I don't believe the actual names were provided to me. I was -- in terms of how individuals were identified for interviews was done by the Manitoba Metis Federation and the regional office.

MR. REGEHR: Sorry, could you repeat that answer?

MS. LARCOMBE: The process of identifying individuals to be interviewed for the TLUKS was done by the Manitoba Metis Federation in cooperation with the Thompson regional office.

MR. REGEHR: Now, you mention on slide 4 that 21 of the 30 individuals currently reside in Thompson, Gillam, Ilford, the KCN reserves and...
the Bayline communities. How many of those 21
reside in Thompson?

MS. LARCOMBE: I believe that's
confidential information.

MR. REGEHR: And how is it
confidential?

MS. LARCOMBE: Because it's such a
small number of individuals, I'm not comfortable
giving residents information about the
interviewees.

MR. REGEHR: I'm not asking for you to
give me names or street addresses, I'm just asking
how many live within the City of Thompson limits.

MR. MADDEN: Mr. Chair, we are not --
Ms. Larcombe can't provide information that the
MMF is unwilling to provide. The sampling is so
small, and in particular, as you saw from the
individuals who testified where the MMF has
concerns about that. What we can say is that
there's individuals from those locations, but the
exact numbers from each location, the MMF isn't
willing to provide and has instructed Ms. Larcombe
not to provide it because it's such a small
sampling. And the north, to a certain extent, is
a very small place.
THE CHAIRMAN: Mr. Regehr, on that point?

MR. REGEHR: Ms. Larcombe has been sworn in here as an expert. She has provided evidence. A lot of it has very general information. We're supposed to be allowed to cross-examine on that information, to delve down into these numbers to try and figure out what this means. And if they are refusing to provide this information, it's going to make our ability to cross-examine this witness very, very difficult.

THE CHAIRMAN: I would tend to agree with Mr. Regehr, Mr. Madden. I fail to see how it violates any rules of confidentiality to release the number of people who live in Thompson who were examined for this study. Ms. Larcombe has already said that we have to take with caution the overall report because the study set is so small. I mean, it speaks to the credibility of the -- or the validity, pardon me, of the presentation. I just can't see how withholding the number of people in one community is a problem.

MS. LARCOMBE: Could I speak?

MR. MADDEN: I think Ms. Larcombe wants to speak to that.
MS. LARCOMBE: My concern is if I answer the first question, how many live in Thompson, the next question is going to be, how many live in Gillam and how many live in Ilford? And then we are going to get into concerns about confidentiality.

MR. REGEHR: Mr. Chair.

THE CHAIRMAN: Mr. Regehr?

MR. REGEHR: Ms. Larcombe is correct, I will be asking those questions in terms of how many of these 21 people reside in each of these communities. It goes to credibility, it goes to the credibility of the report.

THE CHAIRMAN: I am of the opinion that these questions are legitimate and should be answered.

MR. MADDEN: Well, I guess one of our challenges are, as you -- I just want to go back to -- the KCN's have a theory that there is no Metis community here. And one of the challenges, as I think you have seen on the panel yesterday, is that there is a dominant group and a reluctance sometimes, almost of Metis, especially the one who live in the KCN communities or in Gillam, where the population is less than a hundred people, to
identify and participate in these studies. And if those numbers are going to now be disclosed, what the fear is, is that, one, people won't participate in those studies in the future; and two, this is an exercise, not in credibility, because I think Ms. Larcombe's testimony is, look, I interviewed people who live in those areas and this is what their aggregated use is. It is not -- a TLUKS study is not about we're taking names and numbers to go suss out where these people are. And it goes to weight and it goes to credibility.

If the panel -- Ms. Larcombe gets to make the decision of whether she wants to disclose it -- if the panel feels that it is incredible because she didn't disclose the exact locations of where those people are, then I guess that that goes to weight of what the panel puts on the study.

But the point being is, Ms. Larcombe is testifying to, she interviewed people, 21 of them that are from those locations. And the argument, or what the MMF puts forward is, this is not a site specific community, this is a regional community that uses a general area, and the study
shows where those general areas are.

So those would be our submissions.

And at the end of the day, Ms. Larcombe as an expert needs to decide whether she wants to provide those answers.

THE CHAIRMAN: Mr. Regehr, on that point, anything to add?

MR. REGEHR: Actually, I don't even know how to respond to it. If a participant puts evidence in front of the Commission, we are entitled to cross-examine on it. There is all sorts of general numbers throughout this presentation, I am entitled to cross-examination on it, I am entitled to an answer on it.

THE CHAIRMAN: I agree with Mr. Regehr. I would ask again that Ms. Larcombe answer the questions that are put to her. If she does not, then it will certainly bear some weight, or bear some influence on the weight that the panel gives to this report.

MS. LARCOMBE: Mr. Chairman, before I can answer that question, I need legal counsel advice, because I do not want to be in breach of confidentiality arrangements that I have signed.

THE CHAIRMAN: Okay. We can do that
one of two ways, we can recess right now or we can
move on and come back to this point later on.

MR. MADDEN: We'll recess right now.

THE CHAIRMAN: Okay. Let's recess
right now for five or 10 minutes.

(Proceedings recessed at 10:16 a.m.)

THE CHAIRMAN: Okay, are we ready to
reconvene? Okay. Can we end the conversations,
please? Mr. Madden or Ms. Larcombe?

MR. MADDEN: Ms. Larcombe will provide
her answer to the breakdowns.

MS. LARCOMBE: So I'm going to provide
an answer that, in talking with legal counsel, I
feel comfortable that I will not be in breach of
confidentiality arrangements I have with
interviewees.

And I'm not trying to be difficult,
Mr. Regehr. I'm sure you can appreciate when you
sign an agreement with somebody, you don't want to
get sued, and you want to protect the integrity of
that agreement.

So I'm hoping the answer I give you
will be detailed enough that it protects me, the
interviewees and answers your question.

So I will tell you that 57 percent of
the interviews were with individuals that live in Thompson. Twenty-eight percent live in one of the Bayline communities, which would include Ilford, Pikwitonei, Thicket Portage, Wabowden. And the remaining 14 percent are from one of, or all of Gillam, Ilford and Split Lake. And that is as detailed as I am comfortable providing.

THE CHAIRMAN: Sorry, what was the number for Bayline?

MS. LARCOMBE: Twenty-eight percent.

MR. REGEHR: Can you repeat to me which, when you say the Bayline communities, which one you mean?

MS. LARCOMBE: Ilford, Pikwitonei, Thicket Portage, Wabowden.

MR. MADDEN: Sorry, Ilford, in the Bayline communities or in the Gillam?

MS. LARCOMBE: Sorry, Wabowden, Thicket Portage, Pikwitonei, Bayline.

MR. REGEHR: And then you said 57 percent are in Thompson?

MS. LARCOMBE: Thompson or outskirts.

MR. REGEHR: And what does outskirts mean, the RM of Mystery Lake?

MS. LARCOMBE: Yes, that census
MR. REGEHR: And then you said 14 percent in, sorry, can you tell me which communities again?

MS. LARCOMBE: Gillam, Ilford, Split Lake.

MR. REGEHR: Now, can you please convert those percentages into actual numbers for me? And part of my confusion is on this page, I've got 35, and I've got 30, and I've got 21, and then I've got nine. So it would be very helpful if you could give me what those numbers actually are?

MS. LARCOMBE: The numbers I am giving you are based on 21.

MR. REGEHR: So if you can just give me one minute, because I'm really not very good at math.

MS. LARCOMBE: If you're going to do the math and read it out loud, then I'll do it for you.

MR. REGEHR: That would be much appreciated.

MS. LARCOMBE: So just to clarify, the numbers that I am speaking of right now are the
interviews that were done in 2013. I do not have
the numbers in my head for the overlap for the
Bipole. So these were the 2013 interviews only.

Fourteen percent is the same as saying
three. Twenty-eight percent is the same as saying
six. And 57 percent is the same as saying 12.

MR. REGEHR: Now, on that same slide
you mentioned that nine, I guess it's nine of the
30, is that correct? Because you've got 21 and
then you've got in the bulleted, in the third
bullet, you then have two sub bullets and you've
got 21 in the first sub bullet, and nine in the
second sub bullet. And it states that those nine
do not reside in any of Thompson, Gillam, Ilford,
the KCN reserves or the Bayline communities. So
where do these nine reside?

MS. LARCOMBE: I think there was -- if
you bear with me, I think I do actually have a
slide. Apologies, that's where they were born.

I don't have my data in front of me,
but when I say elsewhere, these are individuals
that live in other regions of the province.

MR. REGEHR: Can we get more specific
rather than just regions?

MS. LARCOMBE: As I said, I didn't
bring the data, I don't have it in my head, sorry.

MR. REGEHR: Can you undertake to provide us with that information?

MS. LARCOMBE: Yes, I can.

MR. REGEHR: Thank you.

MS. LARCOMBE: In making that undertaking, I'm conditioning that to tell you what MMF region they are from. I will not, again, give specific towns.

MR. REGEHR: Mr. Chair, we have the same problem here. The MMF regions are huge. They cover, with the exception of Winnipeg which covers the City of Winnipeg, the other regions are large regions covering large portions of the Province of Manitoba. We're entitled to this information if it's being presented here.

MR. MADDEN: We can provide that in general geographies as opposed to the MMF regions, similar to the Bayline communities, just that it's not identified per local or settlement.

THE CHAIRMAN: Thank you, Mr. Madden. It's less than ideal but it seems to me that's as far as we're going to get, or as good as we're going to get.

So, Mr. Regehr, my understanding is
they will provide numbers for the nine remaining
in the same groupings that we have just heard,
Thompson, Bayline, and remaining, remaining being
Gillam, Ilford, Split I think.

MR. REGEHR: I'm sorry, my
understanding is that the nine do not reside in
any of those of Thompson, Gillam, Ilford, the KCN
reserves or the Bayline. That's my understanding.

THE CHAIRMAN: You are right, I'm
sorry.

So we would expect that the breakdown
of the nine is a little more specific than just
Interlake region or Winnipeg region. In fact, the
more specific it can be, the better.

(UNDERTAKING #14: Provide breakdown of locations
for nine remaining interviewees)

MR. REGEHR: Now if we can turn to
slide number 6? My understanding is that your
work on the traditional land use and knowledge
began back in 2010; is that correct?

MS. LARCOMBE: That's correct.

MR. REGEHR: Was that specific to
Bipole III?

MS. LARCOMBE: Initially it was in
response to the MMF's knowledge that there were
going to be a number of large scale projects that
were going to be undergoing environmental review
in the Province.

MR. REGEHR: And my understanding,
because in the previous slide you mentioned where
we can look for methodology, and I looked at your
Bipole III report on methodology. My
understanding is that you have been involved
pretty much since the beginning in designing this
system; is that correct?

MS. LARCOMBE: The design of it, yes,
correct.

MR. REGEHR: Now, how many contracts
with the MMF have you done using this system?

MR. MADDEN: Mr. Chair, I don't know
how that's relevant to Ms. Larcombe's presentation
on TLUKS for this project.

THE CHAIRMAN: Mr. Regehr?

MR. REGEHR: I'm trying to appreciate
her involvement. She's made statements in the
Bipole hearings and she's brought up slides on
methodology here. I'm trying to understand her
role in the methodology for this system.

MR. MADDEN: That's different. I
think the question should be posed to the system.
What the Partnership continues to ask about is the contracts and the machinations of the arrangements that the MMF may have in place with its contractors. I think the methodology, absolutely fair game. And in fact, a document was provided that we still don't know whether it's been accepted by the CEC, on explaining the methodology that was used for this study. But the various different contracts and trying to elicit that type of information, I don't know how that's relevant.

THE CHAIRMAN: Well, I think there is some relevance to it. If not at least the fact that some of the work for this report that was presented to us today was actually conducted earlier in 2009, 2010, or whenever, for Bipole. So there is sort of a mishmash of information and studies that's all put together into this one. So I think that some of that past history is relevant.

MR. MADDEN: I wholeheartedly agree, and that goes to methodology but the varying contracts -- I guess I think what's good for the goose is good for the gander. I, at various points in time before the CEC in the past, have attempted to elicit, well, how much is that
contract, or what type of contracts were in place between the Partnership and Hobbs & Associates, or Manitoba Hydro and various other entities. And I don't think that's appropriate. If it's on methodology, and did other studies contribute to the methodology, I think that's fair. I object to what contracts and details in that manner.

THE CHAIRMAN: I would agree with you that the specifics of contracts are not relevant. And if that's where Mr. Regehr goes, we won't allow it. But if he's asking more general questions about the methodology and how this report was put together, that is valid.

MR. REGEHR: Mr. Chair, I'll ask my question a different way.

THE CHAIRMAN: Thank you.

MR. REGEHR: You filed a Curriculum Vitae with the Commission; is that correct?

MS. LARCOMBE: I believe the MMF filed it on my behalf.

MR. REGEHR: And on that CV you indicate that you did the Berens River Road traditional land use and impact study; is that correct?

MS. LARCOMBE: That's correct.
MR. REGEHR: You also indicate that you did the Bipole III traditional land use study for the MMF?

MS. LARCOMBE: That's correct.

MR. REGEHR: Did you use this TLUKS system in doing those studies?

MS. LARCOMBE: Yes, I did.

MR. REGEHR: Now, who started the initial work of locating the Metis harvesters for this study?

MS. LARCOMBE: Which study are you referring to?

MR. REGEHR: This Keeyask study, the powerpoint, the information you are providing in the powerpoint.

MS. LARCOMBE: It started with identifying individuals who had responded to the screening survey, which predated, was the sort of phase one of the TLUKS, identifying people that had drawn on maps and indicated that they had some use in the northeast quadrant of the province. And from that list I believe the MMF office here in Winnipeg made contact with the Thompson region office, and through their combined efforts attempted to put a list of potential candidates
together, and then outreached to potential candidates. Certainly, whatever list they had was I'm sure larger than the number of people that we interviewed, simply because not everybody is agreeable. And as I had said earlier, you can't compel somebody to participate in an interview.

MR. REGEHR: And so this screening survey, that is what is known as phase one on your slide number 6?

MS. LARCOMBE: That's correct.

MR. REGEHR: And so that activity took place between October 1st and November 16th, 2010?

MS. LARCOMBE: That's correct, that's what the slide says.

MR. REGEHR: So the work in finding the Metis people who harvest in the project area, and I am talking about Keeyask now, and who use the land for traditional purpose, that's been ongoing since 2010?

MS. LARCOMBE: The screening survey was, I wouldn't say it was project specific, it was Manitoba Metis Federation's sort of first province-wide outreach to understanding patterns of traditional use throughout the province. The screening package, I'm going by memory here,
identified that there would be a number of large
scale projects that were going through regulatory
review and that they were -- one of the questions
on the screening survey was asking respondents if
they would be interested in participating in a
more interview -- more detailed interview down the
road.

MR. REGEHR: Did you design that
screening survey?

MS. LARCOMBE: I was a major player in
it, yes.

MR. REGEHR: Now, for the Bipole III
hearings, you filed a report called Manitoba Metis
Traditional Land Use and the Bipole II Project; is
that correct?

MS. LARCOMBE: There were two reports,
which date are you referring to?

MR. REGEHR: November 4th, 2012, it's
the one you refer to, I believe, on slide five of
your presentation today. That's the one where you
suggest people look to determine the methodology,
on slide number five?

MS. LARCOMBE: The November 4th report
that you are referring to was the report that was
filed with the Clean Environment Commission. My
recolletion, there was a more detailed report that was provided by the MMF directly to Manitoba Hydro prior to that time.

MR. REGEHR: In that report you interviewed 49 people for that study?

MS. LARCOMBE: I believe that's correct. I don't have the report in front of me.

MR. REGEHR: But you were only able to interview six people from the Thompson region of the MMF; is that correct? Do you remember that?

MS. LARCOMBE: I'm going to take you at your word, I don't have the report in front of me. It sounds about right.

MR. REGEHR: So I guess at the time you were having a difficult time finding Metis harvesters in that region?

MS. LARCOMBE: I don't think that's a fair characterization.

The Bipole III study area was massive. We all affectionately referred to it as the big yellow banana. We were trying to identify candidates for interviews in various locations within that project area. And so I wouldn't say it would be fair to characterize it as, that's all that could be found to do interviews. We were
working under timelines and budgets and that was
at -- the Thompson area was the last place that
was frequented to do interviews.

MR. REGEHR: But you just testified
that phase one of the screening survey occurred in
October/November 2010, and your report was
submitted in November 2012. So after two years,
you were only able to locate six Metis harvesters
in the Thompson region?

MS. LARCOMBE: Again, I disagree with
your characterization.

MR. REGEHR: I'm not characterizing
it, I am asking, are these timelines -- these are
the timelines?

MS. LARCOMBE: Well, there's two
questions, Mr. Regehr. I agree in what you have
asked me about the timelines, that the screening
survey was in 2010, and that the Bipole III
interviews were, I believe, concluded early 2012,
I can't remember the date off the top of my head.
I disagree with your statement that we
could only find six people in the Thompson region.

MR. REGEHR: Now, going back to the
slide number 6, to me it looks like there's blue
and then at the bottom there's gray. My
understanding is the monitor sometimes has different colours, so the bottom three, are those gray on your monitor as well?

MS. LARCOMBE: They are brown, but I know what you're talking about.

MR. REGEHR: Okay. So I'm referring to the bottom of phase two, the detailed Keeyask project interviews. Who conducted those interviews?

MS. LARCOMBE: I conducted all but three of the ones that were done between August and November of this year.

MR. REGEHR: And who conducted the other three?

MS. LARCOMBE: They were done by Mr. Cameron Stewart of the Manitoba Metis Federation, who is the individual who does the mapping during the interview with me. And the reason I was not present in those last three interviews was due to family medical emergency.

MR. REGEHR: Now, the interviews that were done by Mr. Stewart, you have incorporated that data into your study?

MS. LARCOMBE: Yes, I have.

MR. REGEHR: Can you tell me what
Mr. Stewart's qualifications are to conduct these kind of interviews?

MS. LARCOMBE: Mr. Stewart has probably in excess of a hundred hours sitting by my side conducting these interviews. He's the person who does the mapping. So that component of doing it on his own is no different than when he does them with me. I believe, I mean, I looked at the data of those interviews afterward, I looked at the maps and I asked questions, and I felt comfortable that he had carried out those interviews in the same manner that I would.

MR. REGEHR: But Mr. Stewart is an employee of the MMF, correct?

MS. LARCOMBE: That is correct. Well, I don't know what his status there is to be honest. He does not work for my company, I can tell you that.

MR. REGEHR: At the time he did the interviews, he was an employee of the MMF?

MS. LARCOMBE: I can't speak to what his status is there.

MR. REGEHR: So yesterday, you testified that you were an independent consultant. But today, you are telling us that you relied upon
data from someone who may or may not have been an employee of MMF; is that correct?

MS. LARCOMBE: I am testifying that I relied on data for three interviews.

MR. REGEHR: Let's move on to slide number 7. So this is the study area employed in your study, correct?

MS. LARCOMBE: That's correct.

MR. REGEHR: Am I correct in assuming that the red oval or elliptical shape, whatever it is, is centred over the red dot titled Keeyask?

MS. LARCOMBE: It's pretty close to being centred, yes.

MR. REGEHR: And you created this map?

MS. LARCOMBE: I had this map created for me.

MR. REGEHR: Who created it for you?

MS. LARCOMBE: Mr. Cam Stewart.

MR. REGEHR: So you can't testify in terms of how, the mechanics of how this was created, Mr. Stewart would have to do that?

MS. LARCOMBE: I am not a computer mapping person.

MR. REGEHR: You don't have GIS and all that?
MS. LARCOMBE: No.

MR. REGEHR: Whatever that --

MS. LARCOMBE: Whatever that is.

MR. REGEHR: But this red oval, I'm going to call it an oval because I really don't know what the other shape, what it should be called, it's been expanded in a fairly uniform manner to bisect Thicket Portage and to extend into Hudson Bay. Isn't that correct?

MS. LARCOMBE: Yes, it does extend into Hudson Bay.

MR. REGEHR: Now, you had previously indicated that this red oval is, I think the word you used was our study area, I think you said that yesterday afternoon. Is that correct?

MS. LARCOMBE: That's correct.

MR. REGEHR: Were you directed to use this shape in this map?

MS. LARCOMBE: No, I was not. I am the author of our study area. And the fact that it's sort of a perfectly shaped cylinder is for convenience as opposed to following any political lines or resource management area boundary lines. It's a characterization of a study area.

MR. REGEHR: Now, from earlier today,
my understanding is that you had been retained to
do this traditional land use, and that relates to
resource harvesting, correct?

MS. LARCOMBE: What do you mean by
resource harvesting?

MR. REGEHR: Well, a lot of what you
presented is data and information that relates to
resource harvesting?

MS. LARCOMBE: I would say it relates
to the use of lands and resources for traditional
purposes.

MR. REGEHR: Now, unfortunately, I'll
have to take you back to the June 21st, 2013
agreement.

Were you aware that that agreement
stated that the studies that were to be done were
to be done of the local study and regional study
areas of the Keeyask project, as those areas are
defined by the Environmental Impact Statement?

MR. MADDEN: Mr. Chair, I think there
is a real confusion here about what is being
presented to the CEC and what final report may
ultimately be presented to Manitoba Hydro based on
a -- the CEC is not a party to that contract.
That is a relationship between the proponent and
the MMF. So this line that essentially that
contribution agreement defines what is presented
here is just not a reality. And Ms. Larcombe is
speaking to her study, and it is not the final
product, which you have already heard from her, of
what may be provided under that contract.

THE CHAIRMAN: Mr. Regehr, on this
point?

MR. REGEHR: Well, Ms. Larcombe was
retained to do a traditional land use and
knowledge study. That traditional land use and
knowledge study is part of the subject of the June
21st, 2013 agreement, which has specific terms on
what the study was supposed to do and what area it
was supposed to cover. So it is relevant to the
information that she is presenting here today.

And I am simply asking whether she was
aware of the fact that the study was to be done on
those particularly defined areas set out in the
EIS? Because this oval, as we will see, does not
match those study areas.

THE CHAIRMAN: I think that
question -- well, Mr. Madden, you seem to have
more to say?

MR. MADDEN: Well, I just think that,
just to keep those two things separate, because what is finally prepared in order to meet contractual obligations between the MMF and the Partnership is not the subject of the CEC. What is subject of the CEC is, the proponent was supposed to file an EIS. The MMF is here to say, was that met? And in addition, you have language within the EIS saying, based on this knowledge, and this is the KCNs, they have intimate knowledge about their communities and the broader study area, based on this knowledge and years of study documenting the existing socio-economic environment, the Partnership is not aware of any Metis community in the vicinity of the project, or of any potential project impact that is specific to the Metis.

And what the MMF's role in this hearing is, whether it's putting some Metis faces up there saying, yes, there's a population there, or President Chartrand testifying about what the legal rights assertions are, or Ms. Larcombe testifying about, look it, there's traditional use there, is to put evidence before this Commission that that -- that these statements aren't true, and also that there's a deficiency in the EIS.
The MMF isn't obligated to do the proponent's EIS for them.

And so all we want to make sure is that what is ultimately provided under that contract is not confused with the evidence that's being provided here from the MMF. They are not synonymous or one and the same.

THE CHAIRMAN: Mr. Madden, it strikes me, though, you just said that you are here to challenge the assertion made in the EIS that there are very few, if any, Metis people living within the study area. Now, that seems to be one of the principles, if not the principle purposes of this presentation that Ms. Larcombe has made this morning. The proponent has a right to challenge that. They are challenging your challenge and --

MR. MADDEN: I can accept that. All I'm saying is, he keeps on referring to that contract as somehow --

THE CHAIRMAN: But I think where he was going, and you know, I said earlier and I will stick to it, if he wants to get into the specifics on the nature of the business side of that contract, that is not relevant. But that contract talks about what is to be studied under the TLUKS.
Ms. Larcombe is the person who has done the TLUKS study and has presented at least an outtake from it here today.

MR. MADDEN: I think if the question is, our study areas defined by the EIS is not the same as yours, that's fine. The question -- I just do not feel comfortable with this becoming, you know, a discussion about a bilateral contract that's in place between the Manitoba Metis Federation and the Partnership. So I can accept that. But I keep on getting concerned that this becomes an exercise in trying to get details of that contract before the CEC.

THE CHAIRMAN: Well, we won't let him get details of that contract before the CEC. But I don't think he was going for details of the contract. He was pointing out some of the terms of the study embodied in that contract, and he's challenging some of those terms, I assume.

MR. MADDEN: Okay.

THE CHAIRMAN: Mr. Regehr?

MR. REGEHR: So, Ms. Larcombe, were you aware of the requirement for the TLUKS study to be done in accordance with the study areas as set out in the EIS?
MS. LARCOMBE: The work that I did, I was not provided with a contractual arrangement between Manitoba Hydro and the MMF. I was asked to do a TLUKS study for the Keeyask -- I wasn't told, you have to use this area or you use that area. I defined the Keeyask study area based on what I thought would encompass potential use by communities that I was aware that there was Metis presence in. I think that the work that I have done has not excluded any study area that the proponent has identified. So we have not disregarded any of the local or regional study area identified in the EIS. But I was -- I'll make this really clear -- I was not given the agreement between the MMF and Hydro and said, this is your contract. That did not happen.

MR. REGEHR: Thank you.

Now, up on the screen just now, and what was handed out, is a document called -- what it is, it's a map, it's a map from slide 29 of your presentation. And what we have done is superimposed the regional study area and local study area from the EIS onto your map. And yesterday you testified that you understood that the study area, as you defined, did not include
all of the regional study area. And the regional study area is the hatched area. You would agree with that?

MS. LARCOMBE: I am assuming that whoever your GIS person is has accurately put those lines on the map, on our map I note.

MR. REGEHR: And so you can see from this map that those squiggly purple lines, those are the various, that's the various data you obtained from harvesters in and around the Thompson area, is not included in the regional study area; is that correct?

MS. LARCOMBE: It's not included in the regional study area identified by your clients.

MR. REGEHR: In the EIS?

MS. LARCOMBE: Correct.

MR. REGEHR: Mr. Chair, I'd like to enter this as an exhibit. Thank you. Can I ask one -- well, I guess I can ask lots of questions.

MS. LARCOMBE: Yes, you may.

MR. REGEHR: I'm sorry, I'll apologize now. But why is the Conawapa site included in your maps when the study is to be done on Keeyask?
MS. LARCOMBE: I believe this map was showing existing and planned hydroelectric development and infrastructure.

MR. REGEHR: Sorry, to the technical person, can we go back to slide number 7, please? And as you said earlier, Mr. Stewart prepared this map, you didn't. So it would have been Mr. Stewart who would have put the Conawapa site onto this map?

MS. LARCOMBE: That's correct. And I hadn't actually noticed that before, Mr. Regehr.

MR. REGEHR: It's on all of your maps; is that correct?

MS. LARCOMBE: It appears so.

MR. REGEHR: Now, I'd like to move onto slide number 9. In here, you mention that of the, well, of the 30 people interviewed, and obviously I'm assuming that some of those were not actually interviewed as part of the Keeyask project, right, they were interviewed as part of the Bipole project?

MS. LARCOMBE: Yes.

MR. REGEHR: So that 30 includes them?

MS. LARCOMBE: That's correct.

MR. REGEHR: You said 50 percent were
MMF members or had harvester cards, so that would be 15?

MS. LARCOMBE: Fifty percent of 30 is 15.

MR. REGEHR: So how many of the 15 were MMF members?

MS. LARCOMBE: Mr. Regehr, I don't have that data with me.

MR. REGEHR: So you wouldn't know how many of the 15 had harvester cards?

MS. LARCOMBE: Not off the top of my head, no. Some have both.

MR. REGEHR: And then you state that 15, or 50 percent or 15 of the people interviewed have pending MMF applications or harvester card applications. And the word "or" is used in there, "and/or".

MS. LARCOMBE: Correct.

MR. REGEHR: So how many of those have pending MMF applications?

MS. LARCOMBE: As per my previous answer, I don't have that data in front of me.

MR. REGEHR: So you wouldn't know how many of the 15 would then obviously have pending harvester card applications either? You didn't
obtain that data, or you just don't have it here with you today?

MS. LARCOMBE: I just don't have it with me today.

MR. REGEHR: Could you undertake to provide us with that data, please?

MS. LARCOMBE: I'd like to ask legal counsel if I am even allowed to do that?

MR. REGEHR: Yes.

MS. LARCOMBE: Mr. Madden, am I allowed to do that?

MR. MADDEN: Yes.

MS. LARCOMBE: Okay. Thank you.

(UNDERTAKING #15: Provide date re how many of 15 have pending harvester card applications)

MR. REGEHR: Can I ask, for the 15 pending applications, whether MMF applications or harvester card applications, when were these applications made? I am not asking for specific dates like September 1st or November 15th, but if you could provide me with a general idea, the month of September, the month of October, the month of November?

MS. LARCOMBE: I am -- if it's to be an undertaking, it's not one that I am prepared to
undertake, because I don't have access to MMF's --
I'm not a staff person, I don't have access to
their data so I would have to request it.

MR. REGEHR: But you have conducted a
report, and in your report and in the evidence you
have given to the Commission today, you have put
this into evidence that there are 15 people with
pending MMF applications, or pending harvester
card applications. So you know, somehow you know
that this is a fact?

MS. LARCOMBE: That's correct.

Because I made that request to the MMF to confirm
for me if the individuals I was interviewing had a
harvester card, or a member, or if not, were they
in an application process, so that I could be
comfortable with who I was actually interviewing.

MR. REGEHR: So you don't have the
data in terms of, obviously, applicant X made an
application for the MMF in March of 2000?

MS. LARCOMBE: I am not privy to that.

MR. REGEHR: You didn't ask for that
information? You just asked if they had a pending
MMF application?

MS. LARCOMBE: That would be correct.

MR. REGEHR: Now, let's move on to
slide number 10. You mentioned that the 30, well, you actually reference an arrangement between the MMF and Manitoba Hydro with respect to documenting Manitoba Metis traditional use, was to assemble information from a small sample of 30 harvesters. And this would be the arrangement which is set out in the June 21st, 2013 agreement; is that what you're referring to?

MS. LARCOMBE: I'm referring to, I was -- in the discussions between myself as a private consultant and the MMF, they said they needed 30 interviews, and that I could include, if there was overlap from the Bipole, I could include those interviews in that number of 30.

MR. REGEHR: Now, in the Bipole III report there was, it appears there was a fairly large screening sample or survey done for that report. And any report, it was done of the people who meet the definition of Metis in the MMF Constitution of 2008; is that what you relied upon to do the screening survey for Bipole III?

MS. LARCOMBE: Okay. The screening survey was not specific to Bipole III. The screening survey was a province-wide instrument.

And in part what you said is true. A
part of the list of people that the survey was sent to was based on the membership that had started post 2008. And a portion of that database, or list of people who were sent the instrument had harvesters card. And in some cases an individual might have been on both lists.

MR. REGEHR: My understanding is that the screening survey sample frame for Bipole III was comprised of individuals who meet the definition of Metis as per the MMF Constitution of 2008. Do those words sound familiar to you?

MS. LARCOMBE: Yes. But I think that's only part of what the report says. It also, in the methods description for the screening survey, talks about the harvester card database also contributing to that master list of people for the screening survey.

MR. REGEHR: And would the 2008 Constitution of the MMF be different from the 2012 Constitution which is currently on the MMF website? Do you know that?

MS. LARCOMBE: I think there was a by-law that passed that delayed the date of applications under the new membership code.

MR. REGEHR: Do you know the details
of that change? I don't, because the only thing I have access to is the 2012 version. I don't have access to the 2008 version.

MS. LARCOMBE: I don't personally have it on me either. I think that's more of a legal question. I'm not comfortable speaking to a nation's constitution.

MR. REGEHR: The reason I'm asking is because in your Bipole III study, you specifically reference it in your methodology, that you used the definition of the term Metis.

MR. MADDEN: Mr. Chair, I can undertake on behalf of the Manitoba Metis Federation to provide, I think that the 2008 definition is the identical same as the current definition of Metis, but we can confirm that. And we can provide the by-laws from 2008 as well as 2000 and -- the one that's currently on the website.

THE CHAIRMAN: Thank you. Would that satisfy you, Mr. Regehr?

MR. REGEHR: Yes, that's fine.

THE CHAIRMAN: Thank you.

(UNDEARTAKING #16: Provide 2008 definition of Metis provide by-laws from 2008 as well as current
MR. REGEHR: So, earlier you stated that some of your data is based upon 35 interviews, and some is based on 30 interviews, because there was a mixup or something with the data from five. I'm not quite --

MS. LARCOMBE: The maps that are in the presentation contain the full set of 35 interviews.

MR. REGEHR: And the rest of data is 30?

MS. LARCOMBE: The rest is based on 30.

MR. REGEHR: Okay. And on this slide, you indicate that only a total of 21 new interviews were conducted as part of this study, 21 new interviews?

MS. LARCOMBE: Correct.

MR. REGEHR: So as a result, you have only been able to locate 21 new resource harvesters; is that correct?

MS. LARCOMBE: No, I wouldn't agree with that. It's not that we could only locate 21, we had a time frame and a budget that we were working within.
MR. REGEHR: And so for 10 of the interviews, you are relying upon data collected in relation to the Bipole III project and not the Keeyask project?

MS. LARCOMBE: That's where the extra five comes in actually. There is, in total there were 15 interviews done from Bipole that had overlap with the Keeyask study area, that's where the -- we didn't not put the five new -- it's not the case there were 26 interviews and I'm only reporting on 21 new interviews, the missing five interview data is from the Bipole III data set.

MR. REGEHR: But here you're stating you did a total of 21 new interviews and added to interview information from 10 interviews, not 15?

MS. LARCOMBE: That's correct. Because the error was not discovered until literally hours before this presentation had to be filed with the CEC to meet that deadline. And so I could not change the powerpoint presentation after the fact.

MR. REGEHR: And so the interviews, the 21 and the 10 or 15 were for different projects. The questions posed in the two sets of interviews would have been different?
MS. LARCOMBE: No, they were not.

MR. REGEHR: Is it possible that there may have been different concerns for the people who were interviewed in relation to Bipole versus those interviewed for Keeyask?

MS. LARCOMBE: The nature of the TLUKS interviews is, it's a very hard core data hungry system. It doesn't -- the same questions are asked in the same way in the interview that feeds into the data. The only difference between the interview for the Bipole III and the Keeyask is that we were -- our last decade of recording information for Bipole was 2010, and so we have added another field because we are into a new decade for the Keeyask. And that's the only difference in how the interviews were done and the data was recorded.

MR. REGEHR: So the Bipole III interviews concluded in 2010?

MS. LARCOMBE: I think we started in 2010, in the field code, when we are documenting activity by decade, it's 1940s, '50s, '60s, '70s, '80s and so on. And since last -- we finished the Bipole III, obviously we weren't into 2013, and I'm not even sure we were into 2012. So we had
entered another decade. That's the only difference.

MR. REGEHR: So you can't tell me -- what I'm wondering is, when were those Bipole III interviews? What time period did they take place in?

MS. LARCOMBE: Do you have my report in front of you?

MR. REGEHR: No, your Bipole III report?

MS. LARCOMBE: Yes.

MR. REGEHR: Yes, we have a copy here.

MS. LARCOMBE: I believe it says in there.

MR. REGEHR: Mr. Chair, it's ten after 11:00. Do you wish to take a break?

THE CHAIRMAN: By that I assume you're going to be going somewhat longer?

MR. REGEHR: Yes.

THE CHAIRMAN: Okay. I think we'll take a break then for, perhaps just for 10 minutes since we did have a short break a little while ago. Come back at 20 after.

(Proceedings recessed at 11:09 a.m. and reconvened at 11:20 a.m.)
THE CHAIRMAN: Okay. Mr. Regehr.

MR. REGEHR: Thank you. On slide number 10, Ms. Larcombe, when you refer to the Keeyask study area, I'm assuming that you are referring to what I call the red oval?

MS. LARCOMBE: Correct.

MR. REGEHR: And not the study area set out in the EIS; is that correct?

MS. LARCOMBE: That would be correct.

MR. REGEHR: Now on this slide, you mentioned that you did a screening survey for half of the interviewees or did someone else do the screening survey?

MS. LARCOMBE: The screening survey that I was referring to on this slide is the screening survey that was implemented by the MMF in 2010 with my assistance in the design of it.

MR. REGEHR: So that was a screening survey done for Bipole III?

MS. LARCOMBE: It wasn't done specifically for Bipole III. As I said earlier, it was a province-wide screening survey to kick-start the MMF so that they could do TLUKS type studies.

MR. REGEHR: Okay. So then in this
third bullet, when you say half of the
interviewees, which number of interviewees are you
talking about, the 30 or the 21, the 35?

MS. LARCOMBE: In that case, I am
talking about the 21.

MR. REGEHR: And I'm going to gather
you probably don't have the screening survey
questions here with you, do you?

MS. LARCOMBE: I think they were in
the document I said yesterday that I didn't know
if the CEC had accepted the document.

MR. REGEHR: Can I ask, how is
additional use defined for this study?

MS. LARCOMBE: It's defined in the, I
believe it was in the November 4th document. But
generally, the concept of traditional use includes
the physical activities of harvesting of animals,
plants, fish, medicines. It includes the activity
of staying on the land, the cultural aspect of it,
the social aspect of it, the economic aspect of
it. It's generally understood to be one manner of
exercising a right, a constitutional right. There
is no legal definition of traditional use that I'm
aware of.

MR. REGEHR: Now, when this data was
collected, was there a minimum number of visits or hunting trips or fishing trips per year which were counted? Did a person have to do a certain minimum number before they were included?

MS. LARCOMBE: No.

MR. REGEHR: So it could have just been one event in one particular year and they would have been included?

MS. LARCOMBE: Well, let me clarify that the screening survey didn't ask information about how many times somebody harvested. So the screening survey doesn't serve as a base for that type of selection of an interviewee.

MR. REGEHR: But that would have been asked during the actual interviews?

MS. LARCOMBE: There's no pre-screening once you start a TLUKS interview. You're into it. And if that's what you learn during that interview, that's what you learn.

MR. REGEHR: You mentioned that half of the interviewees, the MMF Thompson regional office located them or identified them; is that correct?

MS. LARCOMBE: Yes.

MR. REGEHR: You weren't involved with
that?

MS. LARCOMBE: No, I don't live in Thompson. I mean the idea is -- the MMF Thompson region, they know who their harvesters are. They know their names, they know their phone numbers. I certainly don't have that information, and so that's why I rely on them to help identify people who are willing to do interviews.

MR. REGEHR: Who, in the Thompson regional office, provided you with this information?

MS. LARCOMBE: Which information are you referring to?

MR. REGEHR: The name of half of the interviewees that they --

MS. LARCOMBE: I don't know that it was any one individual. Some of the information came to me through the MMF's Winnipeg office and some came from the individual who is in charge of the membership and harvester card application.

MR. REGEHR: Now don't you think that if in fact half of the interviewees were selected by the Thompson regional office, and it appears now that the Winnipeg office had something to do with it, doesn't this have the potential to show
bias and skew the results? Wouldn't you, as a scientist, think that?

MS. LARCOMBE: If I was doing a statistically valid sample, yeah. But the reality of -- I'll be blunt here. The reality of, and I'm sure you're actually aware of this, Mr. Regehr, yourself. When you are doing this type of interviews, it's not like the census where you get to go door to door and say you're going to do it and you're going to do it and you are going to do it. You're relying on people who are willing to participate. I mean it's hours of their time and it's painful. I wouldn't want to be the person being interviewed by me, thank you very much.

So is it skewed? If it's skewed based on the people we did talk to is that there was a larger number of people from the Bayline communities. It was probably underrepresented by the people from other communities. But the information I presented is not the be all end all. As I said at the beginning of my presentation, it's a step towards filling some gaps. It is not definitive but it's illustrative.

MR. REGEHR: So then just to be clear, 10 or 11 of those people did not go through the
screening survey, correct? Half being 50 percent.

MS. LARCOMBE: Well, individuals who, in 2010, had not applied for under the new membership code or were a holder of a harvester card in 2010 wouldn't have been on the list to begin with. And that's why they weren't identified off the screening survey.

MR. REGEHR: Let's turn to slide 11. You state that the interviews were not based on oral history; is that correct?

MS. LARCOMBE: The harvesting aspect of it is not based on oral history. If an individual shared traditional knowledge, that may have been based on oral history.

MR. REGEHR: So there is oral history in the data you have presented or there isn't oral history in the data you have presented?

MS. LARCOMBE: I have not presented it in this presentation.

MR. REGEHR: Now let's turn to slide number 12. Of the 21 interviewees, how many of them were MMF members?

MS. LARCOMBE: What do you mean by member?

MR. REGEHR: They have a membership
1 card, a full-fledged member of the MMF.

2 MS. LARCOMBE: That's what the

3 previous slide was saying, 50 percent.

4 MR. REGEHR: So 10 or 11?

5 MS. LARCOMBE: Had their card or had a

6 harvester card at the time I interviewed them.

7 They all self-identified as Metis people.

8 MR. REGEHR: And that's of the 21.

9 Your 50 percent or half statistic relates to the

10 21 or does it relate to the full 30?

11 MS. LARCOMBE: That's a good question.

12 MR. REGEHR: I'm just trying to get

13 these numbers straight in my head because there's

14 so many.

15 MS. LARCOMBE: And I apologize because

16 of the error of the five at the start of this

17 presentation.

18 I can't say definitively off the top

19 of my head, Mr. Regehr. My recollection is that

20 most of the people that participated in the Bipole

21 III interviews either had a harvester card and/or

22 a membership card. And the newer interviews that

23 were done in this year is the 50 percent that held

24 a card of one or the other type, and the other

25 were in the application stage.
MR. REGEHR: Of the three of the nine who do not reside in the study area but where they had lived in, and they lived in here it says the study area earlier in life, where did they live in the study area, those three?

MS. LARCOMBE: In the study area.

Again, I'm not trying to be argumentative.

MR. REGEHR: We have a large number of town settlements, we even have a city up there. I'm just wondering, they clearly don't live there anymore. But I gather you gathered the data in terms of where they were born. You were able to present evidence here that they lived there earlier in life. So clearly you gathered that data. So I'm asking where did they live in the study area?

MS. LARCOMBE: So you're asking for the particular town or village?

MR. REGEHR: That's right. I don't want their address, I don't want their names, I don't want their medical information.

MS. LARCOMBE: Some of these communities, as you well know, have a hundred people in them. And again, I'm very concerned about the confidentiality of interviewees. If you
can give me some compelling reason why I would consider risking confidentiality, I'd be happy to hear it.

MR. REGEHR: Because you have sworn to tell the truth in front of this commission and you have presented evidence. And so I'm asking you, on cross-examination, to provide me with this information. I'm not asking for confidential information. I'm asking what city, what town, what settlement, what Northern Affairs community in the study area did they live in earlier in life?

THE CHAIRMAN: Mr. Madden, did you --

MR. MADDEN: Mr. Chair, this is just -- well, I don't think that the same rigour was applied to the TK studies of the KCNs about tell us the exact locations of the interviewees. I guess, and this feeds into their whole line that we want to explain that there's no Metis, which is fine. But it gets to a point where there is not -- the confidentiality that's in place with these people giving interviews needs to be respected. I don't see the relevance of providing that exact data of the locations. It's not as if we're adverse. But it also gets to a level of
what's the point.

THE CHAIRMAN: Mr. Regehr, I'm inclined to agree with Mr. Madden on this one. I fail to see the relevance of knowing exactly where everybody might have once lived.

MR. REGEHR: Well, apparently it was important enough to say that these three people lived here earlier in life. So then apparently it is a relevant fact. I'm entitled to cross-examine on it. I'm not sure what the reluctance here is in terms of if you're going to put evidence in front of the commission, then it needs to be subject to scrutiny. And if other participants did not -- decided for whatever reason did not cross-examine to a certain level, that's their decision. I don't tell them how to cross-exam.

THE CHAIRMAN: No, you haven't, and you are entitled indeed to cross-examination, but I think you are starting to split hairs here. But carry on.

MR. REGEHR: So I'm not going to get an answer to my last question or --

THE CHAIRMAN: I suspect not.

MS. LARCOMBE: I'll provide a partial answer, Mr. Regehr. Those three people lived in
the study area and it wasn't Thompson.

MR. REGEHR: And that would be your study area, not the EIS study area?

MS. LARCOMBE: That's correct.

MR. REGEHR: On slide 13, it's mentioned that 43 percent of the, is this 30 people, 21 or 35?

MS. LARCOMBE: All of the data that's in the power point presentation with the exception of the maps was based on 30.

MR. REGEHR: The reason I'm asking is because some of the data, as we have heard, was actually based on 21 and not 30.

MS. LARCOMBE: Only when I'm referring to the new interviews.

MR. REGEHR: So 43 percent that were born in the Thompson region, that would be approximately 13 individuals?

MS. LARCOMBE: That would be correct, close enough.

MR. REGEHR: And by Thompson region, you are referring to the MMF political region; is that correct?

MS. LARCOMBE: Governance region, correct.
MR. REGEHR: Governance region. And that region covers approximately half of the land mass of Manitoba and includes 16 different locals? Is that the one I'm talking about or the one we're talking about?

MS. LARCOMBE: I haven't done the math.

MR. REGEHR: But it is a very large region?

MS. LARCOMBE: It's a very large region.

MR. REGEHR: You mentioned that 85 percent of the parents of the 30 interviewees, correct, were born outside of the Thompson region, so that would mean only four to five of the 30 of the interviewees had parents born in the Thompson region?

MS. LARCOMBE: I'm going to trust you on the math.

MR. REGEHR: Subject to check if you like.

MS. LARCOMBE: But that's what this table indicates, correct.

MR. REGEHR: And on slide 15, what I'm trying to do, Ms. Larcombe, is I'm trying to get
actual numbers to these percentages. You state
that 74 percent of the interviewees eat country
foods more than once a week and that would be
approximately 22 people?

MS. LARCOMBE: I don't have the
numbers in front of me. If someone wants to give
me a calculator, I can confirm. But otherwise,
I'll assume that your math is correct, Mr. Regehr.

MR. REGEHR: Subject to check, of
course.

And now of these 22 people who eat
country foods more than once a week, how many of
them reside within the regional study area as
defined by the EIS?

MS. LARCOMBE: I can't answer that
question off the top of my head.

MR. REGEHR: And so you won't be able
to tell me of those 22, how many of them are MMF
members and how many of them are pending MMF
members? You wouldn't have that available?

MS. LARCOMBE: I thought we went
through that.

MR. REGEHR: These are different
numbers now from what we went through before.

MS. LARCOMBE: These are the
percentages of the 30 interviews which includes the interviews that were done this year and the interviews that were done in the Bipole III.

MR. REGEHR: Yes. And previously, I had been asking you for percentages and numbers in relation to the number of people who lived in the region and the number who didn't. Now this is data related to the percentages of people who eat country foods which can be different people, right? This could obviously include some of the people from outside the region. All of them, none of them. I don't know because I can't get that from the percentages. And so I'm asking you if you collected that data? Do you have it?

MR. MADDEN: Mr. Chair, I think we can state for the record that this is not tied -- this is about a sampling of getting an understanding of how the Metis population, within that study area, hunt, harvest, et cetera. It is not tied to the EIS, the proponent-defined EIS lines. It is giving an understanding of what the community's use is.

And so if we're going to go, well, how many are within there? What this is, it's a general tool to show a representation of what the
community's use is. And Ms. Larcombe hasn't
broken it down in that way. So continuing to ask
questions about that, it's not available.

THE CHAIRMAN: Thank you, Mr. Madden.
I would accept Mr. Madden's comments,
Mr. Regehr. I think the evidence hasn't been
broken down, so I think move on with what we have
before us.

MR. REGEHR: I am assuming that the
reference to study area again is the reference to
the red oval, not the EIS study area; is that
correct?

MS. LARCOMBE: Sorry, can you repeat
that?

MR. REGEHR: On the slide 16, there's
the words study area. Again, I'm correct in
assuming that that is the red oval study area?

MS. LARCOMBE: It's the Keeyask study
area as defined by us.

MR. REGEHR: And this traditional use
activity took place between is it 1990 and 2013?

MS. LARCOMBE: Can you clarify your
question?

MR. REGEHR: What time period does
this, you say people are engaged in traditional
use, so what time period does this cover? Because later on you have got maps that cover a time period from 1990 to 2013. So does this correspond to that data?

MS. LARCOMBE: The equipment ownership and frequency of food consumption, those are current.

MR. REGEHR: So as of --

MS. LARCOMBE: As of the time of the interview.

MR. REGEHR: Okay.

MS. LARCOMBE: In terms of the percentage of people involved on slide number 16, I believe I was taking 2010, was the decade I was looking at. Because the Bipole III interviews don't go beyond that time frame, so...

MR. REGEHR: I'll move on to slide 17. You make a reference to the 2000s decade. Is that just, if you can clarify for me what -- I'm not a social scientist, I don't know what that means.

Is that 2001 to 2010 or?

MS. LARCOMBE: It's usually considered 2000 to 2009, and then 2010s start in 2010.

MR. REGEHR: Thank you. Now, before we turn to the various maps in your presentation,
you are aware of an agreement signed between the
MMF and Manitoba, the province that is, on
September 29th, 2012. You are aware of that
agreement?

MS. LARCOMBE: I have an awareness of
it, yes.

MR. REGEHR: That agreement was
entered into evidence as KHLP 77 yesterday, I
believe?

MR. MADDEN: Mr. Chair, I've got to
object to this. If there's now going to be
questioning about the harvesting agreement that
the Manitoba Metis Federation signed with the
Manitoba Government. Ms. Larcombe is not an
Aboriginal rights lawyer, she is not a
constitutional law lawyer, she is not a member of
the Manitoba Metis Federation or a Metis
harvester. So I don't -- so questioning on that I
just don't think is appropriate.

What Ms. Larcombe is presenting on is
traditional land use of the Metis in the area.
And what the legal framework may be in relation to
recognition of those rights or what have you, not
her wheelhouse. And I don't think it's relevant
to her questioning.
THE CHAIRMAN: You're making assumptions. We don't know yet where Mr. Regehr will go with his questioning. If your assumptions are correct, then I would agree with you.

MR. REGEHR: I would like to note, Mr. Chair, that before the break, Ms. Larcombe gave what appeared to be opinion on the harvesting rights of Metis within the Keeyask area.

In addition to that, she has written about the harvesting agreement in her report which was filed in the Bipole III proceedings. So I believe she is able to answer questions. I'm not necessarily asking her about legal interpretation, but she certainly has given evidence on this. And so it's open to cross-examination.

THE CHAIRMAN: Go ahead.

MR. REGEHR: Now you have the agreement in front of you?

MS. LARCOMBE: No, I have a map in front of me.

MR. REGEHR: I am sorry, you have a document entitled -- well, it's the cover page of your Bipole III submission of November 4th, 2012. And enclosed in that is a map from page 3 of that report with a large shaded area in pink. I'll ask
that this be entered as an exhibit.

This is a map from that report you had submitted in the Bipole III hearings?

MS. LARCOMBE: I believe this is a copy of a map off the Government of Manitoba website that's referenced in the footnote.

MR. REGEHR: And it's from your report, page 3 of your November 4th, 2012 report?

MS. LARCOMBE: Do you want me to double check?

MR. REGEHR: Yes, if you would like to check, take a minute to do that.

MS. LARCOMBE: It appears to be the same, although it's not exact to the page that's in my version of the report. And I'm not speaking to the boundaries, I'm speaking to the referencing of it.

MR. REGEHR: We have increased the bottom part so that the source data is readable to whoever reads it. But I can assure you, this is from page 3 of your report.

Now, you would agree with me that the pink areas on this map are from the south and southwest portions of the Province of Manitoba?

MS. LARCOMBE: Yes, I would agree with
MR. REGEHR: And you would agree with me that you referred to the 2012 agreement and the associated harvest areas in your Bipole III report?

MS. LARCOMBE: It's on page 3, that's correct.

MR. REGEHR: But in the text of your report, you referred to that as well, I believe it's on page 25 of that report, last paragraph?

MS. LARCOMBE: Yes, I referred to it.

MR. REGEHR: And would you agree with me that the pink areas set out in this map are some distance from, not just the Keeyask site, but also the regional study area as defined by the EIS, and your study area for your study?

MS. LARCOMBE: I would agree that --

MR. MADDEN: Mr. Chair, I just want to raise this point. The process that was set out and was talked about by President Chartrand, there are white areas that are -- it is an agreement of where the Province and the Manitoba Metis Federation could agree on, and as opposed to continuing to go to court, they signed an agreement. It sets out a two year process. And
my friends continue to say, oh, well, that doesn't mean anything. Maybe they should read section 17 that says, if at the end of the day there is no agreement --

MR. REGEHR: Mr. Chair, this isn't appropriate.

MR. MADDEN: -- there's going to be a reference to the Manitoba Court of Appeal.

THE CHAIRMAN: You're making statements now, Mr. Madden.

MR. MADDEN: I guess my point is, is that testimony has already been provided on that agreement and --

THE CHAIRMAN: I think, you know, what I heard was a fairly simple question, just the separation of the pink area here from the oval study area under consideration. So I don't see that as a terribly inappropriate question. So, Mr. Regehr, would you continue, please, or restate your question?

MR. REGEHR: I have to find my question.

THE CHAIRMAN: I didn't mean by restating, I meant repeat.

MR. REGEHR: You would agree with me
that the pink area in this map is some distance
from the Keeyask Generating Station site?

MS. LARCOMBE: It's --

MR. REGEHR: And it would be some
distance from the regional study area set out in
the Environmental Impact Statement?

MS. LARCOMBE: I agree it's some
distance, but we have not agreed what some
distance means.

MR. REGEHR: And it would also be some
distance from the area that you defined for your
study, which was the red oval?

MS. LARCOMBE: When I say some
distance, it's more than 10 miles. I don't know
what the distance is. But I hazard when we're
both using a phrase "some distance" without
actually defining what we mean by that.

MR. REGEHR: It's your understanding
that should a Metis person with a harvester's card
issued by the MMF hunt outside of the pink areas,
they still have to obtain a provincial hunting
licence?

MS. LARCOMBE: Yes, that's my
understanding for hunting.

MR. REGEHR: You stated that at page
25 of your Bipole III report in the last paragraph?

MS. LARCOMBE: Hunting regulations, correct.

MR. REGEHR: I'd like you to read the full paragraph that was referenced in the Bipole III report, the last paragraph.

MS. LARCOMBE: On page 25?

MR. REGEHR: On page 25 of your report.

MS. LARCOMBE: "On September 29th, 2012, the Province of Manitoba, the Manitoba Metis Federation agreement on Metis natural resource harvesting was signed. In this agreement, Manitoba has recognized Manitoba Metis rights to harvest animals, fish and plants for food, and trees for fuel wood purposes within the area depicted earlier in figure 1. Manitoba Metis will continue to harvest under the Manitoba Metis Federation, Metis laws of the hunt in this area. However, harvesters engaged in harvesting outside of this defined area will be
subject to Provincial sport hunting
legislations and regulations. The MMF
and Manitoba have agreed to conduct
further research regarding future
expansion of the geographic area
identified in the agreement."

MR. REGEHR: I'd just like to confirm
for the record that the figure 1 in the paragraph
you just read is the figure 1 that I have handed
out?

MS. LARCOMBE: Yes, I confirm that.

MR. REGEHR: Thank you.

You are also aware that all licensed
hunters, including for caribou and moose, have
been accounted for in the Keeyask Environmental
Impact Statement?

MS. LARCOMBE: I can't -- I did not
review the Environmental Impact Statement for that
purpose, so I can't say or not.

MR. REGEHR: So you didn't read the
supporting volume on resource use?

MS. LARCOMBE: No, I actually wasn't
tasked with reviewing the EIS.

MR. REGEHR: Let's turn to slide
number 19. And this is the moose harvest map.
And so I'm going to ask first just a few questions that will apply to all the subsequent maps, just so I understand.

This map and the other maps contain a variety of, I don't know what colour it's showing up for you, to me they look between purple and violet, a variety of shades of purple and violet, and they range from light to dark; is that correct?

MS. LARCOMBE: That's correct.

MR. REGEHR: Now, the legend on the map, on all the maps in fact, does not indicate the range of this colour coding; is that correct?

MS. LARCOMBE: No, it doesn't indicate a numeric range.

MR. REGEHR: Now, are the lighter shaded areas to be considered as one harvester and the darker ones, where there's overlap, between two, three, four, five harvesters?

MS. LARCOMBE: My understanding of what happens in the computer mapping is that if you tint, put a tinting on the colour, and you have one layer that's feeding over another, it will appear as a darker colour, because they are layered one on top of the other. I can't tell you
off the top of my head if the lightest colour is one person or four people.

MR. REGEHR: And yet you have presented these maps today as part of your evidence. You can't tell me what those purple polygons mean?

MS. LARCOMBE: Well, certainly I can tell you those are the locations that were identified for moose harvesting.

MR. REGEHR: But you can't tell me if that's for one person or two persons, or whether one moose was harvested there, in the darker areas there was several animals taken?

MS. LARCOMBE: My eye doesn't recognize that many intensities of purple. I can't tell the difference from one shade to another to say if that's three versus four versus five.

MR. REGEHR: So you can't tell me if the lighter one are just one person who was interviewed and said I hunt --

MS. LARCOMBE: I suspect it is one person but I can't say for sure. It's the lightest colour.

MR. REGEHR: You rely upon this in
your report and you can't tell me what the basis for this report, what --

MS. LARCOMBE: I didn't consider it in my presentation to speak to the numbers of people. I said these are the locations.

MR. REGEHR: Was Mr. Stewart the one who prepared these maps?

MS. LARCOMBE: Yes, he did.

MR. REGEHR: Do you know what the scale of the map is? Is it 1 to 250,000?

MS. LARCOMBE: My eyesight is not that great but it does you show in that far left corner.

MR. REGEHR: I have the same problem, I can't -- you don't know if it's 1 to 250 or --

MS. LARCOMBE: I can't read it, Mr. Regehr.

MR. REGEHR: It doesn't appear that the map scale is on the map.

MS. LARCOMBE: It's showing a linear scale.

MR. REGEHR: A linear scale, but it is not showing --

THE CHAIRMAN: I'm not sure it's that important.
MR. MADDEN: We can undertake to get that.

(UNDERTAKING #17: Confirm scale of map is 1 to 250,000)

MR. REGEHR: My understanding that a map scale of 1 to 50,000 or 1 to 25,000 is better for documenting traditional uses. Is that your understanding?

MS. LARCOMBE: We document, we have -- the base maps we were using. We can zoom into any scale we wanted, and we had 1 to 250,000 and 1 to 50,000, and we can zoom down to 1 to 1,000 if we chose, during the interview.

MR. REGEHR: And so on these maps, this now includes the full 35?

MS. LARCOMBE: Correct.

MR. REGEHR: Right, this information? So on slide 19, you can't tell me how many of the 35 harvesters are harvesting moose and are on this map?

MS. LARCOMBE: Sixty-three percent.

And again, these are the numbers based on 30, but 63 percent indicated moose harvesting in one of these coloured areas.

MR. REGEHR: Sixty-three percent of
MS. LARCOMBE: Correct.

MR. REGEHR: And yet these maps are based on 35 harvesters?

MS. LARCOMBE: They are, because we were -- clearly the person who creates maps can analyze things more quickly than I could. So we were able to get the updated maps into the powerpoint before the deadline, but I didn't have sufficient time to change all the numbers and whatnot in the text part of the presentation.

MR. REGEHR: Now, according to this data here, it would appear to me that using the local study area, as defined by the Environmental Impact Statement, none of the 35 harvesters are harvesting moose within the local study area; is that correct?

MS. LARCOMBE: Your local study area being the footprint of the generating station and the reservoir?

MR. REGEHR: Including the reservoir.

MS. LARCOMBE: That's correct.

MR. REGEHR: And if we go on the basis of the regional study area as defined by the EIS, I was going to suggest that it looks like there
could be four to five harvesters, but you can't
tell me that because you don't know?

MS. LARCOMBE: Mr. Regehr, I'm not
going to analyse on the fly here.

MR. REGEHR: You have presented this
map as evidence.

MS. LARCOMBE: And you are asking me
to sit here and visually picture what your study
area looks like on top of this map. And I'm just
not prepared to do it. There's too much potential
for error.

MR. REGEHR: So you can't tell me how
many people are harvesting within the regional
study area, as defined by the EIS, correct?

MS. LARCOMBE: I have not analyzed
that data in that manner.

MR. REGEHR: And so this would go for
all the maps?

MS. LARCOMBE: It goes for all the
maps. This is a study area that was chosen to do
this work. You have a different study area. You
have a rationale for it. We have a rationale for
our study area.

MR. REGEHR: Can you -- well, I'll ask
it, I'm not sure whether you can or not. But I'm
looking at a number of the areas, and a lot of them are, they are purple blobs. There is one polygon which is sort of a trapezoidal figure, starting at Pit Siding going south, and then it angles up northeast, and then it heads sort of northwest to -- I'm not sure what that is, Munk? It's on the south side of the rail line, the Bayline. Can you explain why that polygon is so different from all of the other ones, why it's based on straight lines like that?

MS. LARCOMBE: That's how the interviewee identified their traditional harvesting area.

MR. REGEHR: So let's move on to slide 20, the caribou harvest area. Are you able to provide me with a percentile of the number of harvesters who are harvesting caribou?

MS. LARCOMBE: Thirty percent of the interviewees.

MR. REGEHR: Thirty percent of 35?

MS. LARCOMBE: Correct.

MR. REGEHR: Can you tell me what type of caribou they were harvesting?

MS. LARCOMBE: I believe every -- my recollection, every interviewee, when I asked if
it was barren ground or woodland, they described it as a hybrid that didn't fall in either one of those categories.

MR. REGEHR: I'm going to hand to you a map which is contained within the EIS, so it's already in evidence. It's map 1-11, page 1-119 from the socio-economic environment resource use and heritage resources supporting volume.

This is a map that contains the regional study area, as you understand it, correct, as defined by the EIS?

MS. LARCOMBE: That's my understanding, correct.

MR. REGEHR: Now, if you look there you'll see in green there are a number of things that say GHA, and then have a number following them. Do you see those?

MS. LARCOMBE: I do.

MR. REGEHR: Is it your understanding those are game hunting areas set up by the Province of Manitoba?

MS. LARCOMBE: That's my understanding.

MR. REGEHR: And you can identify on there, there's game hunting area 3 in the bottom
right-hand side of the map, and then going northwest from there we have a GHA 9. I think we've got 2 and 1, 9A and 3A all in there. Can you see those?

MS. LARCOMBE: I do.

MR. REGEHR: Now, if I compared this to the map that's been put into evidence here, your map --

MS. LARCOMBE: Which map?

MR. REGEHR: The one that's up on the screen right now, the caribou one.

MS. LARCOMBE: Right.

MR. REGEHR: It would appear that there's some harvesting going on of caribou in game hunting area 9. Because the division between game hunting area 9 and 3 is the Bayline? Is what appears to be?

MS. LARCOMBE: I'm having difficulty seeing but -- so you are saying the rail line itself is the boundary?

MR. REGEHR: It appears to be the boundary between 3 and 9. Because my understanding is that, I believe the rail line crosses the Kettle, around Kettle. If you're uncertain, that's fine. That's fine.
And then the map that you have produced, the caribou hunting map definitely has purple polygons going northwest of the Bayline; is that correct? We've got some hunting going on along PR 280 by the Split Lake community. Then we've got some which seems to be going north to the Keeyask site.

And are you aware that caribou hunting is prohibited in game hunting area 9?

MS. LARCOMBE: I'm aware that it's prohibited for sport hunting.

MR. REGEHR: So you weren't aware that caribou hunting was prohibited in game hunting area 9 since 1992?

MS. LARCOMBE: I couldn't say I have known that since 1992.

MR. REGEHR: So this data that's collected would be all pre 1992, so it would be from the period 1990 to at some point in 1992?

MS. LARCOMBE: No, this map is showing from 1990 to present.

MR. REGEHR: Okay. Again, you can't tell me exactly how many harvesters are hunting, in the data on this map?

MS. LARCOMBE: I said 30 percent of 30
interviewees identified caribou harvesting.

MR. REGEHR: So let's move on to the next one, which is I believe waterfowl harvest. And I'm just going to --

MS. LARCOMBE: I think this is still slide number 20 that's showing.

MR. REGEHR: Can we move to slide 21, please?

So the vast majority of, I don't know whether this represents number of harvesters, or the amount of game collected, or waterfowl collected, but the vast majority of this is taking place east of Thompson; is that correct?

MS. LARCOMBE: Correct, based on the individuals who were interviewed.

MR. REGEHR: And if I overlaid the regional study area and the EIS, it would look like there was no waterfowl harvesting taking place within the regional study area; is that correct?

MS. LARCOMBE: I would expect that there is not, although I can't visualize your study area on top of my map. But I would generally agree.

MR. REGEHR: The map we introduced
earlier on with the overlay, if we could put that up? I'm just putting this up if it helps you visualize the regional study area of the EIS.

Now, of course, I guess it's difficult, because this map contains all of the data that you collected, whether -- though we don't know whether that is data for individual harvesters, or we don't know what that data is for the purpose of these maps.

So then if I turn to page 22 on upland bird harvest, we can go back to slide 22, please?

If I overlaid this data onto the regional study area, it would appear that maybe one person is harvesting along PR 280 for upland bird? Because it appears that the vast majority of the harvesting is going on around Thompson.

MS. LARCOMBE: South of Thompson, that's correct.

MR. REGEHR: It also appears there's a little bit of harvesting going on along the Butneau Road out of Gillam?

MS. LARCOMBE: There is along the highway.

You know, Mr. Regehr, we can continue, and I'm prepared to answer your questions, but I
just want to reiterate for the panel, these maps are based on a very small sample size, 2 percent of the adult Metis population. So, please, as I said, I'm willing to answer these questions, please take it with a grain of salt. Thank you.

MR. REGEHR: And to clarify, we don't know exactly what these maps represent, isn't that correct? You told me just a little while ago that you could not tell me whether the shading of polygon represented the number of animals taken, or whether it represented the number of harvesters; isn't that correct?

MS. LARCOMBE: Well, it certainly doesn't tell you the number of animals harvested, I agree. What I said was, when you get into different shades of that purple, visually I can't tell the range in colours. I am assuming that the lightest colour is one person, but I can't say for sure. Because if it's -- the base is two, the base is two, and it builds from there. So I think it's unfair to say that these maps, you don't know what they say. They are telling -- these maps are demonstrating where that small sample of harvesters that I interviewed identified where they are engaging in traditional use for these
different activities and different species.

MR. REGEHR: But you're just making an
assumption that the lighter polygons represent one
person and the darker ones represent multiple
people?

MS. LARCOMBE: The assumption that the
darker it gets -- I understand the computer
mapping procedure well enough to know that when
you lay one tint on top of another, it gets
darker.

MR. REGEHR: But you came here today
to present these maps as evidence.

MS. LARCOMBE: I have presented them
as evidence. I have presented them as evidence of
where the sample of Metis harvesters I interviewed
identified where they go on the land for purposes
of traditional use.

MR. REGEHR: Let's move onto slide 23,
which is the food fishing harvest areas.

Now, it appears to me that if I looked
at the regional study area, I'm not even sure
there would be any food fishing. Now, I know you
talked about Stephens Lake -- but perhaps it's the
powerpoint that was provided to me and my own bad
eyesight, I can't see a polygon in Stephens Lake.
If there is one, could you point it out? I think there's a laser.

MS. LARCOMBE: It's just to the right of the red letter in Keeyask, I believe.

MR. REGEHR: There should be a laser pointer up there.

MS. LARCOMBE: Now you're really going to test me. I believe it's this little dot here.

MR. REGEHR: So that little dot is the polygon?

MS. LARCOMBE: I believe so, yes.

MR. REGEHR: Okay. Thank you.

But the vast majority of the harvesting, again, it appears to be around and south of Thompson, and then on the Nelson River south of the Kelsey dam.

MS. LARCOMBE: On the Burntwood also up toward Split Lake and Assean Lake.

MR. REGEHR: Okay.

And then I think your last map was plant gathering, on slide 24?

MS. LARCOMBE: Correct.

MR. REGEHR: And so if we went with the assumption that the various shades represent the numbers of harvesters, it would appear that
there is one person engaged in plant gathering
along PR 280 up toward the Keeyask site, and I
guess it would be past the north access road; is
that correct?

Ms. Larcombe: It suggests, and I am
assuming that the lightest pink does mean one in
this case, it might mean two. What this map tells
us is, based on the small sample size, there is at
least one individual that relies upon the access
route as a means of engaging in plant gathering
activities.

Mr. Regehr: And at slide 25, you
indicate that 15 of the interviewees engage in
trapping in the red oval study area?

Ms. Larcombe: That's correct.

Mr. Regehr: Obviously, you had not
included -- you said earlier you wouldn't be
including that on a map?

Ms. Larcombe: No.

Mr. Regehr: So you probably don't
want to tell me what traplines they are in?

Ms. Larcombe: No, I do not.

Mr. Regehr: Okay.

Ms. Larcombe: For confidentiality
reasons.
MR. REGEHR: And those trappers, they would hold trapping licences issued by the province, correct, because it's commercial trapping?

MS. LARCOMBE: Either a helper's licence, or the registered trapper's licence, or a family member.

MR. REGEHR: I do note in slide 2 of your presentation, you emphasize -- the emphasis is on traditional purposes, correct, resource activities for traditional purposes?

MS. LARCOMBE: Yes, I said with the exception of trapping.

MR. REGEHR: But in the guidelines that you have quoted on page 2, it says:

"Current and proposed uses of land and resources by each Aboriginal group for traditional purposes, i.e. hunting, fishing, trapping, cultural and other traditional uses of the land."

That's what it says, right?

MS. LARCOMBE: That's what the guidelines say.

MR. REGEHR: That's what the guideline says.
So you would agree with me that commercial trapping is not relevant or applicable to the guidelines you have quoted here?

Ms. Larcombe: No, I'm not saying that.

Mr. Regehr: But you would agree that trapping is primarily a commercial activity?

Ms. Larcombe: No, I would not agree with that. It's a cultural activity probably more importantly, particularly in this economic time with fur prices.

Mr. Regehr: Now, flipping to slide 26, we have the two different maps for two different time periods.

Now, the information that you have on there from the 1940s to the 1980s, is that data that you obtained from your interviewees?

Ms. Larcombe: Correct.

Mr. Regehr: So your interviews were beyond the 1990 to 2013 period?

Ms. Larcombe: They go as early as the interviewees' experience.

Mr. Regehr: All of the maps you have provided so far were from the 1990 to 2013 period?

Ms. Larcombe: Yes.
MR. REGEHR: Can you explain your rationale for now why you include data from 1940 to 1980?

MS. LARCOMBE: I included these comparing maps to illustrate that the locations primarily have been the same since the earlier period as they are in the late period, in terms of the sample of harvesters, where they had engaged on the land.

They look different because many of the people I interviewed hadn't come onto this planet in some of the decades that the older harvesters were actually active on the land.

MR. REGEHR: So is some of this information based on oral history?

MS. LARCOMBE: No.

MR. REGEHR: On slide 27, you stated that there is no Metis use within the project footprint?

MS. LARCOMBE: I did.

MR. REGEHR: That would be the local study area as defined by the EIS?

MS. LARCOMBE: Being the footprint of the generating station and the proposed reservoir.

MR. REGEHR: So would you agree that
your finding is consistent with the evidence filed in the EIS, in particular volume 2, resource use section 1.2.2.1 at page 17, which says that, apart from the KCN:

"Use of the local study area by other Aboriginal groups has not been identified through the PIP or through direct consultations with Aboriginal groups and communities."

Your finding would be consistent with that finding, wouldn't it?

MS. LARCOMBE: My preliminary findings based on the sample.

MR. REGEHR: You then say that there is Metis use within the offsetting program areas?

MS. LARCOMBE: I did.

MR. REGEHR: And which offsetting programs under which adverse effects agreement are you referring to?

MS. LARCOMBE: It would be in the Tataskweyak resource management area, there's traditional use in that area. And I'm looking for a map. It would look like to me that there's some in what's called the War Lake traditional area. And also I understand Split and York Factory share
a resource management area. Those are the ones primarily.

MR. REGEHR: Do you mean Tataskweyak instead of York Factory?

MS. LARCOMBE: It's my understanding that under the Northern Flood Agreement, that York Factory has a resource management area that's closer to Hudson Bay, but that they share traditional activities within the Tataskweyak resource management area because of the relocation.

MR. REGEHR: The impacts from the offsetting program, how many of the 35 harvesters are going to be impacted? Did you collect that data?

MS. LARCOMBE: Impacted?

MR. REGEHR: Yes. You stated that they will be impacted by the offsetting programs. So how many of the 35 would be impacted?

MS. LARCOMBE: Well, I said that there were potential impacts. I haven't counted. I did my presentation based on our study area, not the Partnership's study area. So I haven't analysed the data from the perspective that you would obviously have liked me to analyze
MR. REGEHR: Now, let's move onto slide 28, and I promise you we are almost done. And here you list constraints and disturbances in the study area. And that, of course, is the red oval study area, not the EIS study areas, correct?

MS. LARCOMBE: Yes.

MR. REGEHR: You note a lack of government recognition.

You do understand that the Partnership doesn't control negotiations between the government and the MMF, correct?

MS. LARCOMBE: I'm not qualified to answer, but I would doubt it.

MR. REGEHR: You reference reserve land?

MS. LARCOMBE: I do.

MR. REGEHR: You understand that the Partnership has no control over reserve lands, correct?

MS. LARCOMBE: I would doubt it would.

MR. REGEHR: You reference the various KCN resource management areas. Are you suggesting that those resource management areas were created
to somehow deny use by Aboriginal rights holders?

MS. LARCOMBE: No, I have never implied that.

MR. REGEHR: You then also mentioned Bipole III, Keeyask and Conawapa. However, with the exception of some of the Keeyask infrastructure, none of those projects have been built, correct?

MS. LARCOMBE: Which ones?

MR. REGEHR: Bipole III, Keeyask and Conawapa, I can specify Keeyask Generating Station, they haven't been built, have they?

MS. LARCOMBE: The generating station has not been built.

MR. REGEHR: Conawapa hasn't been built, has it?

MS. LARCOMBE: I doubt it, no.

MR. REGEHR: Has Bipole III been built?

MS. LARCOMBE: I don't know if they have started it yet.

MR. REGEHR: So if they are not built, they can't be said to be having a disturbance, correct?

MS. LARCOMBE: I said they are
planned, planned developments.

MR. REGEHR: Now, we will go over to page 29.

MS. LARCOMBE: Page or slide?

MR. REGEHR: Slide 29, I am sorry.

And this is where all the data from the other maps have all been put onto one map, the shading has been removed. Clearly, we get some darker purple areas because that's where lines are bisecting each other, correct?

MS. LARCOMBE: Correct.

MR. REGEHR: Now, if I'm reading correctly, at the bottom of that map, or the title of the map -- my one course in cartography from many, many years ago is now coming back to me -- it says:

"Manitoba Metis Federation Keeyask Generation Project Traditional Land Use Values and Knowledge Study.

Traditional use: Hunting, fishing, gathering, trapping."

You said earlier, trapping data had been suppressed. Has it been included in this map?

MS. LARCOMBE: It has because it
significantly camouflaged that I felt you can't
identify an individual trapline.

MR. REGEHR: As with the previous map, this map fails to provide us any data in terms of the number of harvesters each polygon, or the times over the 23 years when their harvesting activities took place, and it doesn't include any reference to the local study area or regional study area as defined in the EIS. Is that correct?

MS. LARCOMBE: Can you break that question down, please?

MR. REGEHR: This map doesn't give me any data, it doesn't give me any description in terms of the number of harvesters in each polygon?

MS. LARCOMBE: This map does not do that. There's no numbers on it.

MR. REGEHR: It doesn't tell me when, over the 23 years of the study, people were engaged in those harvesting activities.

MS. LARCOMBE: It tells you they have been involved there in that time frame, 1990 to 2013.

MR. REGEHR: And it doesn't include any reference to either the local study area or
regional study area as defined by the EIS, correct?

MS. LARCOMBE: That is correct.

MR. REGEHR: Thank you, Mr. Chair, I have no more questions. I'm not sure, I don't believe Mr. Bedford does.

We have no more questions.

THE CHAIRMAN: Thank you. It's now just after 12:25. We'll take a break and come back at 1:30.

MR. MADDEN: Can I suggest I have no questions. If there -- I don't know if any of the participants.

THE CHAIRMAN: Okay. Fair enough. We can canvass and see, do any of the participants have any questions of this witness? Do you have very many?

MS. CRAFT: Fifteen minutes.

THE CHAIRMAN: Okay, then we'll come back at 1:30.

(Proceedings recessed at 12:26 p.m. and reconvened at 1:30 p.m.)

THE CHAIRMAN: Everybody here? Okay, we will reconvene with participant cross-examination.
Ms. Craft?

MS. CRAFT: Thank you, Mr. Chair.

Good afternoon, Ms. Larcombe, my name is Aimee Craft, I'm counsel for the Consumers Association of Canada, and I have a few questions for you on behalf of my client.

I'm going to refer to two of your slides, number 10 and number 11, if you want to have those ready.

And my first question relates to the first bullet in which you indicate that a small sample of 30 harvesters active in the Keeyask study area were interviewed. And can you define for me what active in the Keeyask study area means?

MS. LARCOMBE: Active meaning if we were going to expend time and money, we wanted to interview people who we had some sense would actually be engaged in traditional use activity within our study area, as opposed to blindly interviewing people. In fact, one of the interviews didn't have any use in the study area.

MS. CRAFT: And what would be an indicator of active?

MS. LARCOMBE: Active being in their
lifetime, and in more recent decades involved in one of the traditional use activities, whether it is the harvesting of plants, animals, fish, trapping activity, engaged in camping on the land, cabins on the land, just expressing culture on the land.

MS. CRAFT: And in the context of your study, would a single use of land within the Keeyask study area have been enough to consider a participant as active in the Keeyask study area?

MS. LARCOMBE: Well, during an interview you get what you get. You don't know what you are going to get for sure until you are through the interview. But if an individual has one activity in one location, and they have been doing it for a period of time, it falls under the purview of traditional use of lands and resources.

MS. CRAFT: Okay. Can I ask why you used the parameter of active in the Keeyask study area rather than residents?

MS. LARCOMBE: Because what -- before I -- when we were designing the screening survey in 2010, I understood that Metis are very mobile in terms of where they engage in traditional use, and it is not necessarily in the vicinity of where
they live. In fact, the TLUKS study for the
Bipole III work was remarkable in terms of the
distances that Manitoba Metis will go to engage in
traditional use.

MS. CRAFT: Thank you.

You indicated earlier to counsel for
the York Factory First Nation that you did not
base your study on oral histories; is that
correct?

MS. LARCOMBE: I qualified that the
oral history information, if shared with us, would
only pertain to sites of cultural importance but
it did not apply to harvesting activity.

MS. CRAFT: Were any of the
interviewees prohibited from sharing oral history
information during the course of the interviews?

MS. LARCOMBE: No, they were not.

MS. CRAFT: Also in relation to this
slide, you mentioned yesterday that you excluded
commercial fishing from the study. Can you
explain to us why commercial fishing was excluded?

MS. LARCOMBE: I'm not suggesting that
commercial fishing is not a traditional use. It
is a -- while trapping is a licensed activity, it
is also a cultural activity. And I'm not going to
say that commercial fishing isn't a cultural activity. But traditional use of lands and resources has typically in Canada, at least in the last several decades, has not looked at the commercial aspect of the exercise of rights and traditional use.

MS. CRAFT: Okay. Would you say that the Metis that you interviewed drew a clear distinction between commercial and personal fishing?

MS. LARCOMBE: Yes. In some circumstances an interviewee, particularly when asking what species of fish they were harvesting for food purposes, would talk about, if they were a commercial fisher then they would keep the higher dollar valued fish to sell under their commercial licence and utilize fish that didn't draw as good a price for food fishing. Regardless of whether that was their food preference, that's what they would do because it was how they were making a living.

It is not uncommon for a family that's out involved in commercial fishing to throw some fish in the boat for dinner. They wouldn't go out on a separate trip to get the fish, they are often
done in tandem.

MS. CRAFT: So would it be fair to say that the map that we saw in relation to fishing could actually potentially be inclusive of additional areas, if you consider the personal use blended with commercial use?

MS. LARCOMBE: There would be areas, there could be areas on the map that weren't identified where there was commercial fishing. If an interviewee during an interview starts to talk about commercial fishing, I will ask them, do they also acquire food fish from the same location at the same time? And I will document the food fishing aspect of it and not the commercial.

So in the Keeyask interviews, if somebody identified a place that they commercially fished, but didn't indicate that they food fished, it wasn't documented.

MS. CRAFT: Ms. Larcombe, did the interviewees express concerns about the impacts and effects of Keeyask and their traditional use during the course of your study?

And we can certainly break this down into different areas, if you want. We can talk about fishing separately from moose hunting, from
caribou hunting.

MS. LARCOMBE: First off, the TLUKS interview was geared at baseline collection, it is not an impact assessment interview. I try to speak as little as I can about a project before I do the interviews, so then I'm not potentially introducing bias so that they say, well, maybe I should identify use near here, maybe that's what they want of me, and that happens. It is a dynamic that goes on between interviewer and interviewee.

If there was time before the next interview, I would ask them if they had any concerns, or if they said, well, where is it, I tried to answer any questions they had. But the purpose of the interview is not an effects assessment.

Generally, some of the comments I made during my presentation were, you know, some interviewees express that they don't like to harvest fish for food out of the Burntwood River. Sometimes they mentioned mercury, sometimes the word dirty was used. There was an awareness of mercury in fish in Stephens Lake. There were concerns about mercury in Sipiwas Lake. And that
was the extent of it.

MS. CRAFT: I appreciate that you weren't asked to do an impact study in relation to Keeyask, but I'm wondering if any of the participants would have raised that independently of you asking any questions?

MS. LARCOMBE: You are asking me to guess?

MS. CRAFT: I'm asking, based on your interviews, did that come up independently of you soliciting it through questions?

MS. LARCOMBE: I don't recall. There was not, there wasn't a good awareness of the Keeyask project among the pool of people that I interviewed. Among quite a number of them there was a pretty good understanding of past Hydro projects in areas that they were engaged in traditional use.

MS. CRAFT: And did they express any concerns regarding impacts or effects relating to those?

MS. LARCOMBE: To past projects?

MS. CRAFT: Yes?

MS. LARCOMBE: Yes.

MS. CRAFT: Thank you. Those are my
THE CHAIRMAN: Thank you, Ms. Craft.

Ms. Pawlowska-Mainville, I understand that you have a question or two? Oh, it has grown.

MS. PAWLOWSKA: Thank you kindly for allowing us to ask these questions.

Thank you, Ms. Larcombe, for your presentation. I'm speaking on behalf of the concerned Fox Lake Grassroots Citizens.

Your CV shows, and also you have testified in your presentation today that you do traditional knowledge and -- knowledge studies with First Nations and other Aboriginal groups, is that correct?

MS. LARCOMBE: Yes, that's correct.

MS. PAWLOWSKA: Thank you.

And do you have confidentiality signed with individuals that you interviewed for each of the studies?

MS. LARCOMBE: Yes, it is standard practice.

MS. PAWLOWSKA: Thank you.

And is the confidentiality agreement that you referred to in your cross-examination
today a standard confidentiality agreement that
you use for other traditional knowledge and land
use studies?

MS. LARCOMBE: I have a standard
template that I ask my clients, but often my
clients have their own version of it, and if I'm
agreeable, I will sign their version of it.

MS. PAWLOWSKA: Thank you.

And my final question is, the
confidentiality agreement that you use is based on
what you consider to be the best practices in your
field?

MS. LARCOMBE: Yes, it is.

MS. PAWLOWSKA: Thank you.

These are all of the questions that I
had.

THE CHAIRMAN: Thank you,
Ms. Mainville Pawlowska. I don't believe there
are any other participants who wish to
cross-examine this witness. Thank you.

Any panel members?

MR. NEPINAK: I just want a
clarification on slide 28, and it is not something
that you have on the slide, but you had said
that -- you mentioned the term asserted rights?
MS. LARCOMBE: Yes, I did.

MR. NEPINAK: What did you mean by asserted, in what context of asserted did you mean?

MS. LARCOMBE: You know, I'm not a lawyer. My understanding of asserted rights is that the Constitution of Canada says that it recognizes the existing rights of Aboriginal peoples, but they are not defined in the constitution. In some respects they are defined in treaties, but sometimes they are defined through jurisprudence of Aboriginal law.

I used the term asserted because my understanding is that the Manitoba Metis claim to have Aboriginal rights throughout Manitoba and beyond, but until they are recognized legally, they remain in the domain of being asserted as opposed to recognized.

MR. NEPINAK: And that's through the courts?

MS. LARCOMBE: Well, the 2012 Manitoba and MMF agreement was a negotiated document, as far as I know. But, yes, often rights are defined through the courts.

MR. NEPINAK: All right. Thank you
very much.

THE CHAIRMAN: Thank you. I don't have any questions.

Mr. Madden, any re-direct?

Thank you very much, Ms. Larcombe, you have been a trooper this morning and early afternoon. Thank you for your participation and your presentation.

MS. LARCOMBE: Thank you. It has been an honour.

THE CHAIRMAN: We won't take a break, but we will be switching panels, and the fine folks of Pimicikamak will be pleased to know that we are finally ready to have your presentation, or the first of your presentations. Okay.

Perfect timing. Do you want to introduce the process, Ms. Kearns?

MS. KEARNS: Yes. To clarify any confusion for the others in the room, we had originally proposed that Dr. Annette Luttermann would be speaking with this panel. Dr. Luttermann was snowed in, in southern Alberta, so she didn't get out. So she will speak tomorrow. So this panel will speak without her, and then she will speak alone tomorrow.
So I would ask each of the witnesses to introduce themselves, and then you will be sworn for the record.

MS. ROBINSON: Hi, good afternoon, I'm Vice Chief Shirley Robinson.

MR. MUSWAGGON: Good afternoon, Tansi. My name is David Muswaggon, I'm a member of the executive council with Pimicikamak Okimawin.

MR. SETTEE: Good afternoon, my name is Darrell Settee from Pimicikamak.

MR. PAUPANEKIS: Good afternoon, I am Darwin Paupanekis. I'm the secretary to the councils of Pimicikamak Okimawin.

Shirley Robinson: Sworn

David Muswaggon: Sworn.

Darrell Settee: Affirmed.

Darwin Paupanekis: Sworn.

MS. KEARNS: Okay, Vice Chief Robinson.

MS. ROBINSON: Okay. Good afternoon everybody. I'm here on behalf of Chief Cathy Merrick, because she was injured and is unable to be present today. And I will read a statement on behalf of Chief Merrick from Pimicikamak Okimawin.

About 50 years ago Pimicikamak had to
deal with a massive Hydro project that was imposed on our people, lands and waters. This massive Hydro project was built without our consent or even without any consultation. This was a violation of Treaty 5 and a violation of our inherent rights.

In 1977, after many years of the Hydro project operating, we signed a Northern Flood Agreement with Canada, Manitoba, and Manitoba Hydro. The NFA is a Treaty between us and the Crown parties. The NFA was to address all of the violations of our rights by remedying, mitigating, and compensating us for the harms caused by the project.

While Hydro and the Crown parties reaped all of the benefits of the Treaty, the NFA Pimicikamak bear the burden of project impacts alone. Our once healthy economy, society, and way of life, which had depended on and were interwoven with the environment became devastated by the project. The environmental impacts that we have endured and encountered were disruptions to the ecosystems. There was flooding, massive erosion, water pollution, destruction of our forests and species habitats, rotting debris in the waters,
destruction of our fisheries and mercury poisoning.

The social impacts that we face, and still to this day, are mass poverty, high unemployment, high suicides, one of the worst in the world. A health crisis, injuries and accidents from project hazards that includes submerged trees, spiders, reefs and rocks, and the loss of a way of life, and the ripple effect that the health crisis has on the whole Manitoba Health system.

Many of our young people do not go out on the land and exercise their rights by fishing, hunting, trapping, swimming, and living a way of life, because it is not worth the risk of loss of life and the fear of the environment provided by the project.

Our land has gone from clean and unusable before the project to poisoned and rendered unusable today. This disruption to our land has cumulative effects on the state of our people and all of Manitobans. The benefit we get when we exercise our rights has been denied.

Many of our people suffer from post-traumatic stress disorder because of the
destruction we witness every day from the project, both directly and indirectly on a daily basis.

As a woman who brings life into this world, I honour my sacred responsibility to the life and Mother Earth. All women are concerned about how water is poisoned by the project. We need a study to find out why many women do not carry their children to term, and many that do are still born, and there are many more that have birth defects and health defects unheard of prior to the project.

The existing massive project is killing our lifeline, our waters, which is the lifeblood of Mother Earth. When you flood lands, the plants and trees are poisoned, and so are all other living creatures which we rely on for sustenance.

It should not be this horrifying in this day and age. The NFA requires Crown parties, including Hydro, mitigating the impacts and remediating and preventing harm. But the Crown parties have failed to do this. They have violated their legal obligations and violated our inherent and human rights.

We are greatly concerned about the
impacts of new development on the critically
fragile environment and any further impacts on our
rights may not be mitigated and will definitely
not be compensated.

Pimicikamak has the following rights
in relation to Keeyask. We have Aboriginal rights
in our homeland. Our traditional territory
extends up to the Keeyask area and includes much
of the project in Northern Manitoba. We have
Treaty rights right across Manitoba, and extends
beyond its borders. We have NFA rights across the
entire area affected by the project. We have
self-determination rights under international law
and Canadian law. We have, we also have rights
and responsibilities to protect the land and
waters under our Pimicikamak traditional law.

Pimicikamak's position is that Keeyask
should not go ahead until a broad watershed
cumulative effects assessment has been done, and a
land use and occupancy study and impact study
completed. Only after these studies are done can
Pimicikamak and the CEC panel, the Minister, and
all Manitobans understand the true impacts of
Keeyask. And only after these studies are done
can Manitoba Hydro begin to consult with all
Manitobans, including indigenous peoples, about the impacts of Keeyask. You will hear more about the need of these studies from Pimicikamak's other witnesses. This is the message from our Chief Catherine Merrick from Pimicikamak Okimawin.

Thank you very much.

MS. KEARNS: Thank you, Vice Chief.

Councillor Muswaggon?

MR. MUSWAGGON: (Speaking Cree.)

I'm here to share with you our understanding and view of this process. Our commentary is not limited to this. Our views are holistic, based on our history, our laws, and our system of government.

Pimicikamak is not new, as you can see on the map, on the screen. It was always there, except it functioned orally. Pimicikamak is a particular place with a particular tribe that formed part of a much larger Cree confederacy. Pimicikamak is a sovereign indigenous nation located in what we call now Northern Manitoba. Pimicikamak territory has vast tracks of land that extends throughout what is now known as Manitoba. This is a known fact.
We respect the system of governments established by Canada, and I'm not here to debate the system of whether this process is right or wrong. That is your system of law.

However, I am here to tell you existing Hydro systems affect our lands and our people. By virtue of its sovereign authority and the right to govern its lands and its people, Pimicikamak was entertained with a peace and friendship Treaty in 1875 by Treaty commissioners representing the British Crown. In trust and respect and honour, the Pimicikamak tribe, the people accepted the 1875 Treaty with the Crown, which is known as Treaty 5. Pimicikamak understood this Treaty to be one of friendship and peace where the lands would be shared with the Crown and its people coming into our island, what we call North America today.

History has shown Treaty 5 was not honoured in its spirit and intent. Many steps have been taken to deny Pimicikamak its fair share of wealth generated off its lands.

In the mid 1990s, Pimicikamak, with the encouragement, wisdom and guidance from their elders, took another step to reassert its inherent
sovereignty and self-determination. Pimicikamak adopted a policy of adaptation to meet the needs of various challenges it faces. Pimicikamak, which is a people driven government, contrary to the system of government established by Canada, passed its own national written laws and national policies. And today Pimicikamak is governed by the four councils, the three traditional councils which is comprised of elders, women, and our youth, and the executive council of the government.

Pimicikamak is not a band or a First Nation, which is something created entirely by and imposed on indigenous people by the Federal Government through the Indian Act, which is a Federal law.

Pimicikamak is a party to the British Treaty known as Treaties 1 to 11, and the Northern Flood Agreement Treaty.

Treaty 5, I want to speak to you in summary. Pimicikamak granted rights to the Crown and the settlers by virtue of treaty to use our lands. In the Treaty 5 relationship, the Crown and its agents, meaning Canada, Manitoba, and Hydro today, have responsibilities to that
relationship. These responsibilities include, but are not limited to, true stewardship to the lands belonging to Pimicikamak, whom agreed to share it. Pimicikamak people are waiting in good faith with the Crown to implement their promises in good faith. Pimicikamak people should not have to come to you to remind you of the treaty obligations. It is offensive and disrespectful for the Crown and its agents not to honour the sacred covenants of the treaty promises made.

Pimicikamak ancestors were mindful of their nation's future for the unborn. They gave your ancestors permission to live with us on our lands. This was based on respect, trust and honour when the British Treaty was concluded. The adhesion to this Treaty, the Northern Flood Agreement Treaty, has not changed to date. It added more responsibilities.

We are here because we believe in the integrity of this process here. We are relying on you to do the right thing to bring justice to this process. The laws and regulations established by Canada cannot be conveniently used.

MS. KEARNS: Councillor Muswaggon, I'm going to interrupt briefly to ask you a question.
When you say the integrity of the process, can you explain what you mean by integrity?

MR. MUSWAGGON: My Pimicikamak integrity, our interpretation from our perspective, (Cree spoken) our language is (Cree spoken) the truth, (Cree spoken.)

All people concerned about Hydro's adverse effects on the lands and the people living in those lands need to be exposed, the truth needs to be told, the truth needs to be seen. Then you will understand our view of what integrity is.

(Cree spoken.)

Case in point, evidence shows existing dams have done so much harm to our lands and to our people who live there, meaning this map that we look at. And the community of Cross Lake is not alone. Additional dams will add to this problem. We have extensive evidence presented in the past and in this process.

Pimicikamak's survival is at stake.

Its own critical infrastructure that has sustained it for thousands of years is being washed away.

Its traditional economies have been washed away.

Its history is being washed away. Erosion is out of control, even as we speak today. Our ancestors
remains are constantly exposed from fluctuating water levels. Some have been reburied with some remediation measures. But more needs to be done to control the damage that has been done and continues to date, as we speak.

(Cree spoken.)

Yesterday, while I was at this hearing, I received a call from one of my people, an elderly woman. Her husband and her live on social assistance. I want to share this story with you. They do not work. To make ends meet, they fish domestically to feed their family. They are so poor they can't even afford a snow machine. They pull a big sleigh to go check their net out in the lake. Since freeze-up they had their net out to get whatever fish they can to consume, sell a little bit to survive. While they are going to check their net with no snowmobile, they had to pull their sled with all of their gear to check this thing. Recently Manitoba Hydro has been releasing so much water, causing so much slush to accumulate above the surface. It is hidden under the snow, the blanket of snow. With all of that weight, it weakens the ice. While out checking their net, the elderly woman's husband fell
through the ice, and they were there almost every
day checking his net. She told me her husband
almost drowned. She was able to save him. This
has traumatized the family.

So you can hear, this is one of the
adverse effects facing my people. Hydro continues
to manufacture risk on our lands and waters. This
is the truth.

Other land users have experienced
similar incidents. Some have died. Some have
been critically injured, scarring them for life.
Some have gone silent, losing faith and trust in
the system which promised many good things.

To some people who ever go home with a
conscience, when they go to bed at night, those
poor people that suffer out there, the misery,
they have to bear that burden, the anger that
builds up inside of them because of broken
promises.

Pimicikamak has seen many of our
people being used in this system, your system, not
ours. We have seen some of our (Cree spoken)
meaning the old people used to open up these
meetings by conducting prayers, use of sacred
pipes and sweetgrass. These objects and
undertakings are sacred and significant to us.
They have been with us for thousands of years.
They represent the truth.

We would expect the truth will
outweigh the plans of creating more problems for
our lands and the people who live in there. We
hope that decisions to be made will favour the
truth and based on honest moral values of decision
makers.

We all have responsibilities to look
after the land and it will look after us.

The Northern Flood Agreement, I want
to talk about a little bit. I understand the CEC
panel heard about the Northern Flood Agreement
from Partner First Nations. Unlike Tataskweyak
and York Factory, we do not have alternative
agreements like the other four First Nations do
that gives away their NFA Treaty.

Pimicikamak still honours those elders
who made the decisions to agree to Treaty 5 on
NFA. In 1977, it was the elders of the five
communities who negotiated and agreed to the terms
of the Northern Flood Agreement. This agreements
were settled then. It was not the chief and
councils who negotiated the treaties, it was the
wisdom of the elders that established those relationships. Leaderships at the time were instructed by the elders back then to sign the NFA in its spirit and intent.

Pimicikamak still awaits honourable implementation of the 1977 agreement. This is our view, our laws, our understanding.

And I want to refer to you on the screen here about the NFA article 25, which is very clear.

MS. KEARNS: Council Muswaggon, I think there should be a remote on the table there, so you could move ahead to that slide.

MR. MUSWAGGON: The literature to article 25 is very clear. As we read it, it says --

MS. KEARNS: I think you went one too far.

MR. MUSWAGGON: This agreement with the exception of the provisions of article 24 shall remain in force and be binding upon the parties hereto for the lifetime of the project, including any substantially similar redevelopment thereof. It is
understood and agreed that this provision shall remain in force and be binding upon the successor to any party hereto and upon the heirs, executors and successors of any claimant."

We never gave this up. That's our understanding, for the lifetime of the project, as long the turbines keep spinning, generating revenue for Hydro and the Crown, our benefits are to continue. They can not be capped for a one-time deal.

Pimicikamak is the only nation that still retains its full NFA rights. The responsibility is in the hands of the Crown and its agents to do the right thing.

The truth of the matter is this: Our homeland has been turned upside down, the environment has been destroyed, our traditional economies have been destroyed, our social fabric is no longer stable, our waters are no longer healthy to consume, navigable waterways are no longer safe, our animals and fish are no longer healthy, our traditional food chain is affected and it affects our physical and mental health.
This dampens our spirit to hopelessness. We are lead to believe that the 1977 Northern Flood Agreement Implementation would replace our traditional economies and develop a new way to sustain our survival.

Pimicikamak understands that the NFA is the wishes of the people. Implementation calls for professional planning based on fact based needs to support the rationale of the implementation processes resulting from the adverse effects from the project.

Our people are sick and dying because our Mother Earth is sick and cannot continue to sustain us.

We all have a responsibility to make conscious decisions. We have to see, we have to feel, and we have to walk in the shoes of the oppressed in order to understand (Cree spoken).

We have heard many different versions of what the Northern Flood Agreement is and is not. What we are certain of is that the Northern Flood Agreement is a Treaty. I understand that this fact was already put into evidence by Victor Spence for the Partnership earlier in the hearings.
Our people do not want to be spoonfed with continued dependency of handouts. We were always a very independent and thriving nation. We have seen many approaches by others how to implement the NFA. Historically, our people have been very good, reliable workers, good responsible men who looked after the welfare of their families, the love of their lands and traditional economies sustained them. Our women were good responsible caregivers and keepers of life. They also cherish the sacred relationship that they had with the lands and waters that enabled them to raise their children in a healthy way, with healthy lands and healthy foods.

The wisdom of our elders were aware that the project would impact us. They were not sure in what way and how much.

After so many decades we have seen the results of the devastation. The NFA is clear of the responsibilities of what needs to be done to address the adverse effects. Our understanding is that the adverse effects would be mitigated first, to be followed by remediation, and lastly compensation.

This is the standard for implementing
the NFA. Somehow this has gone backwards, it has reversed. We have heard of the many alternative agreements that have been signed, but the reality is, we are no better off today. (Cree spoken).

Benefit sharing; Pimicikamak is an inherent and treaty rights holder. Sharing in the wealth of natural resource development should be done in a transparent, accountable, visible, fair and equitable way. The wealth generated from the project includes existing hydro dams, and will include future for both dams like Keeyask.

History shows that the project has and will continue to adversely affect Pimicikamak. The impacts will continue to accumulate. Pimicikamak suffers the costs and burdens of this. Mitigation measures need to be implemented in a professional, planned way to address the environmental harms and to the people who live there.

Let's start cleaning up the mess in a serious way. The environmental and economic benefits will start flowing for Pimicikamak by implementing meaningful and practical plans to mitigate the problems created by Hydro. We need to start implementing the NFA in its spirit and
intent. Pimicikamak has developed plans and they are available and moving forward to address that.

This is how benefits should flow.

Reverse the cycle of poverty to prosperity. Get my people working as promised. The list goes on in the Northern Flood Agreement.

Why should the benefits of any new dams be only shared, when we also have to consider existing dams that continue to generate revenue from the lands and waters of the people that live there, the Pimicikamak tribe in their Pimicikamak territory.

In our view, decisions have to made -- that have been made do not make sense. To make sense of the decisions requires the truth.

We live right below the Jenpeg dam, and we pay more than any other Manitoban, damage to our lands and resources, damage to our way of life, high cost of hydroelectricity.

And in conclusion, I want to say this for every individual that's hear to think about. Renewable energy should be clean and green. (Cree spoken.)

Thank you for listening.

MS. KEARNS: Thank you, Councillor
Muswaggon. Mr. Paupanakis?

MR. PAUPANAKIS: Thank you.

Good afternoon Commission. My name is Darwin Paupanakis. I'm the secretary to the four councils for Pimicikamak Okimawin.

I have been secretary for Pimicikamak for over five years. My work consists of being the keeper of our laws, knowledge holder of our traditional laws, and I coordinate the Nation's business.

I am here to assist the Commission in getting the facts surrounding the concerns of our government regarding the proposed Keeyask development.

Our government is structured so that all the represented bodies are ensured all decisions are made in a consensus format to account for transparency and accountability. We have four councils, an elders' council, a women's council, a youth council, and the executive council.

The executive council has the legislative authority, so all proposed laws or amendments are proposed by the executive. All proposed material is put through the process of
having each council pass or reject the material in part or in its entirety. After this goes, it goes to the general assembly for ratification and adoption.

Pimicikamak is a self-determined Aboriginal peoples that has been in its homeland forever. Pimicikamak is the holder of Aboriginal and treaty rights under Canadian law and under international law. Aboriginal rights are inherent rights, they come from being here in our homeland since the beginning of time.

A reference I want to make at this point with this, is a dear friend of mine, Mr. Atkins will know well, Mr. Gideon McKay always introduced himself with this reference, (Cree spoken), meaning he was put there by the Creator on that land.

Here is a map of Pimicikamak's traditional territory. Pimicikamak signed Treaty 5, in which we agreed to share the lands and resources we had exclusive inherent right to with the Crown. In doing so, we agreed to adopt your laws and ways of respecting such laws. This did not mean that we agreed to relinquish our rights to not abide by the laws of our own, but rather we
agreed to live in harmony with your laws.

We have self-determination rights under international law and Canadian law. By international law I’m referring to the fact that Canada has ratified the United Nations declaration on the rights of indigenous peoples and the international covenants on civil and political rights, and economic and social and cultural rights. Article one of the covenant states:

"All peoples have the right of self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development."

Pimicikamak acknowledges the Crown had needs to address its obligations to the Treaty partner, therefore, instituted the Indian Act, where it gives them the ability to deliver its programs to the beneficiaries of the Treaty.

The band did not sign Treaty 5, Pimicikamak did. In fact, the band did not exist when the Treaties were signed. The band was created by Federal legislation and it was imposed on us by Canada after Treaty 5 was signed. The
band does not hold inherent rights to bargain away our rights. Only Pimicikamak holds the inherent Aboriginal rights and our treaty rights.

Since Pimicikamak is the rights holder, it is Pimicikamak who must be consulted and accommodated about any development, including hydro development, that might affect our rights. This is both under section 35 of Canada's Constitution and under article 9 of the NFA, which I will discuss in more detail later in my presentation.

Our people have been and continue to be adversely affected and impacted by the various projects such as Kelsey, Kettle, Grand Rapids Generating Station, et cetera. The most impact in immediate vicinity of those impacts are generated from the control structure of Jenpeg. The Jenpeg control structure has turned the environment upside down in Pimicikamak, and as such has done irreversible environmental damage to the lands and waters of the inhabitants who want to enjoy the land and water, which they could do if Manitoba had worked hard to mitigate the adverse effects of the project.

Darrell Settee, to my left, will be
speaking later about the nature of these impacts and relate what we have seen to the expected impacts of Keeyask, both directly and cumulatively, with the existing impacts.

We, as Pimicikamak citizens, are stewards of the land and waters. We have a mandate to protect our natural resources. We have a spiritual mandate to protect all living things in accordance with our spiritual law and responsibilities. This law and our relationship with the land that it governs is essential to who we are as a people.

Darrell will start his presentation now. But let me just warn you that the images and graphics you are about to see will be very disturbing to some and very -- could have impact on your thoughts and your feelings about this today.

Darrell?

(Video playing)

MS. KEARNS: This is the powerpoint presentation.

While it is being loaded,

Mr. Paupanakis or Mr. Settee, can you explain who produced the video we just saw?
MR. PAUPANAKIS: The video we just saw was produced by multi-channel television in Cross Lake, and the content of it was derived from the student that was speaking at the end there. The pictures were inserted to show what she was talking about. So this video, the script of it was developed through Jody Trout's thoughts and through her -- one day writeup of one page that was submitted to the CEC. So that's what the video represents.

MS. KEARNS: Thank you. So over to Mr. Settee for your presentation. Before you start, I will ask that you introduce yourself and explain a bit about who you are.

MR. SETTEE: Good afternoon, my name is Darrell Settee.

MS. KEARNS: You can pull the mic closer to you.

MR. SETTEE: I would like to tell you about my background, I lived in Pimicikamak all of my life and I have lived all through the project years and pre-project years, and I've seen changes.

MS. KEARNS: Mr. Settee, you are soft-spoken, so you are going to have to speak a
little bit louder, so that way it is caught on the transcript and the Commissioners can hear.

MR. SETTEE: I guess I have to get used to this microphone.

I was saying my background in Pimicikamak, I lived in Pimicikamak all of my life, during the pre-project and post-project and the impacts. And I would inform you that the purpose of the presentation is to provide the panel with a broader view of what we have lived through, the negative impacts in our territory. And so I'm going to proceed with the presentation.

So we can see the first one there, it says the effects of Hydro impacts, Nelson River and problems with mitigation measures. Okay.

The nature is infinitely complex and very beautiful, nature is very, what could be appreciated by everyone, and we like to leave it intact the way it is, the way we find it. And so --

MS. KEARNS: Sorry, Mr. Settee, I'm going to interrupt you one more time and then you can carry on.

The photos you are showing, are they photos you took?
MR. SETTEE: I have taken most of the photos, and some of them were presented to me by
the other people in Pimicikamak who -- and some people had distributed disposable cameras, you
know, to cover a wide range -- I can only be in one place at one time.

MS. KEARNS: Thank you.

MR. SETTEE: Nature is beautiful and we can appreciate, you know, this waterfall is
about 15 kilometres east of Cross Lake, and it does appear when the water levels are high enough
but disappears when the, you know, the water levels drop.

Now, this slide shows you a couple of people, namely Mr. Alexander McKay and his son,
that are preparing a net. And if I could -- there is a fish tub there, and the water line was there.
And then fluctuation, it goes down. So I am down right by the river taking this picture. And it
was taken in June 15th of '03. Mr. McKay is no longer with us. He lost his life in this very
location.

This one shows the low water levels in our community. You can see a lot of the reefs,
you know, and also you can see that's effluent
from the sewage treatment plant, which it is very close to the fish plant that we have today, including the water treatment plant.

This one shows on the Jenpeg forebay formally was forest, and cleared for the purpose of the project. And you can see the stumps in the foreground and all of the roots that are going to be entering the water at some point.

And I will just point out that the water will advance all the way to the trees in the background, and then eventually it will take some of them out, and then will recede again.

MS. KEARNS: Mr. Settee, the panel turns to look at your slide when you are using your laser. So if you could just pause, I don't think they saw what you were pointing out with your laser pointer, so you have to give them a second to turn around. There you go.

MR. SETTEE: As I was saying, the trees, the water will advance to the tree line that you see in the background, and then will recede again when the water levels go down. So stumps in there will enter the water at some point.

This is a slide showing the grebe
nest. A grebe is a diving bird which doesn’t really walk too much, it spends most of its time in water, but it builds a nest closer to shore. So when the water levels rise, the nests will collapse. And the next slide we will show you what happens. The egg --

MS. KEARNS: We have lost the slide on our screen. Can you go forward a couple more, see if it is just that photo? There you go. Okay. You can just skip over that one.

MR. SETTEE: We will just start from this point. Okay.

During the spring the fish school into the tributaries, you know, for spawning. And the water will be a little bit high enough for them to advance into the tributaries, but then the water levels drop and they become stranded and, of course, they die there. And they are lost also.

And we find a lot of muskrat that they are frequently frozen in the ice because, you know, the fluctuation forces up the ice and causes, you know, swells, cracks, and crushes the lodges.

Again, we also discovered the young ones that drown. Muskrat also burrow into the
ground, like on the banks, and not only do they thrive in the lodges offshore, but they do burrow into the ground. And what happens is the ice, you know, the shifting ice will crush the entrances and the animals are trapped in there, also they drown.

There is an example of one that we found inside a lodge that was -- we think probably drowned or got crushed by the ice.

This shows a beaver lodge that's high and dry. In this case the beaver leaves the lodge because there is no water, no protection. So now they are subject to predation from animals like wolves and otter, and all of the other, you know, even the bear, coyote. And if they are young ones, eagles swoop down and take the young ones if they are exposed.

This shows the science, school science project in Cross Lake a few years back. This is a makeshift dam, if you would. In the background there, that's where the, if the water is held back -- and yet there is a natural and artificial material used, you know, to depict the ecosystem, model ecosystem. And when the students pulled their corks, which are there, and the water gushes
out and simulates a flooding scenario.

And this next slide shows a clay model of a muskrat lodge and also a breathing hole. So I will just explain to you about breathing holes and the lodge. The animals enter through the bottom, you know, the hole in the ice, and so the lodge keeps the water from freezing for the entrance. And there are a series of breathing holes which the muskrat move from breathing hole to breathing hole getting food and such.

And this tank here contains water, and they put a piece of, cut a piece of plexiglass to represent ice, and they put more water on top of the glass there to give us an idea about how the flooding occurs around the habitat of muskrats and such animals.

This shows what we call a spider. It could be small, it could be huge, it could be like eight feet in diameter. It is a tree or willows, the roots of a tree might be larger, so we got roots sticking out representing the legs, and you have a tree stump there, a body, so we call them spiders. And they become water logged, and we refer to them as underwater minefields. They are very hazardous to us. And it still is, so we go
through a lot of stress to try and get through navigation to our activities so...

MS. KEARNS: Mr. Settee, can you describe -- you mentioned it is a hazard, can you describe how they are hazards? How are spiders hazardous?

MR. SETTEE: When outboard, you know, the group of people in boats powered by outboard, so they come in contact with this, and they are so heavy and water logged they flip a boat, or take off the motor. And there is a case where a group of people, where a few people were ejected, and the operator was also injured. And in order to retrieve the ones that were in the water, one of them had a fractured skull, so the operator had to use the trim hydraulic mechanism to raise the motor to bring those individuals out of the water, into the boat, try and attempt to pull them into the boat.

MS. KEARNS: And where would you find these spiders?

MR. SETTEE: Throughout Nelson River, even on Cross Lake, you go towards Jenpeg, towards the lake we call Pipestone, yeah.

MS. KEARNS: Thank you.
MR. SETTEE: This is at Sipiwesk, taken a few years ago. And at one point this was a fairly large island, and it is washed away. There is a little bit left, as you can see in the picture, but by now it is no longer, it is no longer there, it is gone. So the elders have told me that there were over 300 islands in Sipiwesk, and lots of them were used for cultural purposes over the hundreds, for the past hundreds of years. And they were calving areas for moose. So it was a good area for the Pimicikamak people who lived in Sipiwesk Lake throughout hundreds of years, and now most of them are washed away. So, camping, it is very hard to find a camping spot there.

There is another, closer view of some spiders. You can see they are on shore, but when the water will come up, and they are subject to being washed back and entering into the water. And this one shows what we encounter when we are trying to do fishing. There is so much debris there, we lose our fishing nets, or we have a difficult time trying to remove them. Now we are stuck with this debris, and now you are left with having to remove your net and not catch any -- well, not too much success in catching any fish
because you are too busy dealing with the debris.

And this is again at Jenpeg forebay,
and there is a collection of debris. And this is
what still occurs, and will continue throughout
the system, I believe.

So we have here the debris that's
captured in net and -- it is those kind of debris,
they could be logs, and also organics, everything.
And the net becomes very heavy, very water logged,
and also delays your fishing time because you have
to remove it again.

And the last few years we avoided
putting one in there. There is so much -- we did
a trip there to see if there is any debris, but
there is too much, so we didn't do any fishing
this year.

And this is the example of the stuff
we have to pull out from our nets. And I guess
this is three years ago. And that's the last
time, I think, that I had my net in the water
because there is so much stuff there, and we are
centered about collision with these debris.

MS. KEARNS: Mr. Settee, can you
explain where this photo is taken?

MR. SETTEE: This was taken about five
kilometres west of our community. And this is a
place where we do all of our, a lot of our
activities for hunting and fishing. We use this
part of the lake quite often. Well, we use a lot
of the lake, most of the lake, but we like to come
here a lot. Yeah. We have a good feeling when we
go out in the wilderness and do some fishing, but,
you know, you have to keep one eye open and be
careful not to get into serious trouble.

THE CHAIRMAN: Mr. Settee, you said
five miles west of your community. Where would it
be in relation to Jenpeg?

MR. SETTEE: It would be maybe about
eight kilometres north as one of the --

THE CHAIRMAN: North of Jenpeg?

MR. SETTEE: North of Jenpeg.

THE CHAIRMAN: And you mentioned a
lake, is this Sipiwesk or is this another lake?

MR. SETTEE: This is Cross Lake.

THE CHAIRMAN: Cross Lake, yes, of
course. Yes. Thank you.

MR. SETTEE: And this is north of
Cross Lake again, this time it is north. I had
taken this about five years ago, and it shows you
what happens to the fish nets, also the organics.
When the water levels come up, and then all of the
growth, all of the reeds that were there, they
become dislodged from the bottom somehow. But
anyway they float around and they end up in the
nets, and that could be a pain for us.

This one is at Sipiwesk Lake, this is
about maybe close to 20 years ago. This entire
net was infested with debris. So it does take a
lot of time, it could take a month or two, you
know, to try to get all of this stuff off your
nets, drying, redrying, hanging, airing out, so
not a good thing for us.

This one was, I took this one north of
our community, just a few kilometres. And winter
fishing here, the algae, when the water is very
low the algae becomes excessive, and it flows out,
and then it floats into the nets, I guess, and it
flows there and gets stuck there. And another
difficult task to keep the nets clean, and fishing
is not good either.

This one was taken about six years ago
by my friend who gave me the picture, his name is
Harold Sinclair. And what happened here, they
were in an area southeast of Cross Lake, it is
probably the Kiskittogisu Lake that's east of
Jenpeg. So they were out on a moose hunting trip, and spent the night over night, spent one night, and then the next night the water went out too low, so the boat could no longer be used. So they ended up hiking through the swamp and forest for eight hours to get to the main road, like for 373, I believe, towards the Norway House side. So, you know, very, very difficult.

This, I took this one in Nelson River north of Sipiwesk Lake on Nelson River and Hunting River junction. And this is the burying of human remains on higher ground when erosion exposed these human remains.

And this is right in our community, and this is the typical situation that's happening right now, as Mr. Muswaggon explained to us just a while ago, when there is deep holes, there would be three feet of water in there, and try to keep the children out of there and try -- it is just a huge, huge river system and lake system around our community, and we completely are water logged, and it is not good, not safe.

And this one shows that large spaces are left under the ice when the water is drawn out, drawn down in winter, making ice travel
hazardous. What happens, the river bows, you know, it causes quite a stretch of the ice, and we get blow outs on both sides. So when the water recedes we get left with these shapes, like peaks, swells, rollercoasters.

And trapping is also affected, traps are flooded out and frozen. So this gentleman here he is trying to chop out his trap under water, maybe around two feet. And finally gets to the trap, and there is an animal in there that he is trying to save, trying not to damage while he is chipping away at the ice to try and get the trap and the animal for selling purposes.

Slush ice is -- makes travel difficult, as we have heard just a while ago. And also damage to machines happens, you know. And the effort is, it takes a lot of effort to try and get this out, so we attempt not to leave it there, we attempt to get the machine, it is our livelihood, it is very important to us, and it will be much more of a headache if it freezes in there.

This is the trend for the Pimicikamak trappers and hunters, one snowmobile is out, but the struggle to get the others is a difficult
task. This was the alternative route, when one
route was flooded out, so we had another route,
but now this one was also affected.

MS. KEARNS: Mr. Settee, I think you
were here when we had the Partnership's evidence
on safe ice routes. Is that something that you
also have?

MR. SETTEE: Yes, we have safe ice
trails. They put markers, you know, and reflector
eyes, you know, the plastic bowls. But they also
become subject to the flooding effects and
openings and such. So there was an ice trail, but
one of my friends road into open water with his
snowmobile. But fortunately he survived. And it
happened about, probably 60 kilometres east on
Cross Lake. So that's a long way off.

MS. KEARNS: Thank you.

MR. SETTEE: So this next series of
images will show you the effort of trying to free
the machines. The first top row, you see the snow
machine, and the effort of trying to free them.
So you can see in the middle three group, you can
start to see the sun. This effort started in the
morning, and once you go down towards the bottom
row of pictures, you see the sun is still, is
already going down in the horizon. And the battle continues, to try to free the machines. If they don't, if we don't free the machines, it is going to take a lot more trouble to get them out later on if they leave them frozen.

Sorry, I can't speak so clearly because I had the battle with the bug as well, so I'm just doing my best to try to explain to you as we go along.

And this is another hazard which shows probing of hazards openings are created by pressure on the ice from fluctuation water.

And if you go to the next slide, it is pretty deep there. Like I couldn't get to the bottom, so it is a large opening, it is covered by snow. And if you travel too slow you can end up with the machine going down, and having trouble getting out.

And this one shows low water calls for extreme measures. These hunters from Pimicikamak use a boat, normally they pull over a short portage, but the water levels go down so low, so that could be hundreds of metres on both sides. So now they are using a snowmobile which is much suited for traveling on winter, you know, on
frozen ice, lakes and rivers. So they make do with the snowmobile to try to get to the other side of the portage.

And this is another situation we have with the slush bogging, we call this. We often try and go home, make it home for Christmas, they break now, especially people are starting to pull out of the traplines because the water will become unsafe. Well, the routes won't be fit for travel, so they get out as soon as they can, but not always successful. We have bogged down and it takes the straining.

And the next video shows more of the same situation, where they try to team together and pry loose the machine and the sled next, one machine after the other.

And this one shows the circumstance and surrounding of fatal boating accident caused by floating debris on Jenpeg forebay, which is a kilometre, about a kilometre just south of the dam itself. On the left there, Lloyd B. Ross explains to the other gentleman the details of the incident. And in the middle is Mr. Dick Kelly, from Xcel Energy, and they are the company that buys the power from Nelson River projects. And on
the right there is the former chief, John Muswaggon, and you can see that emotional content is obvious. And it was very emotional for us to listen to Mr. Ross explain the incident.

Human remains from our ancestors erode from the banks of the river, and they are littering, you know, beaches and Sipiwesk Lake.

I'm a direct descendant of the people who were buried in Sipiwesk, and I will take a moment to explain to you. The Miller family, which in the Sipiwesk was a large family unit, so when the plague arrived it really affects larger family units and it wipes them out that much quicker as opposed to small ones. So that's -- in Cross Lake there is still Miller family that are still surviving.

This one is from the Hunting River, Nelson River. They try, do their best to try and match the human remains, if there is several, by gathering and placing, we could -- well, the archeologist will assist, will try and match up the skeletal structure to which -- as original, to the original burial, or ancestor, to try to put them together and bury them again as best as we could. This is a closer look at the human
remains, and they are pretty much the same size, so they belong to the same ancestor.

And this is another one that's a little bit further scattered out. Sometimes animals will remove a bone and take it maybe, you know, hundreds of yards from the site where the remains of our ancestors are discovered. And we do a search pattern to try and recover as much as we can, and a lot of the pieces are never found, they are lost, buried under the erosion.

Also, I have an image which shows a piece of historic pottery. There are generally two eras of pottery that we discovered, there is historic pottery, and pre-historic pottery, which goes back much further in time. But this one shows historic pottery that may be hundreds of years old. As you can see, there is little bumps there which they call them punk dates, I believe, right there. And the purpose of that is that our ancestors used some form of probably a stick or something to push and cause these bumps from the outside to decrease the surface of the pot, make it boil faster. So we called it a predated microwave oven.

There is another collection that we
tried to put together and piece together, one of
the ancestors remains. And one skull separated a
few metres, like not too far, but there is also,
there is a piece of rib over in the corner. So it
is very difficult for us to try and put together
and bury the remains intact.

So this is the last slide which shows
a skull and it is, we said that it is the erosion
of the river, erosion of our history and culture,
erosion of our people. Mitigation has not stopped
this.

So that concludes my presentation, and
I want to thank you for taking time to listen and
watch.

THE CHAIRMAN: Thank you, Mr. Settee.

I think maybe we will take the
afternoon break now, so come back in 15 minutes
which will be just before 3:30.

(Proceedings recessed at 3:14 p.m.
And reconvened at 3:30 p.m.)

THE CHAIRMAN: I would like to
reconvene in a minute, is Mr. Atkins anywhere to
be found? Here we go.

MR. ADKINS: Sorry, Mr. Chairman.

THE CHAIRMAN: You don't need to be
sorry. You had another 30 seconds and then you
would have been sorry. Ms. Kearns.

MS. KEARNS: I think we are still
missing one of our witnesses, he will wander back
shortly. We still have some more evidence to
give, and I think by the time he gets back, it
will be well in time for cross exam. So over to
Mr. Settee to introduce the second video.

MR. SETTEE: Yes. I have one last
video to show you, and this shows you people,
Pimicikamak people, that we need our voices heard.
And you will see a group of pictures, probably
some of them we have seen, but some we haven't, so
I guess --

MS. KEARNS: Can you explain the song
that we will hear?

MR. SETTEE: The song was written by a
late friend of mine to go with the pictures that I
took over the years, and we got together a few
years ago, and he wrote a song, and we did like a
video slide presentation to show you who we are as
Pimicikamak people.

MS. KEARNS: Thank you.

(Video playing)

MS. KEARNS: And so we do need one
more deck? We need the DP presentation back up, the powerpoint. Over to you, Mr. Paupanakis.

MR. PAUPANAKIS: Thank you. This is part two of my presentation. And now as discussed earlier in these proceedings Manitoba Hydro and the Partnership relied upon the article 9 process under the Northern Flood Agreement in order to engage with Pimicikamak about Keeyask project.

For the CEC panel's benefit, article 9 of the NFA says, article 9.2: "Hydro shall not make any decisions in respect to any such future developments unless and until a process of bona fide and meaningful consultation with the communities has taken place."

To be meaningful and bona fide, consultation must be with the intent of substantially addressing all of the affected Aboriginal parties' concerns. Addressing these concerns is what accommodation is.

Pimicikamak is very concerned that the proponents are not informed in a meaningful way about their proposal. We have tried to have those discussions with Manitoba Hydro in a meaningful way. We continue to attempt to have such a dialogue with them where we continue to be delayed
at every turn. There is continued delay in the article 9 process, and most of our requests for information are met with problematic issues.

Funding for a respectful process is proving to be problematic for both Hydro and Pimicikamak. This results in information that are therefore limited and this hinders the process of consultation. We continue to attempt to discuss our concerns over the proposed project again and again. And we will continue to be open to these discussions, as is our way to be open to all who wish to discuss the land and the waters.

I was appointed to represent the executive council in the Northern Flood Agreement article 9 consultation in October 2008. My effort to have those discussions began with the proponent refusing to have any discussions with Pimicikamak after many emails and telephone requests to hydro's representative, Mr. Darrell Cockerill, after four months Manitoba Hydro finally decided to have its firsting meeting with us to discuss the Keeyask project, this was in February of 2009. We began to have these discussions regarding Keeyask project. At the first meeting we discussed how and what we should be discussing, as
well as what information we would be needing to have a meaningful discussion. As my understanding, based on my experience and normally, we request information to be discussed at meetings and we would have independent technical and legal counsel assist us in determining what relevant information we would need. In general I would characterize the consultation as not being meaningful and bona fide at all. I have to say that in my four years of experience working as a representative on the article 9 committee, I have had an extremely difficult time getting information from Manitoba Hydro at every turn.

A typical article 9 meeting would require Pimicikamak to prepare to discuss issues surrounding all aspects of the content of meetings. And this is particularly relevant to Keeyask. Manitoba Hydro would prepare to send an agenda, and we would comment on it and add items to agendas. In these meetings we have a presentation made, for example, on the VECs, and we would ask if we can see the list of VECs. And under normal consultations this would be provided. But in this case when we asked for the VECs,
Manitoba Hydro told us that it would have to go to the partners for authorization to provide this information.

As with most of the requests for discussions on items such as debris removal, Hydro would inform us that it will be sent up to the executive to consider.

MS. KEARNS: Mr. Paupanakis, can you explain what you mean by debris removal?

MR. PAUPANAKIS: Debris removal is the removal of debris on the waterways that Manitoba Hydro has produced. It is their debris and they are obligated to remove it. They were ordered by the arbitrator to remove this debris. So that debris that I'm talking about is one that fatally took the life of our citizen, one of our citizens where Hydro was held liable. So that's what I mean by debris removal.

We wanted to have this discussion with them. It was sent up to the executive to consider. Many times the response is they do not want to engage in discussions. This is the normal response I would get from Hydro.

Needless to say, Pimicikamak is very concerned with this project from the beginning.
Pimicikamak has raised a number of concerns with Keeyask, for example, effects on sturgeon, effects on migratory birds, effects on exercise of Pimicikamak rights, way of life, culture, values, connections to the land, its aspirations, effects on water quality. Neither Pimicikamak nor Hydro can know what our detailed concerns are without engaging in necessary research and studies to identify all of our values, uses and occupancy as the connections to the land, our traditional territory, and then to assess how Keeyask might impact all of this.

Our traditional territory goes up to the Keeyask vicinity. Pimicikamak has over 8,000 citizens, nearing 9,000. We have never received the funding before to gather from our citizens good information about these uses, values and connections. We know there are many, and we know some of our citizens harvest right up to the Keeyask area and even beyond. Manitoba Hydro has not approved the accompanying impact assessments until recently. Until this study is done, we cannot know how Keeyask may impact Pimicikamak and our environment.

MS. KEARNS: Mr. Paupanakis, can you
1 explain what aspect of the study has been approved
2 and how long you would expect it will take?
3
4 MR. PAUPANAKIS: We submitted a
5 proposal to Manitoba Hydro for a work plan to be
6 developed, which was approved not long ago. And
7 then I'm not sure exactly the details, but
8 Mr. Tommy Monias is the contact person for that
9 file. I'm no longer the article 9 representative,
10 so he would be the one who would be able to answer
11 what that entails.
12
13 Pimicikamak says how can Keeyask be
14 built or not without knowing critical information
15 on how Keeyask, cumulative with impacts from the
16 existing project, is likely to affect Pimicikamak
17 and our core relationship with the land?
18
19 Pimicikamak has also for months
20 proposed this work plan and budgets to enable
21 group sessions among Pimicikamak citizens to
22 discuss our concerns, which ones are legitimate
23 concerns about Keeyask and to prioritize such
24 concerns so that together with the study that I
25 just mentioned we can give more detail to Hydro so
26 it can work to address our legitimate concerns.
27 Hydro finally about a week ago, a week and a half
28 ago, agreed to fund this work, and until we
complete this work we can not specify our concerns. Yet Hydro keeps saying that Pimicikamak is not giving it enough detail about our concerns. Hydro can't suck and blow at the same time.

A further example of the problems with this process is that Manitoba Hydro has had a lawyer attend all article 9 meetings to take meeting notes. We were promised copies of these notes, and we have asked for copies repeatedly. But we still do not have copies of the meeting minutes from Manitoba Hydro for meetings that have happened two years ago. I do not have a full set of copies of those meeting minutes, and we have not even reviewed the minutes. I have requested the record on a timely basis, but I have not been provided copies of those minutes. This seriously hinders Pimicikamak's ability to meaningfully engage in consultations with Manitoba Hydro on Keeyask.

Pimicikamak has determined that the wildlife and aquatic species will be affected, and continue to negatively be impacted by Keeyask. And this determination is based on traditional knowledge. To our knowledge, Hydro has not assessed the environment for the impacts that may
be residually transmitted upstream of Keeyask and its adjacent waterways. We believe that Keeyask as it is, at this moment, will impact Pimicikamak more. How much more, we do not know. Therefore, we conclude that Keeyask is not environmentally sensitive to the watershed as a whole.

Pimicikamak has many concerns about the impacts of the existing Hydro project and about how Keeyask might alter or add to these impacts. Keeyask will affect Pimicikamak directly and cumulatively with the devastating impacts of existing hydro development, and Pimicikamak just suffers the costs and burdens. The deep impacts we have experienced is what we call genocide.

We also have many concerns about the so called mitigation measures that Hydro and the Partnership say they will put in place, and which the Partnership uses to attempt to justify the environmental soundness of Keeyask project. We have had first hand experience with the mitigation measures Manitoba Hydro uses for its development, and know that these do not work.

MS. KEARNS: Mr. Paupanakis, can you give us a example of what you are referring to?

MR. PAUPANAKIS: One example is an
impact that I can speak to when speaking with our
elders, we talk to them about fishing, and we
asked them how, what do you think about the
domestic fishing program that's delivered by
Manitoba Hydro in Cross Lake to the citizens,
that's supposed to benefit all people? The issue
of a negative impact that this has on our people
is Manitoba Hydro is a corporation, it is in the
dam building business, it is not in the business
of feeding Aboriginal people, yet that is what
they are attempting to do in Cross Lake with the
domestic fishing program. And in doing so, what
are the impacts of that delivery of that program?
In the past our elders, parents and children would
all participate in this exercise of harvesting
fish domestically. My grandfather was a
fisherman, my grandfather in Norway House was a
fisherman. He supported three families with one
fish net in between the river at Norway House,
just down the bank. He supported this household
with two families, grandparents, parents and
children, and he supported another household just
across the river, 150 feet away.

The practice of that exercise goes
beyond just fishing, it goes beyond just putting
food on the table, it teaches the young people the
value of being in touch with the land. It teaches
them what you call (Cree word,) what relationship
this (Cree word) has with the land, with us and
the creator, it is all one unit. The ability to
talk to our children in our language when we speak
of (Cree words), all have traditional knowledge
and traditional laws instilled into that language.

Development of our way of life and our
culture is interwoven into this process. This is
what the negative impact that domestic fishing
program has on our people. By delivering a
mitigation measure of a domestic fishing program
in Cross Lake by Manitoba Hydro selectively
choosing where we can go get fish and where we
can't, is a direct negative impact on our people
and their culture and way of life.

That is one example of a negative
impact.

MS. KEARNS: Thank you.

MR. PAUPANAKIS: The article 9 process
has been -- has not been a meaningful and bona
fide consultation. While there have been many,
many meetings between Pimicikamak and Manitoba
Hydro, there has been no accommodation of
1 Pimicikamak concerns about the impacts, Keeyask cumulative with the impacts of the existing project. Manitoba Hydro and the Partnership and therefore the CEC, do not and cannot know the impacts of Keeyask on Pimicikamak. Therefore this project should not go ahead.

2 In conclusion, I have to express my appreciation for the time you have taken to consider this information, and that it may serve you well in determining as to what recommendation will be given to the Minister, and to all of Manitoba for that matter. It is our commitment that we provide only factual information to this panel. You have seen for yourselves the land and waters through video and through pictures, and through the eyes of our young and old citizens who spoke to you when you came to Cross Lake. They have spoken up for the land, as the land cannot speak for itself. As you have seen and heard, the concern is for the well-being of the land in Pimicikamak and concern for our brothers and sisters in the immediate affected area.

3 It is abundantly clear to our people that our worldview is being compromised by economic interests that are being put first rather
than considering all the facts in a holistic way, which is our way. Our existence is based on respect for the creator and all that he has created. In our language (Cree word) is the foundation of our being, we come from the water and we return to the water. Hence, our word for death is (Cree word). Water has been deeply affected and we state here today that any more effects on the water we are now proposing to have may be the straw that breaks the camel's back. This in our view would be nothing short of genocide.

On behalf of the chief, I say that she supports all of the information that's been shared with you through the words of our youth and as well as through the teachings of our elders and through documentation and video, and through the images of the land and our waters which sustain our people and our way of life. Egosi. Chief Merrick wants to leave you with the hope that you will be blessed with an open and clear heart with your deliberations. On behalf of the youth, elders and the women's council and her council, she thanks you.

MS. KEARNS: That concludes
Pimicikamak's presentation of this panel.

THE CHAIRMAN: Thank you to all four of you for this presentation this afternoon. We have a half an hour or so before we adjourn for the day, so we will turn to questioning. The proponent? Mr. Adkins.

MR. ADKINS: Thank you, Mr. Chair. I understand where your problems were there. Mr. Chair, I'm not sure and perhaps what I should do is seek some guidance, because I do know that the Commission has made some recommendations in connection with cross-examination, particularly of non-expert witnesses, and also in terms of some of the information that's presented, I'm not certain of whether or not this is the appropriate place to carry on cross-examination. So if I could ask a few questions of the Commission and get clarification.

Mr. Paupanakis and I have worked together for a long time. And I have worked with predecessors of his prior to that, including Gideon McKay who passed away, and I do miss Gideon considerably. Sandy Beardy as well who passed away even prior to that point in time.

It is not unusual that Mr. Paupanakis
and I do not totally agree on everything in terms of what has been exchanged in the article 9 process, but my sense is that's a process under the Northern Flood Agreement, it does have its own mechanisms for dealing with issues or disputes concerning that process. It is relating to the effects of Lake Winnipeg regulation on Cross Lake in terms of, of course, under the article 9, it is looking at the Keeyask issues. So I'm not sure if there is much to be gained by my spending a lot of time going over that, because Mr. Paupanakis' recollection and mine is not exactly in accord, and there are some things that I could ask about that.

So I put that as the first point. Is that something that the Commission would like me to follow up on?

THE CHAIRMAN: The Commission always appreciates it when cross-examination is done with respect and with sensitivity to some of the information that has been put before us. You asked about expert or non-expert panels. We can't have a fine line, as you may know yesterday there was panel of Aboriginal harvesters that I noted were a non-expert citizens panel. However, this
is a panel of leadership from the community. So as we treated the MMF leadership a few days ago, this -- we would expect that if you so wish and within the confines of our guidance on cross-examination, if you wish to cross-examine these people, that's your right.

I think you should also keep in mind as we expect all parties to these proceedings, what you examine and the questions that you ask, should be designed to help the panel in our ultimate decision. We don't want you to try and win points for your other discussions under the article 9 proceedings in other forums. That's not relevant to us. But if there are questions that you can ask of these witnesses that will help us in our deliberations, then please do.

MR. ADKINS: Thank you, Mr. Chair, I appreciate those comments. The questions that I would have, they are relating to the article 9 process, would relate to one aspect which is primarily concerning the issue of consultation, the idea that there would be respectful listening by Manitoba Hydro. My experience has been that generally that is the case. In fact, I would have trouble trying to think of a situation where that
hasn't been the case. I'm not sure I could.

So although the article 9 process does relate to Keeyask, the issues that have been raised here have suggested a lack of participation by Hydro and a lack of willingness to listen respectfully, which is not consistent with my recollection. So I will ask a few questions there, but not because that's trying to resolve that issue here, but to find out some more information about it that might be helpful.

So Mr. Paupanakis, just with respect to article 9, the process, in fact I think the initial notice with respect to Keeyask was given in 2001. I don't know if you recall that or not, because I don't know if you were involved at that point in time. Do you recall that?

MR. PAUPANAKIS: In 2001 --

MR. ADKINS: Correct.

MR. PAUPANAKIS: I can't recall if I was involved at that point but I was involved in the Wuskwatim project that abruptly ended. That's all I recall of article 9, two meetings and it ended for Wuskwatim for my involvement.

MR. ADKINS: Two meetings.

MR. PAUPANAKIS: For Wuskwatim for my
involvement.

MR. ADKINS: You were involved with --

you attended two meetings on Wuskwatim?

MR. PAUPANAKIS: Yes, and it ended.

MR. ADKINS: With respect to the

Keeyask, you are not aware that there was a notice
given or presentations made for Keeyask a lot
earlier than that?

MR. PAUPANAKIS: I would have to dig

out my little notebook that I keep at home. But I
do not -- I can't say that I heard the initial
discussions at that time, or were involved in the
discussion.

MR. ADKINS: Mr. Paupanakis, you refer
to minutes or notes of the meetings. In fact you
have received large numbers of copies of minutes
of meetings or notes of meetings that have been
taken by Ms. Fenske, who is sitting beside me; is
that correct?

MR. PAUPANAKIS: Yes, a few.

MR. ADKINS: When you say a few, would

you say 99 per cent of the notes or 2 per cent of
the notes?

MR. PAUPANAKIS: In the four years I

would say probably 50 per cent, because up until
two years ago they were pretty constant and pretty
accurate notes.

MR. ADKINS: And you recall as well, Mr. Paupanakis, that there was additional funding
provided to Pimicikamak in order to have its own
person there because there was concern that you
may not be having the proper recording; do you
recall that?

MR. PAUPANAKIS: I recall that.

MR. ADKINS: And you have had someone
in attendance, I think it is for about the last
two years, who has been making recordings for you
as well?

MR. PAUPANAKIS: Yes, she has. She
hasn't been funded with the proper equipment to do
it.

MR. ADKINS: But she has been funded
to be there to take notes?

MR. PAUPANAKIS: Just to be there, and
yep.

MR. ADKINS: You talk about what was
recently just approved in terms of what the
community has requested or what you have requested
or behalf of the community for community meetings
to deal with the question of accommodation; did I
1 hear you correctly?
2       MR. CHARTRAND: Correct.
3       MR. ADKINS: And that has been
4 recently approved by Manitoba Hydro, funding for
5 that?
6       MR. PAUPANAKIS: Correct. The
7 information has been provided to me that it was
8 approved for part two of the consultation.
9 Initially the accommodations meeting happened with
10 the leadership, and they set out how we were going
11 to do the second part of the consultation with the
12 citizens.
13       MR. ADKINS: So just to clarify then,
14 there was an initial request for accommodation for
15 a community meeting and I understood it involved
16 the community not just leadership, but in any
17 event, for a discussion about accommodation
18 measures, and that was funded by Hydro a couple of
19 years ago?
20       MR. PAUPANAKIS: October 21, 2011 to
21 be exact.
22       MR. ADKINS: So I'm not too far off on
23 my dates, I was going from a recollection. And
24 that did proceed and there was a report ultimately
25 provided with respect to that?
MR. PAUPANAKIS: Correct.

MR. ADKINS: And then there was a need to complete the budgeting or reporting on that from a financial perspective, and other aspects; do you recall that?

MR. PAUPANAKIS: I recall that.

MR. ADKINS: And then during the course of designing the second stage of that accommodation, there were a number of changes that were discussed, both suggestions from Manitoba Hydro and suggestions from consultants that Manitoba Hydro provides funding for Pimicikamak to retain; is that correct?

MR. PAUPANAKIS: Within reason, yes. We had a sturgeon issue that we had to separate directly from the initial plan, as you recall.

MR. ADKINS: So there was a period of exchanges, and I think it was in July of this year, 2013, that the final proposal came forward from Pimicikamak for consultation. I could be wrong, but that's my recollection, is that your recollection?

MR. PAUPANAKIS: We tabled it again, yes.

MR. ADKINS: But it had modifications
arising from discussions between the parties?

MR. PAUPANAKIS: Correct.

MR. ADKINS: And that was taken forward and did require executive approval, I believe approval by at least members of the executive of Manitoba Hydro to provide funding; is that your understanding?

MR. PAUPANAKIS: That was my understanding.

MR. ADKINS: And you now have had that funding approved, correct?

MR. PAUPANAKIS: Correct.

MR. ADKINS: Okay, thank you very much. I have a distinct recollection, and I could be wrong, but I would be interested in your comments on it, of a number of emails from Mr. Darrell Cockerill from Manitoba Hydro trying to get the consultation processes recommenced with respect to Keeyask. And the timing is about when you've indicated, I think there were some efforts starting prior to 2008, but we did have a meeting in 2008 is my recollection. But I don't recall it being Mr. Cockerill saying we are not prepared to meet. To the contrary I recall meetings being set up, and Pimicikamak advised, no, we are not going
to attend, we don't have -- we have not made a
decision as to who will be there on our behalf.
Am I totally wrong on this or --

MR. PAUPANAKIS: In my recollection
the information that was provided to me was that
there was a meeting that happened with the
previous council in July, if I recall, with
Councillor Robinson and Tommy Monias representing
Pimicikamak, and that was the last meeting that
happened. And subsequently the new council was
put in, and Councillor Settee proceeded to appoint
me to be the executive council representative in
October 28 of 2008. I received the letter and I
agreed, but I was not provided the ability to
meet.

MR. ADKINS: You weren't provided the
ability to meet from -- from Cross Lake,
Pimicikamak, is that not correct?

MR. PAUPANAKIS: Pimicikamak wanted to
meet. We wanted to meet in a respectable way.

MR. ADKINS: Correct.

MR. PAUPANAKIS: We did not have the
funds to jump in a plane to go and meet with
Manitoba Hydro. I did not have the funds to hire
a lawyer. I did not have the funds to hire a
technical expert, if I needed one, which is all that's required in the consultation, as I'm not a lawyer, I'm not an environmental consultant.

MR. ADKINS: Now, my recollection is that Manitoba Hydro, during the course of article 9 consultation, provided a float of money. And that was utilized by Cross Lake First Nation as represented by Pimicikamak, which was initially how this was done, and then subsequently at Pimicikamak's request and recognizing, you know, the rights that you have talked about and those sorts of things, through Pimicikamak itself.

MR. PAUPANAKIS: Yes.

MR. ADKINS: So there would be money available and when that was used, it could then be accounted for and it would be replenished, am I correct generally in how that works?

MR. PAUPANAKIS: It was accepted after October, November, finally in December, I recall this very clearly, Mr. Adkins, and I have the emails to back it up, if I can I could submit them to you, because I kept those particular emails for that very purpose if somebody wanted them. Okay. Darrell Cockerill informed me that he would not meet with Pimicikamak, he wanted to meet with the
First Nation.

     MR. ADKINS: Okay, that -- my understanding is I had seen emails as well. The reason I chuckled is it sounded a little bit like our Senate issues, and I didn't want to get into that.

     MR. PAUPANAKIS: Yep.

     MR. ADKINS: I think your recollection and my recollection is slightly different, but we may have looked at different things. I do know that Manitoba Hydro was writing emails in an effort to try to get further consultation started.

     MR. PAUPANAKIS: Yes. Can I just add a comment to that? There was a letter supporting that from Councillor Settee, that Hydro was instructed to meet with Pimicikamak, our representative.

     MR. ADKINS: But there were some contrary instructions from your chief at the time.

     MR. PAUPANAKIS: The legislative authority was with Councillor Settee, as I understand the political structure of the Pimicikamak. The authority was given to him and he exercised his authority by that letter. I have a copy of that letter as well.
MR. ADKINS: Is it unfair for me to say there were some conflicting messages coming between your then chief, the head of the executive council and also the chief of the Cross Lake First Nation, as one person, and Councillor Settee; is that a fair statement or not?

MR. PAUPANAKIS: I was not in Cross Lake at the time, I was in university in Thompson. So I don't know the details surrounding that, I can't answer to that, but I do know under our law the legislative powers was with Councillor Settee.

MR. ADKINS: I appreciate that very much. I appreciate your clarification. Can I just have one second?

I'm not sure where to address these questions. I'm used to having communication was Mr. Paupanakis, so I will address them to you if that's okay, and if you want someone else to respond to them, that would be fine as well.

One of the things that was commented on, I can't remember now, is the approach towards addressing impacts of projects. And you referenced the Northern Flood Agreement with the idea that mitigation, remediation and then compensation would be the appropriate type of
approach; did I recall that correctly?

MR. MUSWAGGON: Can you repeat your
question? And can you speak up, I'm kind of hard
of hearing.

MR. ADKINS: I was just asking the
question, trying to recall who said this in part
of their presentation, but it was referencing
Northern Flood Agreement and the approach that the
Northern Flood Agreement -- it doesn't actually
use these terms -- but effectively I don't
disagree with the terms, and that was taking
mitigation, remediation and then compensation;
compensation not being necessarily the most
favorable way to proceed. Am I getting that
correct, that is what was being said?

MR. MUSWAGGON: Having said that
question what are you referencing it to? What is
your point, I guess, that you are getting at in
asking that question?

MR. ADKINS: My only point in that
question was to make sure I wasn't misrepresenting
what had been said by Pimicikamak representatives,
that's all. If that's correct, then I will ask
another question.

MR. MUSWAGGON: The point I was making
to those comments was to the Northern Flood Agreement, the terms are clear, and the steps required, what is needed to implement the Northern Flood Agreement in spirit and intent. And what we've come to find in this, since 1977, it has been a lot of financial deals happening here, cash deals, where the NFA calls for a planned approach, and to do it right, and the NFA gives us that right to get experts and legal people to help us, to talk about the rationale behind the plan, the realistic of the plan and what is required to do in addressing adverse effects. So these are the steps that we are talking about here, mitigation, remediation, and compensation would be the last resort.

One of the things that's been promised to our people here is the creation of employment, for example, to train and employ people, because the project has pretty much decimated our traditional economies. And the NFA said, well, here is what we are going to do, here is the 25 articles, here is the preambles, here is the schedules, here is how we intend to remedy as a result of the project, and that's what I was alluding to in that commentary. It calls for a
planned approach and not an adversary approach
where you minimize cost, because we are still
waiting for that approach.

As a matter of fact, for CEC's
information, way back in 1997/98 when we
initially -- there is a peace treaty document
dated May 8, 1988 where Canada, Manitoba and Hydro
signed a peace treaty with Pimicikamak saying can
we set aside our differences and can we sit at the
table? Okay. And said let's have a meaningful
dialogue to do what is right. How do we implement
the NFA? And that's the spirit and intent of
sitting at the table, rolling up the sleeves,
getting to work to address the adverse effects
that way. But what has been clear here is our
people have been starved out through bureaucracy,
from minimizing funds to get proper legal advice,
proper expert advice, to do the work right.
Pimicikamak, as a matter of fact, is the one with
their people who laid out a plan in how to
implement the NFA. And I believe that Marv McKay
was working at that time on this, and he was very
impressed with the level of effort that was put in
by our people, which we had to fund for ourselves
at the beginning, but the funds came after.
And in the spirit of this treaty relationship, we have always taken that position, our door is open to come and sit down with us, Pimicikamak. But as you can hear here, Hydro keeps referencing CLFN or Cross Lake First Nation. Under the Indian Act, Indian bands do not have Aboriginal rights and title to the land. They are not signatories to the Treaty. Pimicikamak is. They have to come to Pimicikamak Okimawin to sit down in a very constructive way to address all of these things that we are talking about. And we can sit here all night and go through the Northern Flood Agreement page by page, word by word, and this has happened before in 16, 18 hour marathon meetings, if you recall Bob, with our legal counsel and our staff. And eventually a plan came out.

As a matter of fact, we have always taken the position with Hydro, if you do good things, we will tell the world you are doing good things. We are not in the business of painting a bad picture of people. But when bad people behave badly, we will tell the story. That's what it was about. As a matter of fact, when we started telling the story to the world about what was
happening to our land and our people, Hydro was pretty much forced to come to the table and do some of these things they promised in 1977. As a matter of fact, a positive new start that came out in 2003, over 400 people were hired through mitigation programs to clean up the land, to make sure there were safe, navigable waterways on our land. That came as a result of an arbitration ruling when one of our people died in a boating accident. And fortunately they have to get forced -- and they have that right, we respect that, they are using all legal means under Canadian law to defend their corporate interest. But as a result of that, that's what happened in terms of having them come to the table to do honourable things in a good way because these processes are costly. Why can't we sit at the table and do these things honourably, as honourable signatories at the table? Do the right thing, budget properly, plan properly, address the adverse effects properly. And these are the steps that are written right in the Northern Flood Agreement, not specifically as I'm saying it, I'm not a lawyer, and I respect the Canadian law, but we have our view and our laws in how we see this.
And that's the stuff that has been happening here.

And you know what, as a matter of fact, of those 400 jobs just on the Cross Lake band side, they saved over $700,000 in welfare. And that was a proud accomplishment that Hydro could pat itself on the back for doing the right thing for a change. So these are the things that people have to, honorable people have to come down to the table for. We shouldn't have to be spending hours and hours here fighting over one word. And clean up the mess. Because you are in the business of manufacturing risk in our land and it is hurting our land, and it is hurting our people. And that's why I make that point there, Bob.

MR. ADKINS: I appreciate your comments very much. And I appreciate your comments with respect to the debris program that was implemented dealing with the Jenpeg forebay area. There has been other mitigation things that have been done that I was curious about. One of the issues that was clearly a difficult problem immediately following the creation of the Jenpeg control structure, Lake Winnipeg regulation was that it would aggravate droughts and floods on
Cross Lake as it ameliorated them on Lake Winnipeg, and in an effort to try and address that, one of the things that Cross Lake First Nation has, at that point in time that was the party with whom we were dealing, not Pimicikamak per se, although I think it was basically -- it was just a governance issue, it wasn't -- we are still dealing with Pimicikamak, but I could be wrong about that. I think I have got a fairly good understanding of those things. But one of the things that we looked at doing together was the development of the Cross Lake weir. And I believe that Cross Lake was involved, I know that Cross Lake was involved in that process, and also in monitoring that process afterwards. Have you found that's been beneficial in addressing water levels on Cross Lake?

MR. MUSWAGGON: We are still looking for that weir. The water is so strong, and we appreciate the effort, that it was constructed back in 1992 I believe it was, for about $9 million?

MR. ADKINS: I believe that was the figure.

MR. MUSWAGGON: Anyway a lot of work
came out of it. And I can't -- I'm not an engineer, I can't tell you how it managed to stay there, but we went back years after to check and we still can't find it. And it hasn't really made a difference, when the water gets held back at Jenpeg our waters are still low. Claims, for example, the lower unit have gone spiraled out of control, yet they are getting processed through the red tape, people are getting questioned through a million things to frustrate them out of their claims.

As a matter of fact, I will give you an example about that particular story about the water level. When somebody hits a reef as a result of the murky waters from erosion, the fluctuating water levels and all the silt that comes up that is getting eroded, you hit a submerged drop, and there is some people who knew the land like the back of their hand, today the most experienced people can't even navigate it properly. When their lower unit gets hit, for example, it goes through Hydro's little program there. It goes to Thompson to get repaired. They only repair the lower unit, but they don't fix the impact of the engine, the head. So they are still
finding ways to minimize costs, and that's what people are experiencing as well.

And so having said that, I'm just using that as an example how the weir hasn't really helped much. Even when you are releasing water, the water still comes up, and a classic story to this is Hydro just finished doing some riprap work because of high water levels in Cross Lake. So if this weir was so effective, it hasn't really served its purpose.

MR. ADKINS: My understanding and I have looked at this fairly closely is that the construction development of the weir was to restrict the discharge of water from Cross Lake, the flow of water out of Cross Lake in low water years, and then increase the ability to discharge in high water years with the net effect that certainly the extremes that were experienced post-project and pre-weir, which I think we saw a number of pictures up, after the weir was put in place that has not transpired. And in fact, it won't. I don't think that Cross Lake can even get back down fully to what its historic low might have been, or what could have been a historic high, although we have had such unusually high
water levels. But is any one here aware of that sufficiently to answer that?

MR. MUSWAGGON: I think what we can tell you, Bob, is to share a story with you in terms of your question. We can't start getting technical on the answer. The bottom line is with this thing, it hasn't functioned the way it was intended to be. Obviously, other work has come to play here in this forebay. And an example, the erosion continues as a result, and you have seen the pictures here, everybody has seen the pictures here, the evidence speaks for itself. So even the original water marks that were there, as they eroded this thing keeps getting moved back. And so the table content is constantly fluctuating, so it hasn't served its purpose.

MR. ADKINS: When I looked at those pictures I saw some I would have thought would have come from the Mud Lake area of Sipiwesk Lake and some perhaps from the Jenpeg forebay area; is that correct?

MR. SETTEE: We showed some of the pictures from Mud Lake area and also Jenpeg, yes.

MR. ADKINS: Downstream of the weir and upstream of Cross Lake, so upstream of the
Jenpeg forebay.

The Cross Lake arena, it was a major development -- sorry, am I quiet?

MR. PAUPANAKIS: No, no.

MR. ADKINS: It has provided some recreational opportunities, alternative recreation that the NFA refers to. Has that been a benefit from the community's perspective?

MR. PAUPANAKIS: What was contemplated with the Cross Lake arena, Bob? Can I ask you that?

MR. ADKINS: Well, it was going to provide an indoor arena with seating for about 2500 people enclosed, with artificial ice, and I think it was operational for a while all of the year. And the cost of operation and maintenance are being paid by Manitoba and Manitoba Hydro under a fund that was established. Is that consistent with your understanding?

MR. PAUPANAKIS: My understanding of the Cross Lake arena is that it is not the Cross Lake arena. It is the Cross Lake sports complex. It was to address various issues surrounding recreation in Cross Lake. It wasn't just an issue of ice skating, hockey. My understanding was we
were to build a sports complex that houses
recreation in Cross Lake. This never happened.

In the interim -- in the interim, I want to
emphasize in the interim, an arena was built for
Cross Lake. The full benefits of what was
originally contemplated, we have not seen yet.

MR. ADKINS: Okay. I -- I won't get
into any discussion or argument about that. This
isn't the time or the place. But the arena is
there.

One of the things that I am interested
in, was the issue that was raised in connection
with the domestic fishing program, because that
was something that I thought was actually quite a
good program, my understanding of that program,
and I know it was operated initially with the
involvement of the Province of Manitoba and
Manitoba Hydro and Pimicikamak representatives,
but it provided funding so that people who were
involved in domestic fishing were able to continue
to domestically fish, which was a positive I
thought of that program. And then they were able
to bring the fish back into the community. I know
in many years it was well over 100,000 pounds of
fish that was brought back into the community.
And it was then provided to community members at no charge. One adjunct to that was a hot lunch program that operated within the community. My understanding is both of those programs are still operating, but they seem to be negative in terms of your comments. Can you advise more on that?

MR. PAUPANAKIS: Yes. As a citizen I have many experiences going to the fish shed on a weekly basis when it is open. I take my aunt there every -- almost two or three times a week. On a good month, Bob, on a good month, she would be given the opportunity to put four whitefish in her bag, on a good month. On various occasions I did make note of noticing that employees were in the habit of hiding whitefish under their -- under the boxes for themselves to take home. So the program is not monitored very well. It is not a program that was managed by our people. Our people used to feed fish to our people. We found that this program was being run by North South Consultants, and managed by North South Consultants. They took it upon themselves to feed fish to our people. I would not characterize that as a positive thing.

MR. ADKINS: I think we are getting
MR. MUSWAGGON: Bob, I just wanted to add on Darwin's comments about your question about that program including the hot lunch. I just wanted to say this much as well, to even know the effort to deliver such a program, the lunch program was great where Hydro has been paying for the food. But it was not fully implemented the way it should be. Cross Lake band has been subsidizing that Hydro program in the past seven years to the tune of about $2 million. So in trying to work together in a spirit of good faith because our traditional foods have been destroyed, I think Hydro should make every effort to correct that problem. Because the Cross Lake band is in the business of delivering normal programs and services for Canada, and not in the business of subsidizing Hydro for such an undertaking.

MR. ADKINS: I appreciate that comment, and quite frankly there is a number of programs, but I think it is we -- I think it probably best to conclude with this: We could engage for a long time, as we have, and I wanted to thank you very much for the presentation. I was going to ask you about some of the work that's
done in terms of the remains that have been unearthed and what has been done with the Province of Manitoba and Pimicikamak in terms of addressing those and some of the projects that have been undertaken, but we will be continuing these discussions I'm sure. Thank you very much.

THE CHAIRMAN: Mr. Adkins, are you saying that your cross-examination is concluded?

MR. ADKINS: That's what I'm saying.

THE CHAIRMAN: Thank you. I will just test the room and see if either of the participants remaining have any questions for these witnesses? Ms. Whelan Enns? No. Ms. Craft? No. Thank you very much.

So then we can excuse this panel, I mean they are certainly welcome to come back, but we won't put you on the hot seat tomorrow morning. Thank you very much for your presentation today. And I particularly would like to thank all of you, and Chief Merrick and members of your community for the warm hospitality that you showed us when we came to your community about two months ago. So thank you for that. And thank you for your presentation today.

Do you have any re-direct?
MS. KEARNS: No, I do not.

THE CHAIRMAN: Thank you very much.

We have some documents to register.

MS. JOHNSON: We certainly do. The first one is KHLP080, which is the combined map with the EIS study area, along with the MMF study area. 081 is the excerpt from Bipole III report with the map. KHLP82 is the response to Ms. Stewart regarding the moose harvest numbers. This one is left over from last week, the life cycle assessment, which is 083, accompanied by the memorandum, technical memorandum which is 084. We have PIM002, which is the Treaty 5 map. 03 are the excerpts from the NFA. And 04 is Mr. Settee's presentation.

(EXHIBIT KHLP080: The combined map with the EIS study area, along with the MMF study area)

(EXHIBIT KHLP081: Excerpt from Bipole III report with the map)

(EXHIBIT KHLP82: Response to Ms. Stewart regarding the moose harvest numbers)

(EXHIBIT KHLP083: The life cycle
THE CHAIRMAN: Thank you. We will resume tomorrow morning with Pimicikamak and Ms. Luttermann's presentation. Thank you very much. Tomorrow morning at 9:30.

(Adjourned at 4:37 p.m.)
OFFICIAL EXAMINER’S CERTIFICATE

Cecelia Reid and Debra Kot, duly appointed Official Examiners in the Province of Manitoba, do hereby certify the foregoing pages are a true and correct transcript of my Stenotype notes as taken by us at the time and place hereinbefore stated to the best of our skill and ability.

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Cecelia Reid
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