



MACKENZIE VALLEY ENVIRONMENTAL
IMPACT REVIEW BOARD

AVALON RARE EARTH METALS, THOR LAKE PROJECT

ENVIRONMENTAL ASSESSMENT

EA1011-001

PUBLIC HEARING

Mackenzie Valley Review Board:

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HELD AT:

Tree of Peace
Yellowknife, NWT
February 20, 2013

Day 3 of 4

1 APPEARANCES

2

3 Chuck Hubert)MVEIRB

4 Stacey Menzies)

5 Simon Toogood)

6 Cailin Maki)

7 Ralph Grismala)Consultant

8 John Donihee)Counsel

9

10 Crystal Thomas (np))MVLWB

11

12 David Swisher)Avalon Rare Metals

13 Mark Wiseman)Inc.

14 Kelly Cumming)

15 David Marsha (np))

16 Rick Hoos)

17 Doug Chambers (via telephone) (np))

18 Kevin Hawton (via telephone) (np))

19

20 Trish Auser)Environment Canada

21 Jane Fitzgerald)

22 Sarah Lacey McMillan)

23 Anne Wilson (np))

24 Lisa Lowman (np))

25

1	APPEARANCES (Con't)	
2	Dave Fox	)Environment Canada
3	James Hodson (np))
4	Loretta Ransom (np))
5	Mike Leonard	)DFO
6		
7	Michael Freeland	)Blachford Lake
8		)Lodge
9		
10	Paul Green	)AANDC
11	Nathen Richea (np))
12	Lionel Marcinkoski (np))
13	Robert Jenkins (np))
14	Velma Sterenberg)
15		
16	Rachel Bowden	)GNWT-DHSS
17	Derek Rains)
18	Kate Witherly)
19	Brittany Shuwere)
20	Dave Ramsay (np))
21	Russell Teed	)GNWT-MOG
22	Amy Lizotte	)GNWT-ITI
23	Sonya Saunders)
24	Dianna Beck)
25	Greg Brady)

1
2 APPEARANCES (Con't)
3 Shafic Khouri) ENR
4 Aileen Stevens)
5 Lisa Cardinal) HSS
6 Kim Balsillie) ENR-EAM
7 Albert Bourque) ENR South Slave
8 Bernard Park)
9 Alicia Kelly)
10 Jan Adamczeweki)
11 Sunny Ashcroft) ENR-Wildlife
12 Glen MacKay) PWWHC
13
14 Pat Simon) Deninu K' First
15) Nation
16
17 Stephanie Poole) Akaitcho Treaty 8
18 Peter Liske (np)) Tribal Corp.
19 Stephen Ellis)
20
21 Nick Lawson (np)) Stantec
22
23 David Connelly) ILE Royale
24) Enterprises
25

	APPEARANCES (Con't)	
1		
2	Chris Aguirre	)Transport Canada
3	Greg Black)
4	Craig Miller)
5		
6	Michael Tollis	)LKDFN
7	Emily Saunders)
8	Elder Pierre Marlowe (np))
9	Chief Dora Enzo)
10	Ron Fatt)
11		
12	Rohan Brown	)Justice Canada
13		
14	Eric Binion	)NSMA
15	Susan Enge)
16	Ed Jones (np))
17	Robert Mercredi)
18	Wayne Langenahan (np))
19		
20	Todd Slack	) Yellowknives Dene
21	Randy Freeman	) First Nation
22	Shannon Gault)
23	Chief Ted Tsetta (np))
24	Chief Edwin Sangris (np))
25	Roy Erasmus)

1 APPEARANCES (Con't)

2

3 Modeste Sangris)

4 Alfred Baillargeon (np))

5 Judy Charlo)

6

7 David Ramsey (np)) Department of

8) Industry, Tourism

9) & Investment

10

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1 --- Upon commencing at 9:06 a.m.

2

3 THE CHAIRPERSON: Good morning. We're
4 ready to start the third day of the Avalon public
5 hearing. Before we start, I just forgot to tell the
6 GNWT that I put them in the agenda in Fort Resolution.
7 Just kidding.

8 Good morning. Good morning. Good
9 morning. I'm going to go to our Elder, Michel Paper.
10 He's going to be -- he's actually ninety-nine (99)
11 years old right now, and he's going to be a hundred, I
12 think, this coming year, I think. So I'll get Michel
13 Paper go come up to do the opening prayer.

14

15 (OPENING PRAYER)

16

17 THE CHAIRPERSON: Masi, Michel Paper,
18 for doing the opening prayer on the third day of this
19 public hearing. Today we've got a little shorter
20 agenda. We have the GNWT doing a presentation this
21 morning, and Transport Canada will be next, and NWT
22 Treaty 8 Tribal Corporation is to be moved up to this
23 afternoon. The NWT Metis Nation is -- won't be doing
24 a presentation, so we moved them to Fort Resolution.

25 So with that, I'm going to go to the

1 GNWT to do their presentation. If you could introduce
2 your delegation and we'll -- we'll move into your
3 presentation. Thank you.

4

5 (BRIEF PAUSE)

6

7 PRESENTATION BY GNWT:

8 MR. SHAFIC KHOURI: Good morning, Mr.

9 Chair, Board members, ladies and gentleman. My name
10 is Shafic Khouri. I'm an environmental assessment
11 analyst for the Government of the Northwest
12 Territories. I'm joined today by representatives of
13 departments with mandates for socioeconomic
14 programming, air quality, and wildlife. And our
15 presentation is organized by these key areas.

16 I'd like to introduce our
17 representatives. Starting on my far left we have Lisa
18 Cardinal, director of Corporate Planning, Reporting,
19 and Evaluation for the Department of Health and Social
20 Services; Dana Heide, Associate Deputy Minister for
21 the Department of Education, Culture, and Employment.
22 And to my immediate left is Sonya Saunders, director
23 of Policy, Legislation, and Communications for the
24 Department of Industry, Tourism, and Investment.

25 To my right we have three (3) officials

1 with the Department of Environment and Natural
2 Resources. Starting on my far right, we have Allicia
3 Kelly, South Slave regional Biologist; Albert Bourque,
4 South Slave Regional environmental coordinator. And
5 to my immediate right is Aileen Stevens, air quality
6 programs coordinator.

7 I will now pass the presentation over
8 to my colleague, Son -- Sonya Saunders. Thank you.

9 MS. SONYA SAUNDERS: Thank you. As
10 mentioned, my name is Sonya Saunders. I'm the
11 director of Policy, Legislation, and Communications
12 with the Government of the Northwest Territories,
13 Department of Industry, Tourism, and Investment. And
14 I will now present the socioeconomic presentation.

15 The socioeconomic programming
16 Department of Health and Social Services; Education,
17 Culture, and Employment; Municipal and Community
18 Affairs; Industry Tourism and Investment; NWT Housing
19 Corporation; Justice; and the Bureau of Statistics
20 collectively plan and provide a wide array of
21 socioeconomic programs and services on a territory-
22 wide basis. These programs and services adapt to the
23 emerging needs of communities and residents over time.
24 We monitor and report on socioeconomic indicators
25 across the territory on a continual basis.

1 Avalon has stated that residents with
2 the requisite skills will have the first chance to be
3 hired and has committed to working with partners to
4 develop and deliver training programs. The GNWT
5 acknowledges Avalon's commitments to education and
6 training but believes that further details are
7 necessary.

8 It expects that the human resources
9 management plan, which is not yet completed, will
10 include job descriptions and education and skills
11 required for each position, career development,
12 educational supports, and trades and apprenticeship
13 opportunities, along with other education, training,
14 employment, and recruitment strategies to maximize
15 Northern employment and capacity building in the
16 regional study area.

17 The GNWT would like assurances that
18 Avalon's contractors will also participate in training
19 and apprenticeship initiatives that lead to a skilled
20 Northern workforce.

21 Further information is also required on
22 the monitoring and reporting processes for contractors
23 regarding socioeconomic indicators. Comprehensive
24 socioeconomic reporting for a project helps provide a
25 more complete picture of the overall impact of the

1 project on employment and education.

2 Avalon has addressed some health and
3 social services issues related to healthcare coverage,
4 vaccinations, employee and family assistance programs,
5 and the promotion of healthy choices. Though many
6 concerns have been addressed, outstanding issues with
7 Avalon's proposed project remain.

8 The first area is the cost of providing
9 medical care for Avalon employees who are not
10 residents of the Northwest Territories. The GNWT is
11 seeking assurance that Avalon will reimburse employee
12 or contract medical costs that cannot be reciprocally
13 billed to the Workers' Safety and Compensation
14 Commission or other provincial, territorial, or third-
15 party healthcare plans.

16 The second area is related to
17 mitigating potential socioeconomic impacts related to
18 the project. The GNWT recommends Avalon support
19 alcohol and substance abuse programs, provide
20 prevention and awareness programs on site, distribute
21 on-site information about programs and services
22 offered by the Department of Health and Social
23 Services, as well as collaborate with us on such
24 initiatives. Through this collaboration, potential
25 impacts related to increased alcohol and substance

1 abuse, increased incidents of family violence, and
2 disruptions to family cohesion can be effectively
3 mitigated.

4 The GNWT expects Northern business to
5 be given a full and fair opportunity to participate in
6 business opportunities arising from the project. We
7 also recognize the benefits of establishing a
8 hydrometallurgical facility in the South Slave region
9 and the direct and indirect benefits from this
10 project.

11 We have met with Avalon and discussed
12 local business capacity and NWT business development
13 opportunities, including specific opportunities in the
14 South Slave region: procurement and business
15 development commitments, priority purchasing and
16 procurement strategy, relationships with contractors
17 and subcontractors, and the degree of territorial and
18 Aboriginal business participation in the project.

19 We've highlighted areas of uncertainty
20 in our technical report on the project. These include
21 goods and services required for construction and
22 operation of the mine site and hydro --
23 hydrometallurgical (sic) facility, specific details on
24 the Northern business strategy, and an estimate of
25 total goods and services, including a territorial

1 percentage required for closure and reclamation
2 phases. All of these items remain outstanding.

3 The GNWT expects Avalon will continue
4 to work with us to expand territorial procurement
5 through the life of this project, facilitate business
6 development as it pertains to non-specialized and
7 specialized services, and finalize a Northern business
8 strategy.

9 The GNWT is encouraged by Avalon's
10 intent to negotiate a socioeconomic agreement with us.
11 These agreements include measures for adaptive
12 management and reporting. We emphasize there is
13 significant risk without an effective follow-up
14 program in place.

15 Currently, there are four (4) operating
16 mines in the Northwest Territories. Three (3) have a
17 follow-up program in the form of a socioeconomic
18 agreement with the GNWT. These three (3) mines have
19 achieved 51 percent Northern employment and 73 percent
20 Northern purchasing. Without a socioeconomic follow-
21 up program, the mine would not report the number of
22 territorial residents employed at the mine, nor
23 territorial business procurement.

24 The significance of this project and
25 its associated uncertainties reinforce the need for a

1 socioeconomic follow-up program. The Government of
2 the Northwest Territories believes a socioeconomic
3 agreement is the most effective tool to provide
4 certainty with regard to findings of an environmental
5 assessment and to formalize project benefits to its
6 residents.

7 It is expected all socioeconomic
8 commitments made by Avalon during the environmental
9 assessment and one (1) on one (1) discussions,
10 including reporting commitments, will be formalized
11 within a socioeconomic agreement.

12 The Government of the Northwest
13 Territories recommends, as a condition of project
14 approval, that the Board include the following
15 requirement for a socioeconomic follow-up program in
16 the reported environmental assessment under Section
17 128(b)(ii) of the Mackenzie Valley Resource Management
18 Act. Avalon and the Government of the Northwest
19 Territories shall negotiate and sign a follow-up
20 program in the form of a socioeconomic agreement.

21 The Government of the Northwest
22 Territories believes project-related socioeconomic
23 concerns will be substantively addressed through
24 several means. These include Avalon commitments made
25 during the environmental assessment process, impact

1 and benefit agreements between Avalon and Aboriginal
2 communities, continually adapting GNWT's socioeconomic
3 programs and services, and implementing a
4 socioeconomic agreement.

5 This concludes the socioeconomic
6 portion of this presentation. Thank you, and I will
7 pass the presentation over to Aileen Stevens.

8 MS. AILEEN STEVENS: Good morning. My
9 name is Aileen Stevens. I'm the air quality programs
10 coordinator for the Government of the Northwest
11 Territories. The following is a brief presentation on
12 the air quality component of the project.

13 Avalon has committed to develop and
14 implement an air quality monitoring and management
15 plan in consultation with the Government of the
16 Northwest Territories and Environment Canada. The air
17 quality monitoring and management plan is not complete
18 at this time. However, Avalon has noted the plan will
19 include, but not be limited to, stack testing, which
20 will include post commissioning of diesel generators,
21 mine heaters, and a sulphuric acid plant stack, as
22 well as ambient air monitoring of total suspended
23 particulates and continuous sulphur dioxide for one
24 (1) year.

25 We support this commitment but would

1 like to emphasize that the plan should also include,
2 but not be limited to, emissions management and
3 minimization, air quality monitoring, and measures for
4 mitigation and adaptive management. We will work with
5 Avalon and Environment Canada throughout the
6 development and implementation of the air quality
7 monitoring and management plan.

8 Avalon has also committed to develop
9 and implement an incineration management plan in
10 consultation with the Government of the Northwest
11 Territories and Environment Canada. Avalon has
12 committed to incorporate information provided in the
13 Environment Canada technical document for batch waste
14 incineration during the development of the plan,
15 including guidance on appropriate incinerator
16 selection, appropriate waste batching, appropriate
17 operations, training, maintenance, and documentation.

18 We recommend the final plan also
19 include a requirement for stack testing of the
20 incinerator following commissioning and periodically
21 thereafter. Stack testing would quantitatively
22 demonstrate that the incinerator is performing as
23 designed and conforming to emission limits set out in
24 the Canada-wide standards for dioxins and furans. If
25 not, stack test results would also act as a trigger

1 for mitigative measures.

2 Waste incineration is a batch process
3 and, therefore, not a source of continuous emissions.
4 However, the emissions formed and released from poorly
5 operating incinerators are toxic, persistent, and
6 bioaccumulative in the environment. This includes
7 compounds known as dioxins and furans.

8 A properly designed and operated
9 incinerator can achieve emission limits within --
10 pardon me -- can achieve emissions within the Canada-
11 wide standards for dioxins and furans, below 80 pico -
12 - picograms per cubic metre, whereas a poorly
13 functioning incinerator can release upwards of a
14 hundred times that amount. So even a small operation
15 could be contributing significantly more dioxins and
16 furans to the environment than an operation many times
17 its size.

18 In conclusion, the Government of the
19 Northwest Territories supports Avalon's commitment to
20 develop an air quality monitoring and management plan
21 and an incineration management plan. However, the
22 Government of the Northwest Territories recommends to
23 the Board that the project incineration management
24 plan also include the requirement for stack testing
25 following commissioning and periodically thereafter.

1 The Government of the Northwest
2 Territories is committed to work with Avalon in the
3 development and continual review of the air quality
4 monitoring and management plan and the incineration
5 management plan throughout the regulatory process and
6 life of the project.

7 Thank you. I will now pass the
8 presentation over to my colleague, Albert Bourque.

9 MR. ALBERT BOURQUE: Good morning. My
10 name is Albert Bourque, and I'm the regional
11 environmental coordinator for the South Slave region.
12 And I'm accompanied by Allicia Kelly, the regional
13 biologist for the South Slave region. I will be
14 addressing the wildlife aspects of the Thor Lake
15 Project.

16 Wildlife's role: The government of the
17 Northwest Territories' role in this review is to
18 ensure impacts of the project on wildlife and wildlife
19 habitat are mitigated. This is a shared
20 responsibility. The -- the GNWT requires wildlife
21 plans and programs from developers when they propose
22 these projects. These plans and programs need to be
23 robust, adaptive and provide good information for
24 wildlife monitoring, management, and mitigation.

25 Wildlife and wildlife habitat

1 protection plans: Avalon's -- Avalon's draft wildlife
2 and wildlife habitat protection plan is intended to
3 mitigate impacts to personnel, wildlife, and wildlife
4 habitat within the local-scale project development
5 area.

6 We have reviewed the plan and believe
7 it needs further development. For example, more
8 information is needed on how mitigation strategies
9 will be tested. Avalon has agreed to collaborate with
10 the Government of the Northwest Territories,
11 Aboriginal organizations, co-management partners, and
12 other parties to further develop this plan and revise
13 it during the life of the mine.

14 A Wildlife Effects Monitoring Program
15 is necessary to test project predictions that impacts
16 on wildlife and wildlife habitat will be negligible.
17 A Wildlife Effects Monitoring Program is a follow-up
18 program as defined under the Mackenzie Valley
19 Resources Management Act. It should target wildlife
20 species of concern, use standardized protocols and be
21 conducted at a -- at an appropriate scale. The
22 program must be adaptive so that it can be revised
23 pending new information. It needs to be developed in
24 collaboration with partners.

25 Avalon has not agreed to develop a

1 Wildlife Effects Monitoring Program but has committed
2 to exploring the idea of developing a program with the
3 Government of the Northwest Territories and other
4 partners.

5 The historical Bathurst caribou range:
6 The Thor Lake project falls within the historical
7 range of the Bathurst caribou herd. The herd has
8 stabilized at about thirty-five thousand (35,000)
9 animal -- animals, but recovery of the herd is
10 expected to be slow. Avalon predicts project impacts
11 on Bathurst caribou will be negligible. A Wildlife
12 Effects Monitoring Program is needed to test this
13 prediction.

14 We are also concerned that the project
15 will contri -- will contribute to cumulative effects
16 on the herd and its range. There are already a number
17 of current and proposed developments on the -- on the
18 Bathurst range, as shown on the map. Some of these
19 land leases represent -- some of these land leases
20 represent future projects and those undergoing
21 environmental assessment. These include the Nico
22 project, Gahcho Kue project, and the Yellowknife Gold
23 project, which are shown by the -- whoops -- which are
24 shown by the grey test on the map.

25 The Bathurst herd is also subject to

1 other pressures, including human harvest and fire.
2 All of these factors can affect the size and the trend
3 of the herd. We are concerned about cumulative
4 effects on this herd. A Wildlife Effects Monitoring
5 Program will collect information that could feed into
6 a cumulative effects assessment of this herd.

7 Boreal caribou: The hydrometallurgical
8 facility is on the south shore of Great Slave Lake and
9 which falls within the boreal caribou range. Avalon
10 predicts impacts on the boreal caribou will be
11 negligible. A Wildlife Effects Monitoring Program is
12 needed to test this prediction.

13 We are also concerned that the project
14 will contribute to cumulative effects on boreal
15 caribou. This species is listed -- listed as
16 threatened under the federal Species At Risk Act. It
17 has been assessed as threatened by the Northwest
18 Territories Species At Risk Committee.

19 The Northwest Territories boreal
20 caribou population has been assessed as self -- self-
21 sustaining. However, maintaining this status means
22 that at least 65 percent of boreal caribou range in
23 the Northwest Territories must remain undisturbed.
24 The Government of the Northwest Territories is
25 obligated to pursue this goal, and this means

1 monitoring and managing cumulative effects on boreal
2 caribou range.

3 Information collected as part of a
4 Wildlife Effects Monitoring Program could feed into
5 cumulative effects assessment of the boreal caribou
6 population. This could also help the Government of
7 the Northwest Territories meet its obligations under
8 the national recovery -- recovery strategy for
9 woodland caribou boreal population.

10

11 (BRIEF PAUSE)

12

13 MR. ALBERT BOURGUE: Moose: As shown
14 on the map, the -- both the project mine and the
15 hydrometallurgical facility fall within the moose
16 range. Moose are an important harvest species across
17 the Northwest Territories. We are concerned
18 development activities in this range and continued
19 harvest restrictions on the Bathurst caribou herd may
20 combine to increase hunter access and pressure on
21 moose. Avalon predicts project impacts on moose will
22 be negligible. A Wildlife Effects Monitoring Program
23 is needed to test this prediction.

24 Cumulative effects: We are concerned
25 the Thor Lake Project will contribute to the overall

1 amount of disturbance on the landscape and to
2 cumulative effects on boreal and barren-ground
3 caribou. Cumulative effects can result from
4 individually minor, but collectively significant,
5 activities taking place on a landscape over a period
6 of time.

7 Avalon must collect information at a --
8 at an appropriate scale to test impact predictions
9 made during the environmental assessment. This
10 information can come from well-designed Wildlife
11 Effects Monitoring Programs. Information from this
12 program can be used to develop species-specific
13 cumulative effects programs. A cumulative effects
14 assessment must be dealt with at a regional or valued
15 ecosystem component level and not at a project-
16 specific basis.

17 The Government of the Northwest
18 Territories has taken a lead role in coordinating
19 effects to address cumulative effects for multiple
20 species. This effort is a shared responsibility
21 amongst government, co-management -- co-management
22 partners, and others who use the land, including
23 developers. This collaborative approach is described
24 in the 2010/2015 action plan for boreal woodland
25 caribou conservation in the Northwest Territories and

1 a 2011/2015 Northwest Territories barren-ground
2 management strategy -- barren-ground caribou
3 management strategy, that is.

4 The Government of the Northwest
5 Territories is pleased that Avalon has participated in
6 the cumulative effects management workshop held
7 earlier this month

8 In conclusion, the Government of the
9 Northwest Territories believes Avalon's wildlife and
10 wildlife habitat protection plan is conceptually
11 sound, but further development is needed. Avalon has
12 agreed to continue developing this plan in
13 collaboration with partners.

14 The Government of the Northwest
15 Territories believes a Wildlife Effects Monitoring
16 Program is necessary to test project predictions, that
17 impacts on wildlife or wildlife habitat will be
18 negligible. Information collected as part of the
19 wildlife -- sorry -- information collected as part of
20 the project Wildlife Effects Monitoring Program would
21 also feed into a cumulative effects assessment for
22 boreal and Bathurst caribou. The Government of the
23 Northwest Territories recom -- recommends to the Board
24 that Avalon develop a Wildlife Effects Monitoring
25 Program for the project.

1 Overall, the Government of the
2 Northwest Territories believes Avalon can undertake
3 the project in a way that does not pose a significant
4 adverse impact to the environment, provided Avalon's
5 commitments made during the project environmental
6 assessment and recommendations put forward by the
7 Government of the Northwest Territories during the
8 environmental assessment are carried out.

9 The Government -- whoops. Thank you
10 very much.

11 MR. SHAFIC KHOURI: Shafic, GNWT.
12 Thank you, Mr. Chair. This concludes the GNWT
13 presentation on the Thor Lake Project environmental
14 assessment.

15

16 (BRIEF PAUSE)

17

18 THE CHAIRPERSON: Thank you. Thank
19 you for your presentation and introduction of your
20 delegation. We're going to go into the list of orders
21 now by parties, questions to your presentation this
22 morning. I'll just start off at the top of the list.

23 I have Aboriginal Affairs and Northern
24 Development Canada. Is there any questions for the
25 GNWT on their presentation here this morning?

1 (BRIEF PAUSE)

2

3 QUESTION PERIOD:

4 MR. PAUL GREEN: Paul Green, with
5 Aboriginal Affairs. We have no questions, Mr. Chair.

6 THE CHAIRPERSON: Okay. Thank you.
7 Akaitcho Treaty 8 Tribal Corporation...?

8

9 (BRIEF PAUSE)

10

11 MS. STEPHANIE POOLE: Good morning.
12 Stephanie Poole, Akaitcho IMA Office. I have quite a
13 few questions and follow-up questions for the GNWT.

14 THE CHAIRPERSON: How many questions
15 is it?

16 MS. STEPHANIE POOLE: Quite a few, and
17 some follow-up ones.

18 THE CHAIRPERSON: Okay. I thought you
19 said twenty-two (22).

20 MS. STEPHANIE POOLE: I have five
21 hundred (500) --

22 THE CHAIRPERSON: Okay. Go ahead.

23 MS. STEPHANIE POOLE: -- questions.

24 THE CHAIRPERSON: Please proceed.

25 MS. STEPHANIE POOLE: And I kind of

1 wish I was sitting down today, but nonetheless...

2 So going through the GNWT presentation,
3 it begins with socioeconomic agreements. I understand
4 that the GNWT holds five (5) socioeconomic agreements.
5 They have three (3) with diamond mines, one (1) with
6 the Magen -- Mackenzie Gas Project, and one (1) with
7 the Prairie Creek mine.

8 In your presentation, you mentioned
9 that these socioeconomic agreements would have an
10 adaptive management function. And I wonder if the
11 GNWT could tell me a little bit about how they see
12 this adaptive management function working with this
13 new proposed socioeconomic agreement.

14 THE CHAIRPERSON: Thank you. To the
15 question, GNWT.

16 MR. SHAFIC KHOURI: Thank you, Mr.
17 Chair. I'll pass that question on to Sonya Saunders.

18 MS. SONYA SAUNDERS: Thank you, Mr.
19 Chair. Sonya Saunders, with the GNWT. We -- we have
20 found that the socioeconomic agreements have been a
21 very effective mechanism to be able to provide
22 certainty with regard to socioeconomic findings. We
23 would anticipate that there would be monitoring
24 provisions in the socioeconomic agreement which will
25 allow us to monitor the effects, potential effects,

1 and impacts of this project.

2 And we would then be able to adaptively
3 manage how we could deal with those through
4 programming, for example from the GNWT on our side.
5 And it -- it would enable us to establish a
6 relationship with the Developer through which we could
7 -- we could work together to determine what would be
8 the best approach to mitigate potential impacts as
9 they arise and as they are identified. Thank you.

10 THE CHAIRPERSON: Thank you. I'll go
11 back to Akaitcho Treaty 8 Tribal Corp.

12 MS. STEPHANIE POOLE: Thank you.
13 Stephanie Poole, Akaitcho IMA. I was just moving
14 around there, but did I hear you say that you would be
15 working together to try to improve any socioeconomic
16 agreements?

17 And if you say, "working together," I
18 wonder who do you mean? Just you and Avalon working
19 together?

20 THE CHAIRPERSON: Okay. Thank you.
21 GNWT...?

22 MS. SONYA SAUNDERS: Sonya Saunders,
23 GNWT. The socioeconomic -- at this point, we
24 anticipate that the socioeconomic agreement would be
25 between the Government of the Northwest Territories

1 and the Developer. And so we would be -- we would
2 have expectations of monitoring through that
3 agreement.

4 The agreement, as I said, allows us to
5 develop a specific kind of relationship with the
6 Developer, in terms of being able to access
7 information that -- that would then allow us to
8 develop programming. We would anticipate it would be
9 GNWT programming that we would be developing. And
10 there would be some expectation, depending on what
11 those -- what the trends would show and what the
12 indicators would be, there may be some expectations
13 that the Developer would need to take steps as well.
14 Thank you.

15 THE CHAIRPERSON: Thank you. Akaitcho
16 Treaty 8 Tribal Corp....?

17 MS. STEPHANIE POOLE: Thank you.
18 Stephanie Poole, Akaitcho IMA. Could the GNWT tell me
19 a little bit more about how they will be applying
20 adaptive management in regards to the five (5)
21 socioeconomic agreements they already hold?

22 If they already hold five (5)
23 socioeconomic agreements, I'm assuming that they've
24 learned some lessons and have some best practices to
25 put forward into a new socioeconomic agreement.

1 THE CHAIRPERSON: GNWT...?

2 MS. SONYA SAUNDERS: Thank you. Sonya
3 Saunders, GNWT. We have taken steps, as I indicated.
4 We -- we monitor through the socioeconomic agreements.
5 With the existing socioeconomic agreements, we issue a
6 number of reports each year. We have a communities
7 and diamonds report that looks at all of the impacts
8 of the three (3) -- the socioeconomic impacts of the
9 three (3) diamond mines. And the information we get
10 through that monitoring and through that reporting
11 then allows us to develop specific programs in
12 response to those indicators. And that is the
13 adaptive management which I'm speaking.

14 I would like to ask Lisa Cardinal, from
15 the Department of Health and Social Services, to
16 provide an example of this. Thank you.

17 MS. LISA CARDINAL: Lisa Cardinal,
18 Government of the Northwest Territories. One (1)
19 example of an adaptive management measure that has
20 been put in place relative to the Tlicho communities
21 is we -- we were able to monitor trends related to --
22 we were able to monitor trends by providing
23 information and following the communities and diamonds
24 report. And where there was an increased incidence of
25 mental health and addictions issues and suicides in

1 the smaller NWT communities, programming was adapted.

2 The Department of Health and Social
3 Services recently released a mental health and
4 addictions action plan. There are community-specific
5 initiatives in there, such as mental health first-aid
6 training. We've also recently entered into an
7 agreement with Dalhousie University for the provision
8 of psychiatric services.

9 So by following and monitoring the
10 trends, the GNWT is able to adjust and adapt
11 programming as needed. Thank you.

12 THE CHAIRPERSON: Okay, thank you.
13 We'll go back to Akaitcho Treaty 8 Tribal Corp.

14 MS. STEPHANIE POOLE: Thank you.
15 Stephanie Poole, Akaitcho IMA office. Could the GNWT
16 give me an example of how they have applied adaptive
17 management towards the Akaitcho Dene First Nation
18 communities which are directly impacted and small
19 communities?

20 THE CHAIRPERSON: Okay, thank you.
21 GNWT...?

22 MR. SHAFIC KHOURI: Thank you, Mr.
23 Chair. I'll just take one (1) moment, if I can, to
24 answer that.

25

1 (BRIEF PAUSE)

2

3 MS. SONYA SAUNDERS: Sonya Saunders,
4 GNWT. In terms of adaptive management, I'll ask Lisa
5 to speak to this. But just -- I -- I will note that -
6 - that we did go at one (1) point with the BHP into
7 Lutsel K'e to meet with the community, and that was
8 one (1) example specific to Lutsel K'e. However,
9 generally we don't have a lot of examples specific to
10 Lutsel K'e. And I'll ask Lisa Cardinal from Health
11 and Social Services to speak to this, please. Thanks.

12 MS. LISA CARDINAL: Lisa Cardinal,
13 Health and Social Services. So it's a little bit
14 difficult to -- to point to specific examples of
15 adaptive management in the specified communities. We
16 do have a number of examples of adaptive management in
17 the Tlicho communities. But one (1) of the areas
18 where we are improving services to try and reduce
19 socioeconomic impacts in the current affected
20 communities is through the implementation of the
21 Matrix Program in Lutsel K'e.

22 This will be piloted in Lutsel K'e.
23 And the Matrix Program is a community-based addictions
24 treatment program that allows individuals who are
25 suffering with addictions to seek treatment right in

1 the community. They don't have to leave the community
2 to -- to enter into counselling. It also is closely
3 linked with other services available. So if it's
4 determined that the individual requires residential
5 treatment, then there would be a referral process
6 that's connected to the Matrix Program. Thank you.

7 THE CHAIRPERSON: Before I go back to
8 Treaty 8 Tribal Corp., this morning when you gave a
9 presentation, you talked about some of the impacts and
10 the issues that you guys are facing or you would like
11 to see and recommend to the Board.

12 But if you maybe -- if you could maybe
13 give us an overview exactly what you guys do, in terms
14 of the socioeconomic agreements that you have in
15 place. Who are the benefits -- beneficiaries to those
16 agreements, and -- and what programs do you provide
17 with the resources you guys get back from the mining
18 companies? Maybe so we understand it.

19 So you could -- if you could touch on
20 that, it would be really good.

21 MR. SHAFIC KHOURI: Thank you, Mr.
22 Chair. Shafic, GNWT. I'll just take a second.

23

24 (BRIEF PAUSE)

25

1 MS. SONYA SAUNDERS: Sonya Saunders,
2 with the Government of Northwest Territories. I'll
3 try to answer your question. If I didn't quite
4 interpret it properly, please let me know.

5 What we found... We have -- as was
6 mentioned, we have five (5) socioeconomic agreements.
7 Currently, three (3) of those are in effect with the
8 diamond mines located close to Yellowknife.

9 And what we've -- we have found them to
10 be an effective mechanism to -- to -- for us to be
11 able to watch indicators and trends and then, as I
12 said, do adaptive management in respect of changes
13 that we see, socioeconomic changes.

14 The -- the -- well, the socioeconomic
15 agreement -- and we would anticipate this
16 socioeconomic agreement would be between the GNWT and
17 the Developer. The GNWT is actually, as a public
18 government, representing the interests of all
19 Northwest Territories residents. And so we would see
20 the beneficiaries of these agreements as being all
21 Northwest Territories residents and businesses on the
22 business side.

23 I'm not sure if I've -- if I've
24 captured what you were looking for there.

25 THE CHAIRPERSON: Well, I'm looking

1 for a little more, if you could expand a little
2 further. Like, I mean, if you get five (5) and get
3 more, and if you get another twenty (20) mines coming
4 up and you'll have these agreements in place, you're
5 probably going to have another department here.

6 What would be the mandate of that
7 department? What is it you guys -- what service do
8 you provide when these guys start coming as results of
9 the impacts of the mine to the communities of the
10 Northwest Territories?

11 Can you expand on that?

12 MS. SONYA SAUNDERS: Sonya Saunders,
13 GNWT. We actually have a number of departments that
14 work together on -- on this, so this -- all the
15 socioeconomic departments work together, as I
16 mentioned: the Department of Health and Social
17 Services; Education, Culture, Employment; Industry,
18 Tourism, and Investment; Bureau of Statics; and the
19 Housing Corporation.

20 We work together on getting the
21 information we -- and monitoring and then reporting.
22 And then each of those departments is responsible for
23 making changes and adaptive management changes to its
24 own programs. So if we're seeing specific impacts in
25 the area of health, for example, like suicide and

1 other health impacts, then it would be the Department
2 of Health and Social Services who would then adapt
3 programs or create programs that would respond to
4 those impacts.

5 THE CHAIRPERSON: Okay. I just want -
6 - I'm just trying to understand what is it you guys do
7 and so that we know as a Board what happens with these
8 socioeconomic agreements you guys have in place for
9 mining companies, so.

10 And because we -- in the North I still
11 see issues in regards to employment and so on. And, I
12 mean, I kind of wanted to hear a little bit more about
13 that, as to how you're going to mitigate some of those
14 issues, like -- so just so I'm clear.

15 So the money that comes from mining
16 companies goes to your department to improves the
17 lives of the community, so for people to get jobs? I
18 don't know. What is it? If you could expand a little
19 further so I understand.

20 MS. SONYA SAUNDERS: Sonya Saunders,
21 GNWT. Under the agreements, there is actually no --
22 there is no money. There is no exchange of money.
23 The agreements cover sort of specific areas, and, in
24 particular, sort of health and education, business
25 procurement, purchasing. And through the agreements,

1 the developer makes certain commitments that it will
2 sort of provide, that it will pro -- you know, provide
3 -- make -- make a commitment towards procurement in
4 the Northwest Territories from Northwest Territories
5 businesses and Aboriginal businesses, those kinds of
6 commitments.

7 And we then monitor how the developer
8 is achieving those commitments and, also, what the
9 impacts are from the development on cer -- certain
10 socioeconomic indicators. And then each of the
11 departments that is responsible for the area in -- in
12 question would then be responsible for specific
13 responses.

14 I'd like to ask Dana Heide from
15 Education, Culture, and Employment to speak to how
16 they would deal with the employment issue. Thank you.

17 MR. DANA HEIDE: Thank you for the
18 question, Mr. Chair. Dana Heide, Government of the
19 Northwest Territories.

20 One (1) of the key initiatives around
21 labour market training is the regional training
22 partnerships that are developed as part of the
23 socioeconomic agreements. And the -- the industry
24 participates with Aboriginal groups, with training
25 groups, with the college groups, not only to identify

1 training needs that are available, but also to
2 identify the labour market needs at the community
3 level so we get an understanding of what the needs are
4 at the community level.

5 So it's not just looking at vocational
6 training, but it's also looking at what are the
7 training needs of the community. Is there upgrading
8 needs? Is there adult basic education needs? Is
9 there a need to develop essential skills so people in
10 the community can start their journey towards either
11 an apprenticeship program, training on the job
12 programs, or a variety of other programs.

13 So the key area for the socioeconomic
14 agreements is to ensure that the companies participate
15 within those regional training organizations to
16 identify the needs, to identify the jobs that are
17 available, and to participate in the on-the-job
18 training, on the apprenticeship training side, and on
19 the overall development of the labour force within the
20 communities.

21 THE CHAIRPERSON: Okay. Thank you for
22 that clarification and thank you for your comments.
23 I'm going to go back to Akaitcho Treaty 8 Tribal
24 Corporation.

25 MS. STEPHANIE POOLE: Thank you.

1 Stephanie Poole, Akaitcho IMA. I -- just so you know,
2 I have more questions now.

3 THE CHAIRPERSON: I've got a long day
4 ahead of me. But how many questions do you have, just
5 out of curiosity?

6 MS. STEPHANIE POOLE: I have three (3)
7 pages going so far, but just --

8 THE CHAIRPERSON: Okay. Take your
9 best -- if you've got ten (10) questions, take your
10 best six (6).

11 MS. STEPHANIE POOLE: Well -- yeah,
12 I'll try to limit it, and they're not all about
13 socioeconomic agreements. I speak to the rest of the
14 presentation as well.

15 So you just mentioned that kind of --
16 you know, that you collect data and -- but you don't
17 really collect data, you only statistical information.

18 I had a look at your 2010 report on the
19 three (3) socioeconomic agreements for the diamond
20 mines. That was the only report that was available
21 online. And according to that statistical information
22 -- not specific data that -- that you, GNWT, are
23 collecting in regards to these specific socioeconomic
24 agreements -- but those reports show that the smaller
25 Akaitcho Dene First Nation communities, things are --

1 are getting worse and -- and not improving.

2 You know, statistics like children
3 living in poverty, single-parent families, suicide.
4 The population in the communities is decreasing. And
5 then your government, the way you dole out your
6 programs and services is according to -- by
7 population. So even in these directly impacted and
8 affected communities, they're being affected by these
9 mines, their populations are decreasing, and then you
10 are also taking away programs and services because of
11 that. So these socioeconomic agreements are -- are
12 not benefiting the directly affected and impacted
13 communities.

14 And so my question is around adaptive
15 management. What I was hoping to hear is that you
16 have learned some lessons and were committed to making
17 some changes -- real, meaningful changes - regarding
18 the socioeconomic agreements, moving forward.

19 I do have a question about -- for the
20 GNWT and that is: How will you be consulting,
21 engaging, including, and accommodating these directly
22 impacted communities in the development of this new
23 socioeconomic agreement? Yeah, we'll start with that.

24 THE CHAIRPERSON: So that's one (1) of
25 your -- one (1) of your -- one (1) of six (6) of your

1 best questions, eh? Okay. I'll go to the GNWT.

2 MR. SHAFIC KHOURI: Thank you, Mr.
3 Chair. Shafic, GNWT. I'll pass that on to Sonya
4 Saunders.

5 MS. SONYA SAUNDERS: Thank you, Mr.
6 Chair. We are currently -- we've commenced
7 negotiations on a socioeconomic agreement with Avalon.
8 And this -- the socioeconomic agreement, we anticipate
9 this will just be between the GNWT and the Developer.
10 But the socioeconomic agreement is complementary to
11 the impact and benefit agreements, so -- which are the
12 agreements between the impacted communities and the
13 Developer.

14 It's our intention to meet and discuss
15 the draft socioeconomic agreement once we have
16 negotiated one with the Developer. And so we would be
17 meeting with the impacted communities, discussing the
18 draft agreement with them.

19 How that will be done, I -- I can't
20 speak to that at this point. I would anticipate that
21 we will develop a communications strategy with Avalon
22 as part of the negotiations of the socioeconomic
23 agreement. So I just really don't have any details on
24 that at this time. Thank you.

25 THE CHAIRPERSON: Thank you. Akaitcho

1 Treaty 8 Tribal Corporation, second of the six (6)
2 questions?

3 MS. STEPHANIE POOLE: Thank you.
4 Stephanie Poole, Akaitcho IMA. So just to be clear,
5 what you're saying is that you don't know how you will
6 be consulting with the citizens of the Akaitcho Dene
7 First Nations regarding a socioeconomic agreement
8 you're about to make on their behalf with the
9 Developer.

10 Is that correct?

11 THE CHAIRPERSON: GNWT...?

12 MS. SONYA SAUNDERS: Sonya Saunders
13 with Government of the Northwest Territories. I can't
14 speak to the specifics of how we would be doing this.
15 We are -- we've just started negotiations with the
16 Company on the socioeconomic agreement. Once we have
17 a draft agreement, it would be our hope that we -- an
18 intention that we would take that draft agreement and
19 meet with the impacted communities, and that would
20 give us an opportunity to have a more full discussion
21 about sort of what would be in the content and -- and
22 -- before we would conclude and before we would sign
23 on any agreement. Thank you.

24 THE CHAIRPERSON: Okay. Thank you.
25 I'll go to Akaitcho Treaty 8 Tribal Corp., question 3?

1 MS. STEPHANIE POOLE: You mentioned
2 that the impact benefit agreements are kind of a -- a
3 critical part of your mitigation strategy for
4 socioeconomic impacts. How do you see the mitigation
5 of socioeconomic impacts without impact benefit
6 agreements in place? Because they are not in place.

7 THE CHAIRPERSON: I'm going to the
8 Akaitcho Treaty 8 Tribal Corp. I think those are two
9 (2) separate issues. I think the IBA's a separate
10 item that's done with the Company. But if GNWT wants
11 to respond to that, it's entirely up to you.

12 MS. SONYA SAUNDERS: Sonya Saunders,
13 GNWT. Thank you, Mr. Chair. Yes, it's our view that
14 the -- that the IBAs are with the impacted communities
15 and the Company. We do see them as being
16 complementary to the socioeconomic agreement. And
17 where they are in place, we -- you know, it's our
18 intention that the -- that -- or our understanding
19 that the Developer has a responsibility to ensure the
20 commitments made in the socioeconomic agreement are
21 consistent with the commitments that they've made in
22 any impact and benefit agreements. And we see them as
23 working in a complementary manner. Thank you.

24 THE CHAIRPERSON: Thank you. Question
25 4?

1 MS. STEPHANIE POOLE: Thank you.

2 Stephanie Poole, Akaitcho IMA Office. This is my last
3 question in regards to the socioeconomic agreements,
4 and then I will have some more regarding the AQMP and
5 wildlife.

6 And I just wanted to mentioned that it
7 -- that it is important, you know, to allow the public
8 and the participants to this environmental assessment
9 to be allowed to express, you know, any significant
10 adverse impacts that they might face, including
11 significant and adverse impacts to our Aboriginal and
12 treaty rights.

13 THE CHAIRPERSON: Okay. I'm going to
14 go to the GNWT.

15 MS. STEPHANIE POOLE: Oh, I didn't ask
16 my question yet. Sorry.

17 THE CHAIRPERSON: Okay. I'm sorry.

18 MS. STEPHANIE POOLE: Last question on
19 socioeconomic agreements was: You mentioned a follow-
20 up program and monitoring, but when I reviewed the
21 2010 report on the three (3) socioeconomic agreements,
22 I could not find in that report anywhere, you know,
23 any description of how monitoring or the follow-up
24 program works.

25 And regarding this new socioeconomic

1 agreement, how will the Akaitcho Dene First Nations
2 have assurances that this new socioeconomic agreement
3 will be meaningful and beneficial, as opposed to the
4 way the socioeconomic agreements have been to date?

5 THE CHAIRPERSON: Okay, I'm going to
6 go to the GNWT to the question.

7 MR. SHAFIC KHOURI: Shafic, GNWT.
8 I'll need a moment.

9

10 (BRIEF PAUSE)

11

12 MS. SONYA SAUNDERS: Thank you, Mr.
13 Chair. In reference to a follow-up program, I think
14 what we were specifically saying is that we -- we see
15 a socioeconomic agreement as being a follow-up program
16 through the environmental process -- the environmental
17 assessment process. This would be a -- one (1) of --
18 a follow-up program that we would be requesting be
19 made a condition of the approval.

20 In terms of -- in terms of a specific
21 example, we -- there aren't -- so there aren't
22 specific identified programs that come out of this.
23 It's the socioeconomic agreement that is the follow-up
24 program. And through that, then we can engage in
25 adaptive management and create new programs or adapt

1 existing programs to better meet the needs of NWT
2 residents as impacted through -- as a result of the
3 development.

4 But I'm going to ask Lisa Cardinal to
5 speak to a specific example, please. Thank you.

6 MS. LISA CARDINAL: Lisa Cardinal,
7 Government fo the Northwest Territories. There are
8 provisions in existing socioeconomic agreements that
9 would require the -- the ministers responsible for
10 this specific program area -- so in many cases, it's
11 Education, Culture, and Employment; Industry, Tourism,
12 and Investment; and Health and Social Services -- to
13 meet with the developers on a regular basis. In many
14 cases it's set for annually. And this provides a
15 high-level opportunity for discussions to occur on
16 where the mines are not meeting their -- their agreed-
17 to commitments and what can be put in place to try and
18 mitigate it.

19 There's also, within some existing
20 SEAs, the ability for working-group-level committees
21 to be struck. So these would be working-group levels
22 from both industry as well as specific Government of
23 the Northwest Territories department staff. And
24 typically, it's program staff that are on these
25 working-group committees, so they can meet with the

1 mines and determine what the best corrective action is
2 that should be put in place, maybe where there could
3 be better collaboration with the mines to provide
4 promotion and prevention material on site to staff;
5 follow up to ensure that commitments with regard to
6 healthy food choices are being followed; where they're
7 not being met, what could be done to -- to improve it.

8 And also, keeping in mind that the
9 Government of the Northwest Territories plans on a
10 territory-wide basis. So it's continuously monitoring
11 the health status and overall well-being of the entire
12 population and -- and trying to ensure that
13 programming is in place to best meet those needs.
14 Thank you.

15 THE CHAIRPERSON: Okay, thank you.
16 Again, we're going to go to Akaitcho Treaty 8 Tribal
17 Corporation. Again, the questions should be geared to
18 their presentation. And normally -- in my opening
19 comments, the other day I mentioned that we're going
20 to put a time limit on these things. And I'm going to
21 give you five (5) minutes, and you decide what
22 questions you're going to ask. But I'm going to give
23 you five (5) minutes and I'll continue on the
24 questioning.

25 So I'll go back to Akaitcho Treaty 8

1 Tribal Corporation.

2 MS. STEPHANIE POOLE: Thank you.

3 Stephanie Poole, Akaitcho IMA.

4

5 (BRIEF PAUSE)

6

7 MS. STEPHANIE POOLE: I have a lot of
8 pressure now. In the -- does the GNWT envision this
9 new socioeconomic agreement -- like, you just
10 mentioned that these things are territory wide. Like,
11 you look at the whole NWT in regards to these
12 socioeconomic agreements.

13 But will you be giving any weight or
14 value to directly impacted and affected communities as
15 opposed to just looking at the whole NWT?

16 THE CHAIRPERSON: Okay, thank you.
17 GNWT to the question.

18 MR. SHAFIC KHOURI: Shafic, GNWT.
19 I'll -- I'll need one (1) minute.

20

21 (BRIEF PAUSE)

22

23 MS. STEPHANIE POOLE: That's their
24 minute, not mine.

25

1 (BRIEF PAUSE)

2

3 MS. SONYA SAUNDERS: Thank you, Mr.

4 Chair. I guess we're under pressure now with our

5 time. The -- the impacted communities, I guess

6 there's a couple of ways that they're considered

7 through these processes. The -- I mean, for us, the

8 primary -- our understanding is the primary vehicle

9 through which impacted communities can address their

10 concerns with the developer is through the impact of

11 benefit agreements. And our -- the socioeconomic

12 agreements, again, are intended to be complimentary to

13 those.

14 So -- so there's opportunity for the

15 impacted communities to deal directly with the

16 developer through those. In the socioeconomic

17 agreements, generally we -- there are sometimes

18 certain specific provisions that may -- for example,

19 ports of pickup may identify specific communities.

20 And so there are some examples of the -

21 - where impacted communities would be specifically

22 identified. Yeah, thanks. Did you want to... And

23 I'll just ask Lisa Cardinal if she could add to that

24 too, please. Thanks.

25 MS. LISA CARDINAL: Lisa Cardinal,

1 Health and Social Services. So speaking specifically
2 for the Health and Social Services, there are a number
3 of other opportunities for communities to identify
4 their priorities and -- and to try and put in place
5 plans to -- to address their priorities. One (1) of
6 them would be the coordination of the existing federal
7 wellness funding.

8 The Government of the Northwest
9 Territories, through Health and Social Services, is
10 currently working with communities to develop
11 community wellness plans. And these plans will help
12 communities to identify which priorities that they
13 want to work on and then be able to coordinate all
14 funding sources that -- that they have access to in
15 the communities to try and address these priorities.

16 So we would anticipate that the federal
17 wellness funding would go towards these priorities, as
18 well as perhaps some of the impact benefit agreement
19 funding if -- if it's available to them. And then
20 Health and Social Services would work to make sure
21 that our programs and service delivery coordinate and
22 complement what it is that the communities are trying
23 to achieve.

24 The other way that community priorities
25 are being identified is we have the minister's forum

1 on additions which is currently being undertaken
2 across the Northwest Territories. So we have
3 individuals who are meeting with communities to try
4 and figure out how best communities can deal with
5 their addictions issues and come up with culturally
6 and community-specific approaches to -- to resolving
7 issues. Thank you.

8 THE CHAIRPERSON: Thank you. I'll go
9 back to Akaitcho Treaty 8 Tribal Corp.

10 MS. STEPHANIE POOLE: Thank you.
11 Stephanie Poole, Akaitcho IMA. I'm wondering, because
12 we're talking about socioeconomic agreements, how will
13 the current existing economy be mitigated by the GNWT?
14 And by 'currently existing economy', I mean the
15 traditional trapping economy that we've heard of over
16 the past couple of days and the tourism economy that
17 exists in this area.

18 And how does the GNWC -- GNWT see
19 mitigation in regards to tourism in the east arm of
20 Great Slave Lake? Currently, the east arm of Great
21 Slave Lake sees more visitors and tourists than --
22 than even the national parks existing in the North.

23 So how do they -- can they talk to us a
24 little bit about how they see mitigating these effects
25 on the currently existing economies in the area?

1 THE CHAIRPERSON: And your question is
2 in line with the presentation made this morning?

3 MS. STEPHANIE POOLE: Yes. I believe
4 the word 'economy' was used. But I'm -- my -- yeah,
5 these things already exist. And -- and how is the
6 GNWT going to mitigate the -- the destruction of these
7 currently existing economies? You know, is there
8 fairness at work here? Is there a fair balance? You
9 -- there's already an economy in place in this area, a
10 traditional and tourism economy. It's about to be
11 destroyed in favour of a non-renewable resource type
12 of development.

13 How is the GNWT going to mitigate that?

14 THE CHAIRPERSON: Okay, I'm going to
15 go to GNWT to the question.

16

17 (BRIEF PAUSE)

18

19 MR. SHAFIC KHOURI: Shafic, Government
20 of the Northwest Territories. I'll pass this on to
21 Sonya Saunders.

22 MS. SONYA SAUNDERS: Thank you, Mr.
23 Chair. I think in terms of -- this sounds like a
24 rather broad question to me and -- in -- in terms of
25 sort of what the GNWT is doing.

1 It's a priority of this government that
2 we see a diversified economy that has an opportunity
3 to grow in a sustainable way for -- for the future.
4 And this government's undertaking a number of
5 strategies and programs at the moment to support the
6 economy, including the traditional economy and the
7 tourism economy.

8 We are in the process of developing an
9 economic opportunity strategy. We're in the process
10 of developing a mineral development strategy. And
11 broad consultation is currently being undertaken on
12 both of those projects. So -- and I think we also
13 have a number of programs to support the traditional
14 economy lifestyle. Trapping, we're seeing an increase
15 in trapping across the NWT.

16 So -- I mean, I think in a broad sense,
17 that's kind of the response. And specific to this
18 project, I -- we will be -- in the socioeconomic
19 agreement, we will be, you know, looking for
20 commitments from the Developer relating to the
21 business procurement, to employment which will support
22 the economy. And we will also be having discussions
23 about traditional economy in the negotiations. Thank
24 you.

25 THE CHAIRPERSON: Okay, thank you.

1 I'll allow one (1) more question, and then I'll
2 suggest to the Akaitcho Treaty 8 Tribal Corporation
3 that they could put the rest of their comments in
4 their closing statements. And then we'll continue on.

5 MS. STEPHANIE POOLE: Thank you.
6 Stephanie Poole, Akaitcho IMA office. So I still have
7 questions regarding the air quality monitoring and
8 management plan, the wildlife habitat protection plan,
9 the Wildlife Effects Monitoring Program. Are you
10 saying that I'm not allowed to ask these questions?
11 Just one (1) more question?

12 THE CHAIRPERSON: Well, we've been on
13 this -- the -- the -- we started the question part
14 about ten (10) to 10:00, and now it's fourteen (14)
15 minutes after. And so anyways, we want to continue
16 with the list of orders we have. And if there's any
17 issues or concerns, again, you can put them in your
18 closing statements as well. Just so that we can
19 maintain the agenda that we have. Thank you.

20 MS. STEPHANIE POOLE: Thank you.
21 Stephanie Poole, Akaitcho IMA office. This morning
22 were we not told that there would be one (1) less
23 presentation today? And does that free up some time
24 for further questioning?

25 THE CHAIRPERSON: Well, at this point,

1 I -- I want to continue on with the agenda that I have
2 in front of me, and then there's another presentation
3 coming up by the Transport Canada. And if there's --
4 if there's time this afternoon, I'll -- I'll -- we'll
5 come to that. But at this point in time, I want to go
6 with the agenda I have. Thank you. Continue with
7 your question, please.

8 MS. STEPHANIE POOLE: Okay. So for --
9 I'll try to combine these all into one (1) giant
10 question then, I guess. Regarding the air quality
11 management plan or program, it speaks to the testing
12 of incinerators, and I had a question about -- about
13 the toxic gas coming out of the flue on the Pine Point
14 hydromet facility and if that will be tested or -- I
15 assume it will be part of the plan.

16 It was mentioned that the plan will be
17 developed by the GNWT and Environment Canada, and I
18 have a question about how the Akaitcho Dene First
19 Nations will be included in that air quality
20 management plan.

21 I had a question regarding assurances
22 that radioactive waste will -- or other toxic
23 materials won't -- will not be incinerated.

24 Regarding the wildlife habitat
25 protection plan and the Wildlife Effects Monitoring

1 Plan, will it be substantially developed with the
2 Akaitcho Dene First Nations prior to permitting?

3 When you were speaking to cumulative
4 effects in your presentation and showing us some maps,
5 it seemed like your focus of cumulative effects was
6 on the NWT only, and I have questions about
7 transboundary cumulative effects on the Bathurst
8 caribou range, you know, with Nunavut. And I wonder
9 how the GNWT envisions including that into their --
10 any -- any cumulative effects program that is ever
11 developed, if it will ever be developed.

12 And -- and on that line, you know, when
13 will the GNWT be doing these cumulative assessments
14 that they speak of?

15 THE CHAIRPERSON: Okay. Can I stop
16 you there? And it's a really open-ended question
17 that's stretched that long. I'm going to stop you
18 there, and I'm going to suggest to the Akaitcho Treaty
19 8 Tribal Corporation that if you've got any issues or
20 concerns, put it in writing. The public registry is
21 still open. The Board will look at everything, and
22 we'll listen to what you have to say.

23 I'll go to the GNWT. If they want to
24 respond, I'll -- to some of those questions, feel
25 free.

1 MS. AILEEN STEVENS: Aileen Stevens,
2 GNWT. I can address a couple of the questions that
3 were asked -- well, actually, just provide
4 clarification.

5 My understanding is one (1) of the
6 questions was about testing toxic gas coming out of
7 the flue at the hydromet facility. I -- I think what
8 you were referring to was the incinerator. And as
9 part of GNWT's presentation, we have requested that
10 incinerator stack testing be conducted as part of the
11 incineration management plan. We are in support of
12 that.

13 Another point you were talking about is
14 the development of the air quality monitoring and
15 management plan. That is actually going to be
16 conducted by the Proponent. They're going to be doing
17 it in consultation with the GNWT and Environment
18 Canada. GNWT will not be developing the program. We
19 will be providing comments and input while the
20 Proponent develops it. Thanks.

21 THE CHAIRPERSON: Any further comments
22 by GNWT?

23

24 (BRIEF PAUSE)

25

1 MS. ALLICIA KELLY: Allicia Kelly,
2 GNWT. With respect to the Wildlife Effects Monitoring
3 Program, we do expect that Avalon would develop this
4 in collaboration with Aboriginal partners, with
5 ourselves, and with other interested parties.

6 MR. SHAFIC KHOURI: Shafic, Government
7 of the Northwest Territories. And I'll just add to my
8 colleague there that Avalon has agreed to collaborate
9 with the Government of the Northwest Territories,
10 Aboriginal organizations, co-management partners, and
11 other partners to further develop the wildlife --
12 wildlife and wildlife habitat protection plan and --
13 and during the life of the mine, to review it during
14 the life of the mine. Thank you.

15 THE CHAIRPERSON: Okay. Thank you.
16 We're going to stop there. We'll take a ten (10)
17 minute break and we'll come back and we'll to
18 Blachford, Deninu Kue, and so on. Ten (10) minute
19 break.

20

21 --- Upon recessing at 10:18 a.m.

22 --- Upon resuming at 10:34 a.m.

23

24 THE CHAIRPERSON: Okay. Can I get
25 everybody to their tables? We're going to start.

1 As I go down the list, if there are
2 questions by parties -- in my opening comments the
3 other day that I mentioned that we're going to put
4 time limits on them. And I think what I'll do,
5 though, is -- this time is that if there are groups
6 that have questions, then we could -- I'll take the --
7 maybe the best five (5). And if I have time at the
8 end, I'll try to squeeze them in, but if not, you
9 still have closing statements. You could address it
10 there as well.

11 Also, the -- we also have a public
12 registry open as well still, so they'll all be put
13 down as evidence. That's what we're looking at.

14 So I'm going to continue on here now.
15 I have Blachford Lake Lodge. Is there any questions
16 to the GNWT on their presentation and the content of
17 the presentation?

18

19 (BRIEF PAUSE)

20

21 MR. MICHAEL FREELAND: Is that
22 working? Yeah. Thank you. I'm not going to compete
23 with Stephanie as to number of good questions, but I
24 have -- have four (4).

25 A question specifically to Aileen

1 Stevens: Can the GNWT, through their air
2 monitoring/air quality program, include air quality
3 dust to Blachford, Grace, Horseshoe, and Long Lakes,
4 as these are in very close proximity to that proposed
5 project? For example, the south shore of Blachford is
6 about approximately 3 kilometres from the site.

7 THE CHAIRPERSON: Thank you for one
8 (1) of your four (4) questions. I'll go to the GNWT.

9 MR. SHAFIC KHOURI: Shafic, Government
10 of the Northwest Territories. Just one (1) moment,
11 please.

12

13 (BRIEF PAUSE)

14

15 MS. AILEEN STEVENS: Aileen Stevens,
16 GNWT. The Proponent has committed to develop an air
17 quality monitoring and management plan. And part of
18 that will be particulate monitoring at the site. So
19 that is to measure for dust in the air. And that has
20 yet to be developed, but the intention will of course
21 be to cover off the site where the majority of the
22 dust migration could occur.

23 THE CHAIRPERSON: Thank you. I'm
24 going to go back to Blachford Lake Lodge.

25 MR. MICHAEL FREELAND: Mike Freeland,

1 Blachford Lake Lodge. I note the Blachford Lake Lodge
2 was not mentioned in the GNWT presentation this
3 morning. The Department of ITI is responsible for
4 licensing and business support to NWT tourism
5 operators, including Blachford Lake.

6 Over the years, the Department of ITI
7 has supported Blachford with ongoing development and
8 market act -- mart -- marketing activities, which we
9 certainly appreciate and we need. And we certainly
10 hope this support would -- would continue.

11 In light of our concerns for the future
12 of Blachford Lake as a viable tourism business, what
13 is the GNWT's position on Blachford Lake Lodge's
14 concerns, re: the Avalon project?

15 THE CHAIRPERSON: I'll go to the GNWT.

16

17 (BRIEF PAUSE)

18

19 MR. SHAFIC KHOURI: Shafic, Government
20 of the Northwest Territories. I'll pass this on to
21 Sonya Saunders.

22 MS. SONYA SAUNDERS: Sonya Saunders,
23 GNWT. Thank you for the question. Mr. Chair, we have
24 -- yes, just -- I'm with the Department of Industry,
25 Tourism, and Investment, and we have supported

1 Blachford Lake Lodge and continue to support Blachford
2 Lake Lodge.

3 We -- as a government, this -- it's a
4 priority for this government to see a diversified,
5 strong economy. And that economy -- that -- it would
6 include -- I mean, it's a -- a base of our economy is
7 the mineral sector. It's the -- that's the base upon
8 which this -- this territory has been built, in terms
9 of the economy.

10 And so we do want to see a strong,
11 diversified economy, where we are seeing tourism,
12 where we're seeing mining, and we're seeing other
13 kinds of industries and manufacturing, et cetera as
14 well.

15 We -- it's our understanding that
16 Avalon and Blachford Lake Lodge have been having
17 discussions and trying to come to some kind of an
18 arrangement. And we are very supportive of that and
19 hope that they will be able to come to an arrangement
20 where they will be able to coexist. We understand
21 that the Developer has made some modifications to the
22 plans, specifically the operations phase, which would
23 obviously be the longest phase, to try and accommodate
24 some of the concerns raised by Blachford.

25 And so again, we're just -- we're

1 hoping that they'll be able to come to a resolution of
2 these matters. Thank you.

3 THE CHAIRPERSON: Okay. Thank you.
4 I'll go back to Blachford Lake Lodge, your third
5 question of four (4).

6 MR. MICHAEL FREELAND: Mike Freeland,
7 Blachford Lake Lodge. Has or can the GNWT study and
8 report on the long-term cost negative -- potential
9 negative effect to the NWT's tourism industry if
10 Blachford is forced to close as a result of this
11 project?

12 THE CHAIRPERSON: Okay. Thank you.
13 GNWT...?

14 MR. SHAFIC KHOURI: Shafic, Government
15 of the Northwest Territories. I'll pass that over to
16 Sonya Saunders.

17

18 (BRIEF PAUSE)

19

20 THE CHAIRPERSON: Again, while they're
21 deliberating, I just want to make sure that everybody
22 that's come out to speak is speaking towards the
23 presentation that was made this morning, and we'll
24 keep on track on that. Thank you.

25

1 (BRIEF PAUSE)

2

3 MS. SONYA SAUNDERS: Thank you, Mr.

4 Chair. I think I -- I just need to reiterate what

5 I've -- what I've just said, that we're -- we're

6 hoping that the Company and -- the Developer and

7 Blachford Lake Lodge will be able to come to a

8 resolution of the issues that have arisen, again

9 understanding that some mitigation measures have

10 already been taken into consideration by the Company

11 in their development of their construction and

12 operations plans. And I don't know what a -- a study

13 at this point would be sort of beneficial.

14 We will be looking through the

15 socioeconomic agreement. We will be monitoring what

16 socioeconomic impacts are, and that would include

17 impacts to business. So there would be some sort of -

18 - that would, I guess, include a study in -- in terms

19 of that reporting and monitoring, in that respect.

20 Thank you.

21 THE CHAIRPERSON: Okay. I'll go to

22 Blachford Lake Lodge. I believe you get -- this is

23 your fourth question.

24 MR. MICHAEL FREELAND: Just in regards

25 to the socioeconomic part of the presentation this

1 morning, I'm just wondering what efforts the GNWT has
2 made to consider the negative effects of the potential
3 Avalon project on Blachford Lake?

4 THE CHAIRPERSON: I think, Mike,
5 that's a very tough question, and I don't know if we
6 want to -- it's -- it's a good question in a way, but
7 then the impacts of Avalon on Blachford and asking the
8 GNWT to -- to answer that, you know, you're -- you're
9 asking questions that I don't know if it falls in
10 their jurisdiction. But, GNWT, if you want to answer
11 that or -- or comment on that, that's fine.

12

13 (BRIEF PAUSE)

14

15 MS. SONYA SAUNDERS: Sonya Saunders,
16 GNWT. We have been made aware of these concerns. The
17 -- I know there have been discussions with our
18 regional superintendent. And we've read all of the
19 materials that have been submitted by Blachford, and a
20 number of discussions have taken place over the years.
21 So we are well aware of the concerns. ,

22 We have raised this with the Developer
23 and had specific discussions about this and, again,
24 and -- been, you know, assured that there were
25 discussions taken place, that the Developer is trying

1 to accommodate the concerns raised by develo -- by
2 Blachford, that the Developer is trying to and has
3 made those mitigations in terms of designs. And so
4 we're hoping that they'll be able to come to a
5 resolution in -- in terms of that at this point.
6 Thank you.

7 THE CHAIRPERSON: Thank you. Mike,
8 you had four (4), but I think if you want to ask
9 another question, I'll allow up to five (5) questions
10 right now.

11 MR. MIKE FREELAND: No, that's fine.
12 No, thank you. GNWT and Mr. Chairman, thank you.

13 THE CHAIRPERSON: Thank you. I'm
14 going to move on to Deninu Kue First Nation, if
15 there's any questions for GNWT on their presentation
16 made here this morning. Again, the questions have to
17 be geared towards the presentation. And -- and I'll
18 allow up to five (5) questions, if -- if there's any.

19

20 (BRIEF PAUSE)

21

22 THE CHAIRPERSON: Okay, I don't see
23 anybody here. Continue on. Environment Canada, is
24 there any questions for GNWT on their presentation?

25 MS. SARAH-LACEY MCMILLAN: Good

1 morning. It's Sarah-Lacey McMillan with Environment
2 Canada. We have no questions.

3 THE CHAIRPERSON: Fisheries and Oceans
4 Canada...?

5

6 (BRIEF PAUSE)

7

8 MR. MIKE LEONARD: Good morning. Mike
9 Leonard, Canadian Coast Guard, Department of Fisheries
10 and Oceans. I have no com -- questions. Thanks.

11 THE CHAIRPERSON: Thank you. Fort
12 Resolution Metis Council...?

13 K'atl'odeeche First Nation...?

14 Lutsel K'e Dene First Nation...?

15 Again, I just want to emphasize up to five (5)
16 questions, if there's -- your best questions. Thank
17 you.

18 MR. MICHAEL TOLLIS: Thanks, Mr.
19 Chair. It's Mike Tollis, from Lutsel K'e Dene First
20 Nation. I have about five (5) questions. I hope
21 they're pretty straightforward and I get some pretty
22 straightforward answers.

23 But for the GNWT, you mentioned the air
24 quality monitoring program. How does the GNWT
25 envision the air quality monitoring program being

1 enforced?

2 THE CHAIRPERSON: Okay, thank you. I
3 like those kind of questions. I'll go to GNWT.

4 MS. AILEEN STEVENS: Aileen Stevens,
5 GNWT. The GNWT does not occupy regulatory authority
6 for discharges to the environment from federally
7 authorized operations occurring on federal lands. But
8 with respect to discharges to the atmosphere, GNWT
9 strives to work with proponents to ensure impacts to
10 the environment are mitigated.

11 So GNWT is going to work with Avalon in
12 their commitment to develop an air quality monitoring
13 and management plan and implementing it throughout the
14 life of the project.

15 THE CHAIRPERSON: Okay, thank you.
16 Lutsel K'e, to your second question.

17 MR. MICHAEL TOLLIS: Mike Tollis,
18 Lutsel K'e First Nation. Just kind of a follow-up
19 question. I don't -- I didn't hear that the GNWT will
20 be able to or has -- has the jurisdiction to enforce
21 it.

22 Can I -- can I ask the GNWT to -- to
23 speculate maybe on whose responsibility it is to
24 enforce the air quality monitoring program? Thank
25 you.

1 THE CHAIRPERSON: Okay, that's your
2 follow-up question. Thank you. GNWT...?

3 MS. AILEEN STEVENS: Aileen Stevens,
4 GNWT. All I can say is that the GNWT does not occupy
5 that regulatory authority on federal lands. I'm
6 sorry, I can't speak to who would be enforcing that.

7 THE CHAIRPERSON: Okay, thank you. To
8 Lutsel K'e, to your second question. I guess that
9 wasn't the second. Moving on.

10 MR. MICHAEL TOLLIS: Thanks, Mr.
11 Chair. Mike Tollis, Lutsel K'e. How does the GNWT
12 see the development of the -- the Wildlife Effects
13 Monitoring Program and the wildlife and wildlife
14 habitat protection program being substantially
15 developed prior to the permitting phase?

16 THE CHAIRPERSON: GNWT to the
17 question.

18

19 (BRIEF PAUSE)

20

21 MR. SHAFIC KHOURI: Shafic, Government
22 of Northwest Territories. One (1) moment, please.

23

24 (BRIEF PAUSE)

25

1 MS. ALLICIA KELLY: Allicia Kelly,
2 GNWT. The Wildlife Effects Monitoring Program is the
3 responsibility of Avalon. The GNWT has provided
4 Avalon with the definition for a Wildlife Effects
5 Monitoring Program and the species that we believe
6 would be appropriate for their program. We would
7 expect Avalon to develop this program in collaboration
8 with ourselves, Aboriginal partners, and other
9 interested parties.

10 THE CHAIRPERSON: Okay, thank you. To
11 Lutsel K'e to your third question.

12 MR. MICHAEL TOLLIS: Thanks. Mike
13 Tollis, Lutsel K'e. The -- sorry, just a follow-up, I
14 guess. Do you see that being done prior to the
15 permitting, or do you see it being done after the
16 permits are given?

17 THE CHAIRPERSON: GNWT...?

18 MR. SHAFIC KHOURI: Shafic, Government
19 of Northwest Territories. I think our main goal right
20 now with -- with regards to the Wildlife Effects
21 Monitoring Program is to have that -- first of all,
22 we're trying to get that commitment. And what we've
23 done is we've been in discussions with the Developer
24 on the contents of a Wildlife Effects Monitoring
25 Program, some -- given -- describe certain ideas and

1 descriptions.

2 The balance is trying to be descriptive
3 and not prescriptive in the sense that being too
4 descriptive on what is included in the Wildlife
5 Effects Monitoring Program will essentially prevent
6 the unique characteristics of that -- of that project
7 being implemented within a Wildlife Effects pro --
8 Monitoring -- Monitoring Programs we see as the
9 responsibility of the Developer.

10 In saying that, we've been in
11 discussions with the developer, again. And we can --
12 we -- we hope to con -- continue those. And with --
13 from what we've gathered in our one (1) on one (1)
14 discussions and commitments that we submitted to the
15 public registry, the Developer has a general principle
16 of collaborating with Aboriginal parties, co-
17 management partners, the GNWT in developing that, or
18 in -- in their possible development of a Wildlife
19 Effects Monitoring Program. Thank you very much.

20 THE CHAIRPERSON: Okay. Thank you.
21 I'm going to go to Lutsel K'e. There will be no more
22 follow-up questions here. Question number 3, and
23 there'll be two (2) more after that.

24 MR. MICHAEL TOLLIS: Sounds good, Mr.
25 Chair. Mike Tollis, from Lutsel K'e Dene First

1 Nation. My next couple of questions are about
2 cumulative effects assessments. GNWT mentioned that
3 they were going to be doing a cumulative effects
4 assessment.

5 Is there any -- any idea of when that
6 would be -- that would be conducted and if
7 transboundary effects would be considered?

8 THE CHAIRPERSON: Thank you. To GNWT,
9 the third question.

10 MR. SHAFIC KHOURI: Shafic, Government
11 of the Northwest Territories. I'll pass it over to
12 Albert Bourque.

13 MR. ALBERT BOURQUE: Albert Bourque,
14 GNWT. We -- the Government of the Northwest
15 Territories, ENR, is currently taking lead in
16 developing cumulative effects programs for the
17 Northwest Territories. These programs are in the --
18 the early stages of the development. Workshops have
19 been conducted to, you know, bring attention to this
20 initiative, and all parties actually were invited to a
21 workshop that was held earlier this month.

22 When it comes to cumulative effects
23 assessment in the territories, it's not a simple
24 matter. We -- there's a number of different spatial
25 scales that have to be considered. When we look at,

1 you know, the potential effect of a development such
2 as this, and when we speak about a regional scale,
3 they're not concrete, hard defined boundaries.

4 You look at the range of the Bathurst
5 caribou herd. That in itself is a region. It extends
6 beyond jurisdictional boundaries and, you know, into
7 another territory. It extends beyond administrative
8 boundaries that are established by the Government of
9 the Northwest Territories.

10 So as for a deadline or -- or a
11 specific date when we would have an assessment
12 completed, that's uncertain. It's a work in progress.
13 And eventually, with all partners on board, we will
14 have the information in hand where we could make a
15 proper assessment. Thank you.

16 THE CHAIRPERSON: Okay. Thank you.
17 Lutsel K'e, your fourth question.

18 MR. MICHAEL TOLLIS: Thanks, Mr.
19 Chair. Mike Tollis, Lutsel K'e. The -- the GNWT said
20 in their presentation that no adverse impacts would
21 happen from the project if the recommendations are
22 followed, but I have to question the GNWT.

23 If they haven't a cumulative effects
24 assessment and -- and don't really know a timeline of
25 when these will be assessed, how can they say that no

1 adverse impacts will happen because of this project?

2 THE CHAIRPERSON: That you. GNWT to
3 the question.

4

5 (BRIEF PAUSE)

6

7 MR. SHAFIC KHOURI: Thank you, Mr.
8 Chair. Could -- could we ask our party to please just
9 repeat that question for me? Thank you.

10 THE CHAIRPERSON: Sure. Can you
11 repeat your question, please?

12 MR. MICHAEL TOLLIS: Sure. The GNWT
13 said in their presentation that no adverse
14 environmental impacts would happen if the
15 recommendations from the GNWT are followed.

16 But if there hasn't been a cumulative
17 effects assessment, assuming that cumulative effects
18 are encompassing of adverse environmental impacts, how
19 can the GNWT say with certainty that there will be no
20 adverse environmental impacts if they have no idea
21 about the cumulative effects of the project?

22 THE CHAIRPERSON: Okay. Thank you.
23 GNWT...?

24 MR. SHAFIC KHOURI: Thank you, Mr.
25 Chair. Shafic, Government of the Northwest

1 Territories. I'll pass this on to my colleague,
2 Allicia.

3 MS. ALLICIA KELLY: Allicia Kelly,
4 GNWT. The GNWT is of the opinion that this mine will
5 not exceed cumulative effects thresholds so long as
6 adaptive management and a proposed follow-up program
7 are in place, along with the mitigation measures that
8 are proposed in the wildlife and wildlife habitat
9 protection plan.

10 But uncertainty does exist, and that's
11 why a follow-up program such as a WEMP is required, so
12 that if there are impacts, they will be detected.
13 Thank you.

14 THE CHAIRPERSON: Okay. Thank you.
15 Lutsel K'e, to your final question.

16 MR. MICHAEL TOLLIS: Thanks, Mr.
17 Chair. Can I just ask for a little bit of
18 clarification on that last answer? Ms. Kelly, I
19 think, mentioned cumulative effects thresholds.

20 Can you provide a little bit more
21 clarity as to what cumulative effects thresholds
22 entail?

23 THE CHAIRPERSON: Thank you. GNWT...?
24 Looking for clarification.

25 MR. ALBERT BOURQUE: Again,

1 cumulative, you know, cumulative effects and cum --
2 pardon me? Albert Bourque, GNWT.

3 Again, you know, cumulative effects and
4 cumulative effects assessment is -- is a work in
5 progress. We're in the early stages of this right
6 now, and it is through this undertaking that we've,
7 you know, eventually should be able to establish
8 thresholds.

9 Currently, the only threshold that we
10 have that's specified numerically is through the
11 boreal caribou recovery strategy, where we -- you
12 know, it's been established that they can withstand a
13 35 percent disturbance to their range.

14 Again, you know, we're working towards
15 establishing, you know, through the cumulative effects
16 initiatives, monitoring initiatives to establish
17 thresholds for other species, you know, eventually.
18 Thank you.

19 THE CHAIRPERSON: Okay. Thank you for
20 your clarification. Back to Lutsel K'e to your final
21 question.

22 MR. MICHAEL TOLLIS: Thanks, Mr.
23 Chair, and thanks for the response, although I might
24 not agree with 35 percent of the herd range being
25 impacted as a threshold. Nevertheless, just one (1)

1 more kind of double -- double-question.

2 What is the most --

3 THE CHAIRPERSON: One (1) question.

4 MR. MICHAEL TOLLIS: Sorry, okay, one
5 (1) question. In the GNWT's opinion, can they give
6 any idea as to what some of -- or what the most
7 important valued ecosystem component is and if they
8 consider the Akaitcho Dene as a valued ecosystem
9 component? Sorry, that was kind of two (2) questions.

10 THE CHAIRPERSON: Thank you.

11 MR. MICHAEL TOLLIS: You -- you'll let
12 it slide?

13 THE CHAIRPERSON: GNWT...?

14 MR. SHAFIC KHOURI: Shafic, Government
15 of Northwest Territories. I'll just take a moment for
16 that, Mr. Chair. Thank you.

17

18 (BRIEF PAUSE)

19

20 MR. SHAFIC KHOURI: Mr. Chair, Shafic,
21 Government of Northwest Territories. Would you mind
22 asking our party to please repeat the question?

23 THE CHAIRPERSON: Can you repeat your
24 one (1) question, please?

25 MR. MICHAEL TOLLIS: As long as it

1 doesn't count as another question, Mr. Chair. What is
2 GNWT's opinion of the most valued ecosystem -- the
3 most important valued ecosystem component and if they
4 think that the Akaitcho Dene are a valued ecosystem
5 component?

6 THE CHAIRPERSON: Thank you to your
7 final question. GNWT...?

8

9 (BRIEF PAUSE)

10

11 MR. JAN ADAMCZEWSKI: Jan Adamczewski,
12 with GNWT ENR. Not a simple question, but I'm getting
13 used to that from Mr. Tollis. I think the way we
14 would look at it is that all components of the
15 ecosystem are important. There are no unimportant
16 parts in the ecosystem.

17 And what is higher value and lower
18 value essentially is a human judgment. It comes down
19 to human values. We place the highest values on what
20 our communities and our people tell us are the highest
21 values. And so in this case, human values, what
22 people think is most important out there, that's our
23 biggest priority, whether it's socioeconomic or
24 environmental or traditional economy.

25 So the answer to Mr. Tollis is that the

1 Akaitcho Dene are a highly important part of the
2 ecosystem. And from the GNWT perspective, the people
3 of the Northwest Territories, including its Aboriginal
4 people, are the most important part of the ecosystem.
5 Thank you.

6 THE CHAIRPERSON: Okay, thank you to
7 Lutsel K'e for their final question. Moving on the
8 list, I have the North Slave Metis Alliance. Again,
9 up to five (5) questions if...

10 MR. ERIC BINION: Thank you, Mr.
11 Chair. It's Eric Binion, with the North Slave Metis
12 Alliance. I have one (1) brief question with a
13 follow-up, and then Sue has just a couple quick
14 questions as well.

15 Can you comment on the GNWT or ENR's
16 stance on the development of an independent oversight
17 for the Thor Lake Project?

18 THE CHAIRPERSON: Thank you. To the
19 question, GNWT.

20 MR. SHAFIC KHOURI: Shafic, Government
21 of Northwest Territories. I'll take one (1) moment,
22 please.

23

24

25 (BRIEF PAUSE)

1 THE CHAIRPERSON: Can I ask you guys
2 not to ask any tough questions?

3

4 (BRIEF PAUSE)

5

6 MR. SHAFIC KHOURI: Shafic, Government
7 of Northwest Territories. Mr. Chair, as -- as the
8 Government of the Northwest Territories has already
9 stated in its technical report, we believe that any
10 additional environmental monitoring for the project is
11 best achieved through agreements between affected --
12 affected communities and the Developer, which would be
13 Avalon in this case. Thank you.

14 THE CHAIRPERSON: Thank you. I'll go
15 back to the North Slave Metis.

16 MR. ERIC BINION: Thank you, Mr.
17 Chair. It's Eric Binion, North Slave Metis Alliance.
18 Just one (1) quick follow-up question with that.

19 Has the GNW considered -- GNWT, sorry -
20 - considered how disparate negotiations between
21 individual Aboriginal groups may lead to inequitable
22 agreements or how lack of capacity can make it
23 challenging for an Aboriginal group to get into
24 negotiation or an independent oversight?

25 THE CHAIRPERSON: Okay. I just wanted

1 to go back to the North Slave Metis. In regards to
2 the presentation made here this morning, your question
3 -- is that in line with the presentation this morning?

4 MR. ERIC BINION: It's Eric Binion,
5 North Slave Metis Alliance. I believe so.

6 THE CHAIRPERSON: What section?

7 MR. ERIC BINION: I may have been in
8 the washroom at that point.

9 THE CHAIRPERSON: I'll go back to GNWT
10 if you want to answer that.

11 MR. SHAFIC KHOURI: Mr. Chair, Shafic,
12 Government of Northwest Territories. I actually
13 didn't quite hear the first part there, so if I could
14 get him to maybe rephrase that or state the question
15 again and maybe, in his best ability, reframe it in
16 the context of this presen --

17 THE CHAIRPERSON: Okay. It's got to
18 be consistent to the presentation. You -- next time
19 you go to the washroom, take the presentation with
20 you.

21 MR. ERIC BINION: No, it's okay. I'll
22 -- it's Eric Binion. I'll just pass the questions
23 along to Sue Enge right now, and she'll just finish
24 with the questions for the NSMA. Thank you.

25 THE CHAIRPERSON: Okay, thank you.

1 MS. SUSAN ENGE: I wasn't in the
2 washroom, but I hope this is part of their
3 presentation. Sue Enge, North Slave Metis Alliance.

4 We've asked the Government of the
5 Northwest Territories sometime in July, I believe, and
6 I raised this in the last hearing, that their Bureau
7 of Statistics track the socioeconomic indicators of
8 the Metis who live and reside in our traditional
9 territories.

10 And I'd like to know how the -- the
11 GNWT has -- what indicators they're using to track how
12 our people, the Metis, are benefiting or not
13 benefiting in line with oth -- the other mines and,
14 perhaps, in direct relevance to Avalon.

15

16 (BRIEF PAUSE)

17

18 THE CHAIRPERSON: GNWT...?

19 MR. SHAFIC KHOURI: Thank you, Mr.
20 Chair. Shafic, Government of Northwest Territories.
21 I'll take one (1) moment.

22

23 (BRIEF PAUSE)

24

25 MS. LISA CARDINAL: Lisa Cardinal,

1 Government of the Northwest Territories. The GNWT,
2 through the Bureau of Statics, tracks and monitors a
3 number of socioeconomic indicators. As I indicated
4 previously, the GNWT tends to look at NWT-wide
5 planning, but there is the ability to track indicators
6 at regional levels.

7 While we do -- we do have some data
8 that is specific to ethnicity, it's -- it's not always
9 clean data to be able to allow for a in-depth
10 analysis. We do, though, try and identify Aboriginal
11 and non-Aboriginal breakdowns through things like the
12 NWT health status report. There's the Canada
13 community health survey, which is -- information is
14 collected annually on that to collect statistics on
15 socioeconomic indicators.

16 The Department of Health and Social
17 Services, in collaboration with the Bureau of
18 Statistics, also does an addiction survey every three
19 (3) years, and results are published on that. Again,
20 it's -- it's really difficult to try and attribute
21 statistics to one (1) specific ethnic group.

22 Metis populations tend to reside in a
23 number of locations in the Northwest Territory, so
24 it's -- it's much more difficult to -- to try and
25 attribute specific indicators to them. Thank you.

1 THE CHAIRPERSON: Thank you. North
2 Slave Metis, you got your third question. It's got to
3 be relevant to the presentation at hand this morning.

4 MS. SUSAN ENGE: Yes. Thank you, Mr.
5 Chair. Having just heard her response, Mr. Chair,
6 we're hoping that the GNWT will work with us then if
7 they have difficulty tracking how we are being
8 affected by Avalon or any other mine. So we look
9 forward to helping her do her job more efficiently so
10 that Metis -- how we're affected can be tracked.

11 My next question then would be: Is the
12 GNWT then willing to commit to discussing our needs
13 and information needs, social needs, economic needs,
14 as they develop a final dra -- socioeconomic agreement
15 then with -- and work collaborately -- collaboratively
16 with the NSMA?

17 THE CHAIRPERSON: Okay, thank you, Ms.
18 Enge, to your third question. GNWT...?

19 MR. SHAFIC KHOURI: Shafic, Government
20 of Northwest Territories. Thank you, Mr. Chair. I'll
21 pass that on to Sonya Saunders.

22 MS. SONYA SAUNDERS: Thank you. Yeah,
23 Sonya Saunders, GNWT. Yes, we would be -- or it would
24 be our intention to meet with the impacted
25 communities, and we would be -- once we have a draft

1 socioeconomic agreement, at which point we would then
2 be able to have some specific discussions about the
3 content of that agreement.

4 We would anticipate developing a
5 communication strategy with the Developer as part of
6 the negotiations of the socioeconomic agreement. And
7 that would -- there would be more details at that time
8 about how and when we would be undertaking that
9 consultation -- or the communications rather and --
10 with people. Thank you.

11 THE CHAIRPERSON: Okay, thank you.
12 North Slave Metis to your fourth question.

13 MS. SUSAN ENGE: Thank you, Mr. Chair.
14 I didn't quite hear a commitment there. So I didn't
15 hear really a "yes" or "no." I heard sort of like a
16 communication strategy. I'll go on to my last and
17 final question.

18 And this concerns Metis historical
19 artifacts. And I know that the GNWT has a policy
20 where they admitted at the last hearing that they
21 could not distinguish between Metis or Dene
22 traditional sites of occupancy.

23 And my question then would be: What is
24 their intent to help their Prince of Wales people hire
25 a Metis specialist who can identify Metis versus Dene

1 artifacts at various sites?

2 And I know Avalon has a policy that
3 they're working on as well, so I'd just like some
4 clarification on -- on what the GN -- GNWT will be
5 doing to clarify that.

6 THE CHAIRPERSON: Okay, thank you, Ms.
7 Enge, for your final question. I'll go to the GNWT.

8 MR. SHAFIC KHOURI: Thank you, Ms. --
9 thank you, Ms. Chair. Shafic, Government of Northwest
10 Territories. I'll pass this on to Glen Mackay, from
11 the Prince of Wales Northern Heritage Centre. Thank
12 you.

13

14 (BRIEF PAUSE)

15

16 MR. GLEN MACKAY: Glen Mackay, from
17 the Northern Heritage Centre. The -- the
18 archaeological sites that are at risk of impact in the
19 footprint of the proposed Avalon mine are mostly small
20 boulder features. The archaeologist has documented
21 them in detail. The archaeologist working on the
22 project has excavated around the boulder features, and
23 we believe that the archaeologist has extracted as
24 much information from those features as possible.

25 And that type of feature, we don't

1 believe that it's possible to attribute that to a -- a
2 certain group. We don't -- there's no evidence
3 available that would allow us to say how old those
4 features are. It's just the nature of the
5 archaeological record in this area. It's largely
6 surficial. There's very little preservation of
7 organic artifacts. And we don't believe that it's
8 possible from that, or from that type of evidence, to
9 determine who exactly left those remains on the land.
10 And we wouldn't attempt to do that.

11 The important thing in this -- in the
12 context of the environmental process is that the sites
13 are approp -- appropriately managed before the mine is
14 -- is built, and we believe that that's been
15 accomplished. Thank you.

16 THE CHAIRPERSON: Okay. Thank you for
17 your response. I'm going to go over to the -- next on
18 the list in the Northwest Territory Metis Nation.
19 They're not here.

20 Tlicho government, they're not here.

21 Transport Canada, any questions to the
22 GNWT on their presentation made this morning?

23 MR. CHRIS AGUIRRE: Chris Aguirre,
24 Transport Canada. We have no questions.

25 THE CHAIRPERSON: Thank you. I'm

1 going to go to the Yellowknives Dene First Nation.

2 Any questions to the GNWT on their presentation made
3 here this morning?

4 MR. TODD SLACK: Yes, Mr. -- yes, Mr.
5 Chair. Todd Slack, from the Yellowknives. I'll take
6 my full five (5) questions, and if we have the
7 opportunity for some more, we'll hit some other lines
8 of inquiry.

9 THE CHAIRPERSON: Can you make your
10 questions short and to the point?

11 MR. TODD SLACK: I will do my utmost,
12 and I'm afraid that they're all in the socioeconomic
13 area. I -- I guess the -- the place to -- to start
14 here is: I'm wondering if GNWT can just tell us a bit
15 about the -- the history of the -- the effectiveness
16 of these agreements?

17 And I'm wondering if they can tell us
18 what the hiring targets are for this socioeconomic
19 agree -- agreement versus what they were for Ekati,
20 Diavik, Snap, and Gahcho Kue? Thanks.

21 THE CHAIRPERSON: Thank you. To the
22 question, GNWT.

23 MR. SHAFIC KHOURI: Thank you, Mr.
24 Chair. Would we please be able to get you to ask the
25 party to ask the question again, present the question

1 again, and maybe just, if it has dis -- distinct
2 parts, to maybe just highlight those again, please?
3 Thank you.

4 THE CHAIRPERSON: Okay. Can we turn
5 up the mic too so they could hear? Todd Slack,
6 YKDFN...?

7 MR. TODD SLACK: Yeah. Volume really
8 --

9 THE CHAIRPERSON: By the way, this is
10 your second question. You know that, eh?

11 MR. TODD SLACK: Oh, I see how this is
12 going. Just for the record, I'm wondering if GNWT --
13 the -- the question is about: Are these socioeconomic
14 agreements effective?

15 So I'm wondering if we can start with
16 what's the hiring target for this mine versus what
17 have the hiring targets been for the other mines?
18 Essentially, so what was it at Ekati, Diavik, Snap,
19 and Gahcho Kue?

20 THE CHAIRPERSON: Thank you. GNWT...?

21 MR. SHAFIC KHOURI: Shafic, Government
22 of the Northwest Territories. I'll pass it on to
23 Sonya Saunders to answer. Thank you.

24 MS. SONYA SAUNDERS: Thank you. Okay,
25 so I actually -- just in speaking to the effectiveness

1 of the socioeconomic agreement, we have found that
2 they have been highly effective, in terms of seeing
3 positive socioeconomic benefits for the Northwest
4 Territories over the last number of years.

5 I mentioned earlier that we have got
6 socioeconomic agreements with the three (3) diamond
7 mines. And as a result of those agreements, we've seen
8 cumulative -- cumulatively, we've achieved 51 percent
9 Northern employment and 73 percent Northern
10 purchasing.

11 We do have another operating mine in
12 the Northwest Territories with whom there is no
13 agreement, and we have got no Northwest Territories
14 residents employed at that mine. And they make none -
15 - sorry, they make none of their purchases in the
16 Northwest Territories.

17 So we do see this as a highly effective
18 vehicle for benefits for Northwest Territories
19 residents and businesses, in terms of employment.

20 We have -- we have -- it would be the
21 Developer that would be making specific commitments in
22 a socioeconomic agreement with respect to employment,
23 and we are still in the process of negotiations at
24 this time. And I'm not -- it's really -- we haven't
25 had an opportunity to speak to those yet. Thank you.

1 THE CHAIRPERSON: YKDFN, to your third
2 -- I mean, second question.

3 MR. TODD SLACK: Sorry, Mr. Chair.
4 I'm -- I didn't sort of get an answer, and I think I
5 can ask the question a different way, if that's okay.
6 Or if you're going to tell me to move on, I can do
7 that too.

8 THE CHAIRPERSON: You want to seek
9 clarification a little bit more?

10 MR. TODD SLACK: Yeah.

11 THE CHAIRPERSON: Okay. What -- can
12 you expand on that?

13 MR. TODD SLACK: Would GNWT agree that
14 the -- the target has decreased at each mine that has
15 open -- so Ekati went first. What was the target
16 there? And Snap was most recent, and would you say
17 that's lower?

18 THE CHAIRPERSON: Thank you. GNWT...?

19 MR. SHAFIC KHOURI: Thank you, Mr.
20 Chair. Shafic, Government of the Northwest
21 Territories. I'll pass it on right now to Sonya
22 Sunders. Thank you very much.

23

24 (BRIEF PAUSE)

25

1 MR. SHAFIC KHOURI: Mr. Chair, Shafic,
2 Government of Northwest Territories. I'll just
3 actually take a minute, if you don't mind. Thank you.

4

5 (BRIEF PAUSE)

6

7 MR. DANA HEIDE: Thank you, Mr. Chair.
8 I'll try to answer that as best I possibly can. Dana
9 Heide, from the GNWT. Where -- what we need to focus
10 on is the labour market availability in the North to
11 attend to the positions that are opening.

12 With Avalon, where we need to go is
13 developing a clear understanding of what the job will
14 be, what the jobs available will be, and what the --
15 the duties of those jobs will be so that we can begin
16 looking at our labour market capacity to bring people
17 into that work so that we can begin to focus on
18 training needs and training people into the jobs that
19 are available.

20 I don't know if that answers the
21 question that's -- across the North and all the
22 agreements, we need to ensure that we have the labour
23 market capacity to fulfill the jobs that are
24 available.

25 THE CHAIRPERSON: Okay, thank you.

1 I'll go to YKDFN to your second question.

2 MR. TODD SLACK: Thank you, Mr. --
3 thank you, Mr. Chair. And so the Yellowknives Dene
4 are of the belief that these targets have decreased
5 with each mine and -- the point being that we're
6 concerned that Avalon will have even less Northern
7 participation. And while we don't argue that
8 socioeconomic agreements are a good thing, what we do
9 -- or what we are interested in is, you know, are they
10 living up to the -- the promises that they've made.
11 They, the Company and the -- the government.

12 And just recently, there was a CBC
13 story that stated that the existing mines were not in
14 compliance with their socioeconomic agreements. So,
15 one (1), is this -- pardon -- pardon the -- a multi-
16 part.

17 Is this correct, and how long has it
18 been so? And has GNWT sought to have these companies
19 compel action on meeting those socioeconomic
20 agreements?

21 THE CHAIRPERSON: Okay, thank you. To
22 GNWT to the question.

23 MR. SHAFIC KHOURI: Thank you, Mr.
24 Chair. Shafic, Government of the Northwest
25 Territories. I'll take one (1) moment. Thank you

1 very much.

2

3 (BRIEF PAUSE)

4

5 MS. SONYA SAUNDERS: Thank you. We
6 report -- we do report regularly on the commitments
7 and what has been achieved over time. I don't have
8 the specific numbers of where we're at right now. We
9 do have our updated communities and diamonds reports
10 coming out within the next couple of weeks. But we
11 have seen, as I've said, we -- what we look at, as
12 well as the trends. And cumulatively, as I mentioned,
13 we've seen 51 percent Northern employment with the
14 three (3) diamond mines. And that's a very positive
15 thing for the Northwest Territories.

16 Where -- where we are seeing that there
17 are commitments that are not being met, we do meet
18 with the mines. Our minister meets with the key
19 people at the mines. We do have discussions with them
20 about the needs and -- and the challenges that they're
21 facing, in terms of labour force availability.

22 And so, yes, we are working on that.
23 And as I mentioned earlier, the socioeconomic
24 agreements are intended to provide an adaptive
25 management tool and an opportunity to see trends, see

1 indicators, and address issues as they arise over time
2 and that's how they've been an effective tool for us.
3 Thank you.

4 THE CHAIRPERSON: Thank you. Back to
5 YKDFN to your third question.

6 MR. TODD SLACK: Thank you, Mr. Chair.
7 I guess I'll just hone in on that one (1) a little bit
8 more. And so other than meetings, I'm wondering what
9 sort of tools or mechanisms exist within the
10 socioeconomic agreements to compel action from the
11 Company?

12 If they have been failing to meet their
13 targets, what then can GNWT do, other than meetings
14 and reporting?

15 THE CHAIRPERSON: Okay. Thank you.
16 GNWT to the question.

17 MS. SONYA SAUNDERS: Thank you. Sonya
18 Saunders, with GNWT. The agreements that we currently
19 have in place do have dispute resolution provisions.
20 They are legal contracts, and legal avenues of
21 recourse are available.

22 However, we have found it more
23 effective -- as I mentioned earlier, what -- these
24 agreements do, set the parameters for a relationship
25 between the Government of the Northwest Territories

1 and the developer, in terms of how we go forward and -
2 - and then meeting certain commitments that they make
3 in the agreements. And we have found it more
4 effective to try and work with the developers to
5 address opportunities and challenges where commitments
6 are not being met than -- than proceeding with op --
7 options that are available under the dispute
8 resolution provisions.

9 That's been our approach to date.

10 Thank you.

11 THE CHAIRPERSON: Thank you. YKDFN to
12 your fourth question.

13 MR. TODD SLACK: Thank you, Mr. Chair.
14 And I'll return to the second question here. The --
15 the mines were found to be in -- not complying with
16 their socioeconomic agreements. And so if they ha --
17 the question asked as part of that was: How long has
18 that been so?

19 If it -- and the angle here is if it's
20 been a number of years and -- has the GNWT considered
21 using the dispute resolution?

22 THE CHAIRPERSON: Thank you. To
23 GNWT...?

24 MR. SHAFIC KHOURI: Thank you, Mr.
25 Chair. Shafic, Government of the Northwest

1 Territories. I'll need one (1) minute, if you don't
2 mind. Thank you.

3

4 (BRIEF PAUSE)

5

6 MS. SONYA SAUNDERS: The -- the
7 numbers have varied. Oh, sorry. Sonya Saunders,
8 GNWT. Thank you.

9

The numbers have varied over the years.
10 In general, we've seen that the earlier the mines have
11 come on stream, the more labour force capacity has
12 been available, and it's been easier for them to
13 achieve the commitments made in the socioeconomic
14 agreement.

15 That being said, we -- where we are
16 seeing that there are ,we have met with the mines and
17 explored other options to help achieve those
18 commitments. For example, we have expanded points of
19 pick up in the Northwest Territories, points of hire
20 to other communities to assist in -- in being able to
21 meet those commitments and look for other options and
22 other mechanisms to help -- help meet those
23 commitments, including, as well, sort of recruitment
24 campaigns and things of that nature to try and attract
25 workers. Thank you.

1 THE CHAIRPERSON: Okay. Thank you.

2 I'll go to the YKDFN to their fifth question.

3 MR. TODD SLACK: Thanks, Mr. Chair.

4 So this morning, the speakers gave evidence that the
5 socioeconomic agreements and the accommodation
6 agreements work together.

7 If the socioeconomic agreement is a
8 requirement and these things are complementary and
9 they have to work together, then by that same
10 standard, shouldn't the accommodation agreement also
11 be a requirement?

12 THE CHAIRPERSON: Okay. Thank you to
13 your final question. I'm going to go to the GNWT.
14 And you don't have a minute.

15 MS. SONYA SAUNDERS: Thank you, Mr.
16 Chair. Sonya Saunders. I guess I'm here this -- this
17 morning to speak to the GNWT's position. That we
18 recommend that a socioeconomic agreement be made a
19 requirement for this project. And in terms of the
20 impact benefit agreement, we -- we would -- we think
21 it's preferential. Definitely we would have a
22 preference that they would be negotiated and concluded
23 prior to a socioeconomic agreement being concluded.

24 When we -- we -- we will be, as I
25 mentioned, going to meet with and discuss with

1 communities if -- prior to the signing of a final
2 socioeconomic agreement. The -- the Developer will be
3 responsible for ensuring that obligations that it is
4 committed to in impact benefit agreements are
5 consistent with any commitments it makes in the
6 socioeconomic agreement.

7 So our preference would be that those
8 things would be in place. When we have an opportunity
9 to meet with the communities and we have a draft
10 socioeconomic agreement at that time, if there remain
11 outstanding impact benefit agreements, I -- I would
12 expect that that would be a point of discussion at
13 that time. Thank you.

14 THE CHAIRPERSON: Thank you.

15 MR. TODD SLACK: Thanks, Mr. Chair.

16 THE CHAIRPERSON: Yeah, thank you.

17 I'm going to move on to Avalon Earth Metal Inc.

18 MR. DAVID SWISHER: Okay, buckle up.
19 David Swisher, with Avalon. I just -- yeah, I know,
20 I'll try to keep it to five (5). Thank you.

21 Just a few questions in slide 7,
22 importance of SEA follow-up. You made a statement in
23 there with regards to compliance and impact reporting,
24 asserting that if there is no socioeconomic agreement,
25 that compliance and impact reporting will not exist.

1 I strongly question that assertion
2 based on the fact that we have issued for the past two
3 (2) years a CSR report that has socioeco --
4 socioeconomic indicators and measures within that
5 report, as well as the training initiatives that we've
6 conducted throughout the last five (5) years at the
7 site, including all the training, whatever it may
8 include, health and safety, fire safety, driller
9 training, medical and first aid, emergency response,
10 drug and alcohol, equipment training for all of our
11 employees plus contractors.

12 My question is: Was the GNWT aware of
13 these initiatives by Avalon?

14 THE CHAIRPERSON: To the question,
15 GNWT.

16 MS. SONYA SAUNDERS: Sonya Saunders,
17 with GNWT. Yes, we are. And I was not speaking about
18 Avalon when I was referring to that mine. We are
19 aware that Avalon has been providing a fair bit of
20 information. And we found it very useful in being
21 able to make our projections regarding this project.

22 I was actually referring to another
23 mine that is currently operating in the Northwest
24 Territories that does not have a socioeconomic follow-
25 up program. And that mine does not report numbers of

1 territorial residents or territorial business
2 procurement. So we do not have any information from
3 that other mine.

4 However, we have been -- we -- we do
5 have information provided by Avalon to date and have
6 relied on that information in terms of, as I said, of
7 our predictions. Thank you.

8 THE CHAIRPERSON: Thank you. I'll go
9 back to Avalon.

10 MR. DAVID SWISHER: Is the GNWT aware
11 of any other developer at this stage of development
12 that is committed so strongly to corporate social
13 responsibility and implemented these majors prior to a
14 SEA being developed?

15 THE CHAIRPERSON: Thank you. GNWT...?

16 MR. SHAFIC KHOURI: Thank you, Mr.
17 Chair. Shafic, Government of Northwest Territories.
18 I'll pass -- I'll pass that on.

19 MS. SONYA SAUNDERS: Thank you. Sonya
20 Saunders, Government of the Northwest Territories.

21 There are a number of projects that are
22 at approximately this stage in development in the
23 Northwest Territories. And we are currently in
24 negotiations wi -- for three (3) socioeconomic
25 agreements.

1 The developers have made varying kinds
2 of commitments. And I -- I don't think we will get
3 into the details of sort of comparing commitments
4 across -- across the board. Thank you.

5 THE CHAIRPERSON: Okay, thank you.
6 I'll go to Avalon.

7 MR. DAVID SWISHER: Thank you. David
8 Swisher, with Avalon.

9 My point being that we've -- we've
10 exhibited exceedances in our commitments long before
11 the implementation of a -- a SEA and long before we
12 committed to negotiating a SEA with the GNWT. And so
13 my question is:

14 Why does the GNWT feel it incumbent to
15 place the negotiations of a socioeconomic agreement as
16 a condition within the SEA when the Developer has
17 committed and clearly shown through past actions that
18 it is committed to such -- such an agreement?

19 THE CHAIRPERSON: Thank you. GNWT...?

20 MR. SHAFIC KHOURI: Shafic, Government
21 of Northwest Territories. I'll be passing that on in
22 a few seconds.

23 MS. SONYA SAUNDERS: Thank you. Sonya
24 Saunders, with the GNWT.

25 The Developer has made a number of

1 commitments, and we are pleased with the progress made
2 to date; however, there do remain -- remain some
3 outstanding commitments, and we will be looking to
4 formalize those in a socioeconomic agreement.

5 The -- the GNWT has taken the approach
6 over the past number of projects that we want to see a
7 socioeconomic agreement be a follow-up program that's
8 -- that's recognized by the -- it's -- a follow-up
9 program to the environmental assessment through this
10 process. And most recently in the Fortune -- in the
11 Fortune report of EA, this Board recon -- this Board
12 recognized that SEAs are an industry best practice.
13 So we -- we still -- we continue to pursue that
14 approach. Thank you.

15 THE CHAIRPERSON: We'll go back to
16 Avalon.

17 MR. DAVID SWISHER: Thank you. David
18 Swisher, with Avalon. My next question refers to
19 slide 12, incineration management plan.

20 The question is around -- I have one
21 (1) question and then a follow-up to that. The
22 question is:

23 Do -- do all lodges, exploration
24 programs, the local hospitals within the GNWT do stack
25 testing on their incinerators?

1 THE CHAIRPERSON: Okay, thank you. To
2 the question, GNWT.

3 MS. AILEEN STEVENS: Aileen Stevens,
4 GNWT. The -- the biomedical waste incinerators within
5 the GNWT have all but been closed down because they
6 weren't in compliance with the Canada-wide standards
7 for dioxins and furans. The one (1) that was
8 remaining in Fort Smith has been suspended as a
9 results of non-compliance.

10 I cannot speak to lodges, but with
11 industrial developments, that is definitely the avenue
12 we have been pursuing.

13 THE CHAIRPERSON: Okay, thank you.
14 We'll go back to Avalon.

15 MR. DAVID SWISHER: Sorry, just a
16 quick follow-up. Did you say anything about the
17 hospitals?

18 THE CHAIRPERSON: GNWT...?

19 MS. AILEEN STEVENS: Aileen Stevens,
20 GNWT. According to our biomedical waste guidelines,
21 any incinerators operating at hospitals in the
22 Northwest Territories do conduct follow-up stack
23 testing. However, as a result of the last stack
24 testing conducted in 2005, they were all but closed
25 down for non-compliance.

1 THE CHAIRPERSON: Okay, thank you.

2 I'll go to Avalon.

3 MR. DAVID SWISHER: Thank you for the
4 clarification there.

5 My follow-up question really just
6 pertains to the fact that, in Avalon's predictions and
7 modelling for the sites, we have shown that we're
8 going to meet the NWT air quality standards at both
9 sites and that the stack testing we've committed to
10 has been to the diesel generators or the main
11 components at Nechalacho as well as the hydromet
12 plant.

13 And so I'm just -- I -- I'm just
14 wondering, as a follow-up, does the NWT air quality
15 standards -- are -- does the GNWT indicate that those
16 standards are not sufficient enough?

17 THE CHAIRPERSON: Okay, thank you.
18 We'll go to the GNWT.

19 MS. AILEEN STEVENS: Aileen Stevens,
20 GNWT. No, that's not at all what I'm implying.

21 The guideline for ambient air quality
22 standards refer to criteria air contaminants, and
23 Avalon has conducted the air quality assessment to
24 conduct their modelling to address the criteria air
25 contaminants, which is great.

1 But with respect to incineration, the -
2 - we do not have ambient air quality standards for
3 dioxins and furans. The dioxins and furans that are
4 released from incinerators deposit onto the land and
5 water, so it's not really an ambient air quality
6 concern; it's more of a contaminant loading concern.

7 The Canada-wide standards for dioxins
8 and furans refer to incineration, and the emission
9 limits are set at the stack in order to control the
10 source of the emissions before they get into the
11 environment.

12 And so we are requesting that, as part
13 of your incineration management, that you conduct
14 stack testing upon commissioning, and then
15 periodically thereafter, to ensure that all the
16 measures you're undertaking in your incineration
17 management plan are effective at ensuring that the
18 release of these toxic, persistent, bio-accumulative
19 compounds is minimized and within the Canada-wide
20 standards.

21 They are slated for virtual elimination
22 from the environment, and that's why we have such
23 strict standards for their emissions.

24 THE CHAIRPERSON: Okay. Thank you.
25 I'm going to go over to Avalon.

1 MR. DAVID SWISHER: Thank you for the
2 answer. I was just curious, because the GNWT, as well
3 as Environment Canada, seem extraordinarily focussed
4 on a minute portion of the facilities compared to the
5 whole facilities as a whole when it comes to air
6 quality. And Avalon certainly is committed and
7 focussed on the entire facilities and the major
8 contributors to the air quality, not the minute
9 portions that are -- that are batched and inconsistent
10 in duration. So, I appreciate the responses there.

11 My final question comes to the -- the
12 WEMP. Avalon asked the GNWT, with regards to gaining
13 clarification with regards to what are the guidelines
14 that the GNWT has for the WEMP. And I believe our
15 response was that those guidelines and, as we heard
16 from Albert earlier, are still in development with
17 regards to how they can be sustainable and -- and be
18 meaningful. And Avalon certainly agrees with that
19 approach.

20 The question is: How can -- with --
21 with that in mind, how can the GNWT require Avalon to
22 develop a WEMP when we don't have sustainable or
23 meaningful guidelines to follow to meet the
24 expectations in the North?

25 THE CHAIRPERSON: Okay. Thank you.

1 To your final question, I'm going to go to GNWT.

2 MR. SHAFIC KHOURI: Shafic, Government
3 of the Northwest Territories. I will ask for one (1)
4 minute, Mr. Chair. Is that okay?

5 THE CHAIRPERSON: Yeah.

6

7 (BRIEF PAUSE)

8

9 MR. JAN ADAMCZEWSKI: Thank you. Jan
10 Adamczewski with GNWT ENR. Our suggestion to Avalon
11 on this would be that there are existing WEMP
12 documents, programs from other companies for other
13 mines. Those could readily serve as a model to
14 follow.

15 If Avalon can sort of take the first
16 step and develop even an outline table of contents
17 based on what they've seen from other WEMP documents,
18 that could go to ENR, possibly to others, for review
19 and -- and revision. But that would be our suggestion
20 for a start.

21 And as we indicated in our
22 presentation, we do still see the responsibility with
23 the Company for actually developing that -- that WEMP.
24 Thank you.

25 THE CHAIRPERSON: Okay. Thank you for

1 your response. Was there any follow-up? I'm going
2 back to Avalon Rare Earth.

3 MR. DAVID SWISHER: David Swisher with
4 Avalon. I -- I appreciate the response, however, it -
5 - it doesn't address the fact that I think the -- the
6 existing WEMPs out there have been proven to be
7 ineffective and not as meaningful for the communities
8 and/or for specific sites within our -- our area.

9 I think it just goes back to the
10 earlier statements during our presentation that we're
11 not opposed to working on -- on addressing the
12 cumulative impacts and working with the GNWT and our
13 Aboriginal stakeholders so that there is a meaningful
14 approach to it, that it makes sense for the site, and
15 that it's sustainable.

16 So, with that, I want to thank the GNWT
17 for their presentation, and that's all I have.

18 THE CHAIRPERSON: Okay, thank you.
19 Before I go to my staff and legal counsel, I just want
20 to recognize the Tlicho Chief Charlie Football from
21 Wekweti in the back and also former MLA Henry Zoe at
22 the back as well. Welcome.

23 I'm going to go to the Review Board
24 staff and legal counsel if there's any questions to
25 the GNWT on their presentation.

1 MR. JOHN DONIHEE: Thank you, Mr.
2 Chairman. John Donihee, Board counsel. I have a few
3 questions.

4 I was encouraged at the outset of the
5 GNWT presentation to hear Ms. Saunders make reference
6 to section -- or, actually, subparagraph 128(1)(b)(ii)
7 of the MVRMA. And I just want to say that the context
8 within which I'm going to question GNWT is based
9 around the context that the Board works in.

10 And so let's move on from there, I
11 guess. The -- the DAR conclusions, of course, from
12 Avalon were essentially that the project, with the
13 mitigation they proposed and the monitoring programs
14 that -- that they've identified and committed to would
15 cause no significant impacts on the environment. And,
16 you know, we have a number of Intervenorers at GNWT at
17 this point in front of the Board with a number of
18 recommendations for measures. And, of course, the way
19 that particular paragraph in the Act works, the Board
20 has to identify a significant impact in order to be
21 able to rec -- recommend a measure to the ministers.
22 So that's -- that's the legal framework here.

23 And what we have, of course, from
24 Avalon, as I said, is an assessment that indicates no
25 impacts and a submission, November 29th submission,

1 from the GNWT which makes a number of recommendations.
2 And so, you know, I can only conclude that the GNWT's
3 view is that there have to be some impacts out there,
4 because you're making recommendations for a number of
5 measures.

6 And so I want to start with the
7 recommendation for the socioeconomic agreement and
8 simply ask GNWT what -- what significant impacts, in -
9 - in the government's position or view, will this
10 socioeconomic agreement prevent?

11 THE CHAIRPERSON: Thank you, Mr.
12 Donihee. GNWT to the question.

13 MR. SHAFIC KHOURI: Thank you, Mr.
14 Chair. Shafic, Government of Northwest Territories.
15 I'll pass that on. Thank you.

16 MS. SONYA SAUNDERS: Thank you, Mr.
17 Chair. We rec -- we view a SEA as being an essential
18 tool for monitoring and testing socioeconomic
19 predictions. So we've heard certain predictions. The
20 socioeconomic agreement is a necessary tool to
21 identify those, whether they're -- those predictions
22 are, in fact, accurate to evaluate successes, to
23 identify gaps when predictions are not being met, and
24 to identify adaptive management measures to address
25 unintended results.

1 So I think that's how we're -- we see
2 that working in terms of -- as an effective tool to be
3 able to accomplish that. Thanks.

4 THE CHAIRPERSON: I'll go back to Mr.
5 Donihee. But this is only the answer to your
6 question. Mr. Donihee...?

7 MR. JOHN DONIHEE: Thank you, Mr.
8 Chair. I was about to observe that as well.

9 Ms. Saunders, when you made your
10 presentation at the outset of GNWT's testimony, you
11 made reference to significant risks. I actually wrote
12 those words down. And -- but you didn't actually go
13 on and identify what the real risks are.

14 If -- I mean, as I look at the
15 submission that's come from GNWT, under socioeconomics
16 you talk about employment, education, training. We
17 have representatives, I guess, of all the relevant
18 departments here to address some Public Health Act,
19 purchases, you know, business, that sort of thing.

20 And -- and I guess what I'm -- I'm
21 struggling with a little bit is to understand how it
22 is that in the absence of a -- an agreement -- and I -
23 - I'm forced to point out as well that you're asking
24 for a measure from the Review Board for essentially
25 the negotiation of agreement -- of an agreement.

1 You've given us no evidence of what
2 would be in the agreement. And in fact, if you told
3 us that today and you went out and negotiated with
4 Avalon, negotiations are negotiations and the
5 agreement might end up having something in it that's
6 different than what you would tell us today.

7 But, you know, that's just the way
8 negotiations work. And so I guess not to put too fine
9 a point on it, aren't you really just asking the --
10 the Board to buy a pig in a poke here?

11 THE CHAIRPERSON: Thank you. I'm
12 going to go to the GNWT to the question and if you
13 could expand on what's been said here so that we
14 understand, make it clear.

15 MS. SONYA SAUNDERS: Thank you, Mr.
16 Chair. Sonya Saunders, GNWT. I'll provide a short
17 answer and then refer to one (1) of my colleagues for
18 an example that may help provide some context.

19 This Board itself is recognized in --

20 THE CHAIRPERSON: Well, just wait.
21 Did you understand the question though?

22 MS. SONYA SAUNDERS: I -- I think I
23 did. If we didn't get it --

24 THE CHAIRPERSON: All right.

25 MS. SONYA SAUNDERS: -- at the end

1 then --

2 THE CHAIRPERSON: Because I don't --
3 otherwise we're going to keep coming back and making
4 sure, so.

5 MS. SONYA SAUNDERS: Okay.

6 THE CHAIRPERSON: As long as you
7 understand the question please proceed.

8 MS. SONYA SAUNDERS: If I didn't get
9 I'm sure Mr. Donihee will ask for further
10 clarification. Thank you.

11 The -- the -- this Board has itself
12 recognized that socioeconomic agreements are a best
13 practice. That was recognized in the Fortune report
14 on EA and we appreciate and we thank the Board for
15 that.

16 This -- being able to have this as a
17 follow-up program to the environmental assessment is -
18 - is important for us, because this ensures that we
19 are -- that we will be able to achieve negotiation on
20 a socioeconomic agreement.

21 We have provided a number of points in
22 our technical submission. We specified the kinds of
23 things that we will be looking for commitments on.
24 The so -- we have a record of socioeconomic
25 agreements, the contents of those so -- so -- of this

1 socioeconomic agreement we would expect would be
2 fairly similar to those that we've negotiated recently
3 with other developers.

4 That's sort of a response in a broad
5 way. What I'd like to do now is ask Lisa Cardinal if
6 she could provide a specific example. Thank you.

7 MS. LISA CARDINAL: Lisa Cardinal,
8 Government of the Northwest Territories. It's -- it's
9 really difficult to try and attribute a direct cause
10 and effect from the impact of -- of development on
11 small communities.

12 But based on past experience that we've
13 seen with developments throughout the Northwest
14 Territories, we know that there is an impact on
15 communities, especially smaller communities.

16 Some of the impacts we would expect to
17 see would be an increase in the -- the use of alcohol,
18 increase in addictions issues. We would expect to see
19 family breakdown related to disturbances to -- to the
20 existing family structure and family cohesion. That
21 might result in an increased number of children
22 requiring services from Child and Family Services.

23 Other things that we have seen
24 historically would be an increase in communicable
25 diseases, STI rates. But like I said, it's -- it's

1 really difficult to try and attribute cause and effect
2 directly to -- to increased mining activity. Thank
3 you.

4 THE CHAIRPERSON: Mr. Donihee...?

5 MR. JOHN DONIHEE: Thank you, Mr.
6 Chairman. In the Fortune Mineral's case where the
7 Board did ultimately -- has -- we've haven't got an
8 answer from the Minister yet, but they -- they have
9 made a recommendation in favour of a socioeconomic
10 agreement at the end of the -- the Board's role in the
11 proceeding.

12 We actually had evidence from Mr.
13 Couric (phonetic), he was there on behalf of GNWT,
14 when they made their presentation to the Board out in
15 Behchoko. I asked the same question, essentially, and
16 that was simply: In the GNWT's view, will there in
17 the absence of a socioeconomic agreement be
18 significant impacts on the socioeconomic environment?

19 So I'd like to thank Ms. Cardinal for
20 her examples, I guess. But I'd -- I'd like a more
21 general answer if that's possible. So the question
22 really is:

23 You know, from the GNWT's perspective,
24 is there a risk that there could be signifi --
25 significant socioeconomic impacts in -- in the absence

1 of such an agreement?

2 THE CHAIRPERSON: And I want to keep
3 it simple. If you could just say "yes" and "no" to
4 that question.

5 MS. SONYA SAUNDERS: Sonya Saunders,
6 GNWT. We believe that, without a socioeconomic
7 agreement, there is a risk that certain commitments
8 would not be fulfilled.

9 We also believe there are still
10 commitments that we are seeking that we have not been
11 able to achieve through this process, and a
12 socioeconomic agreement will ensure that those
13 commitments are made, that the commitments made --
14 that are made can be monitored and reported on,
15 adaptive management can take place. We feel it's an
16 important piece of this puzzle to pull together.
17 Thank you.

18 THE CHAIRPERSON: So the answer is
19 "yes"?

20 MS. SONYA SAUNDERS: Yes.

21 THE CHAIRPERSON: Mr. Donihee...?

22 MR. JOHN DONIHEE: Thank you, sir. I
23 mean, we have on the record, in the form of a response
24 to the November 29th submissions from Avalon, an
25 exchange of correspondence between the CEO of the

1 Company and Minister Ramsay indicating essentially
2 agreement that this -- and -- and, actually, I believe
3 your evidence this morning indicates that you're
4 negotiating an agreement with them already.

5 And so I accept what you have to say
6 about the socioeconomic agreement and its value, but
7 I'm still curious as to why you see the requirement
8 for a measure, in this particular case, given the --
9 the last answer that you gave me.

10 Do you want to add anything further to
11 your answer?

12 THE CHAIRPERSON: Back to GNWT to your
13 presentation on your measure that Mr. Donihee's
14 talking about. Can you expand on that?

15

16 (BRIEF PAUSE)

17

18 MS. SONYA SAUNDERS: Sonya Saunders,
19 GNWT. Thank you. The GNWT has taken this approach
20 over the last number of projects that have -- before
21 environment assessment. We've found that it's been an
22 effective approach, and we -- as a result, it's -- I
23 mean, we found that it's effective, and we're seeking
24 the same thing here. We think it's an industry best
25 practice. The Board did as well.

1 We think this is the only way that we
2 can ensure that we achieve our goals, and that, with
3 the commitments that are being made through this
4 process, are -- are achieved and are -- are lived up
5 to by the Developer, and that additional commitments
6 that have still not been made will be made, and we
7 will have a legal obligation for the -- those obliga -
8 - for those -- the terms and conditions of the
9 socioeconomic agreement to be complied with. Thank
10 you.

11 THE CHAIRPERSON: Mr. Donihee...?

12 MR. JOHN DONIHEE: Thank you, Mr.
13 Chairman. John Donihee. I'll move on. I want to
14 work on both ends of the table, and I'd like to ask a
15 question or two (2) about air quality.

16 I actually agree in -- in some ways
17 with comments made by Mr. Swisher. We're spending a
18 disproportionate amount of time over a stack test.
19 But -- but, nevertheless, I think there's a broader
20 issue here with respect the way the GNWT is
21 approaching this.

22 In response to a question from LKDFN, I
23 believe the air quality lady -- and my apologies --
24 your -- your answer about who's responsible for what
25 out there caught my attention, and so I did my best to

1 write it down.

2 And I think what you said was:

3 Discharges to the environment are the responsibility
4 of federal authorities, and that the Government of
5 Northwest Territories does not occupy that regulatory
6 authority on federal land. I think that's a
7 paraphrase, and then the details aren't important;
8 just I want to refresh your -- your memory about that.

9 And then you talked about discharges to
10 the atmosphere being something that the GNWT works
11 with. And -- and so that's where we are in terms of
12 my question. And first of all, I want to confirm that
13 GNWT's role in relation to atmospheric emissions is
14 based on the Environmental Protection Act.

15 Is that where your legal authority is
16 coming from?

17 THE CHAIRPERSON: Thank you, Mr.
18 Donihee, and I'll go back to GNWT.

19 MS. AILEEN STEVENS: It's Aileen
20 Stevens, GNWT. I'd just like to point out that the
21 presentation today made note that the Proponent has
22 committed to developing an air quality monitoring and
23 management plan and also an incineration management
24 plan. And GNWT requested a measure that stack testing
25 be incorporated as part of the incineration management

1 plan.

2 Incineration is typically covered in
3 the Land and Water Board process. I shouldn't say
4 typically. I have examples of where incineration is
5 covered in the Land and Water Board process.

6 Therefore, the GNWT's authority over that is -- hm,
7 how can I rephrase that.

8 Is it worth discussing at this point
9 considering GNWT hasn't requested anything of the
10 Board outside of what's already been demonstrated to
11 be included in the Land and Water Board process?

12 THE CHAIRPERSON: Mr. Donihee...?

13 MR. JOHN DONIHEE: Well, first of all,
14 you didn't answer my question.

15 Secondly, is the Land and Water Board
16 dealing with atmosphere emissions in respect of this
17 mine at this time?

18 THE CHAIRPERSON: To the question,
19 GNWT.

20 MS. AILEEN STEVENS: Sorry, could the
21 question please be repeated.

22 MR. JOHN DONIHEE: Well, you say that
23 the Land and Water Board is -- is taking care of this.
24 And so they may be at other mines, but we're here
25 talking about Avalon.

1 And I'm asking you whether, to your
2 knowledge, the Land and Water Board is dealing with
3 atmospheric emissions or the things that are coming
4 out of the incinerator stack for this mine.

5 THE CHAIRPERSON: Thank you. GNWT...?

6

7 (BRIEF PAUSE)

8

9 MS. AILEEN STEVENS: Aileen Stevens,
10 GNWT. No, I'm sorry if I implied that the Lan -- Land
11 and Water Board was somehow involved in this project.

12 I was simply bringing up the point that
13 the measure that GNWT has requested relates to
14 incineration management. And there are examples of
15 previous incineration management terms and conditions
16 in land use permits and water licenses.

17 Regarding your question about GNWT's
18 authority over atmospheric emissions, the previous
19 question that I answered earlier was simply saying
20 that GNWT does not occupy that field on federal lands
21 at this time. And if there's any -- I -- I didn't
22 infer who does, I didn't. But if you'd like to
23 discuss this further, perhaps we can take this as an
24 undertaking so that legal counsel can address it.

25 THE CHAIRPERSON: Mr. Donihee...?

1 MR. JOHN DONIHEE: Thank you, Mr.
2 Chairman. I don't really need an undertaking from
3 you. I just -- when I started off I just asked you
4 about something you said about a half an hour ago.
5 And I'm just trying to get you to explain what it is
6 that you said and why you said it.

7 So I guess we can leave it there. I
8 don't have to -- I don't think there would be much
9 value -- there's no value in an undertaking. And I
10 don't think that you're going to be able to help me
11 any further with that, so I'll move on.

12 I have some questions about wildlife,
13 as well, Mr. Chairman.

14 THE CHAIRPERSON: Mr. Donihee, it's
15 about two (2) minutes to 12:00. What I'll do is we'll
16 break now. We'll come back at 1:00. And we'll
17 continue on. And if you could -- we'll do your
18 questions then.

19 MR. JOHN DONIHEE: Yes, thank you.

20 THE CHAIRPERSON: We'll stop. We'll
21 come back at one o'clock. Thank you.

22

23 --- Upon recessing at 11:59 a.m.

24 --- Upon resuming at 1:05 p.m.

25

1 THE CHAIRPERSON: Okay. Can I get
2 everybody back to the table? We could start.

3 This morning we -- I thought we were on
4 schedule. We're falling behind a little bit here, but
5 it's okay. We're just about to the end of this
6 presentation by the GNWT this morning, so...

7 We're still going through the questions
8 of -- by legal counsel and Review Board staff, then
9 we've got Board. Then we'll go onto the next
10 presentation thereafter. We will do Transport Canada
11 and then Akaitcho Treaty 8 Tribal Corporation.

12 Anyways, I want to turn it over to Mr.
13 Donihee, where he left off this morning.

14 MR. JOHN DONIHEE: Thank you, Mr.
15 Chairman. John Donihee, Board counsel. I indicated
16 before lunch that I'd move on to talk -- or ask
17 questions about the wildlife portion of the GNWT
18 submission on November 29th, so I'll -- that's what
19 I'm going to do. The first -- the first question I
20 have is a -- is sort of general one (1).

21 There are three (3) recommendations
22 found in that section 5 of the GNWT submission, and I
23 just ask GNWT if it is your intent in making these
24 recommendations that the -- that they should be
25 included in the Review Board's report of EA as

1 measures for -- for this environmental assessment?

2 THE CHAIRPERSON: I'll go to the GNWT.

3 MR. SHAFIC KHOURI: Shafic, Government
4 of Northwest Territories. Could I get a little bit of
5 a -- I'm so -- just a sec.

6 Yeah, could I just get a little bit of
7 an understanding of which submission exactly and what
8 three (3) recommendations he's re -- the party's being
9 referred to? Thank you.

10 THE CHAIRPERSON: Thank you. Mr.
11 Donihee...?

12 MR. JOHN DONIHEE: Thank you, Mr.
13 Chairman. I'm referring to the November 29th, 2012,
14 technical report submission from the government --
15 pardon me, from Environment and Natural Resources on
16 behalf of the Government of the Northwest Territories
17 to the Review Board signed by Mr. Joel Holder
18 (phonetic).

19 And I'm specifically referring to part
20 5 or section 5 of that report, entitled "Wildlife,"
21 and to recommendations 4, 5, and 6.

22 THE CHAIRPERSON: Okay, thank you for
23 that clarification, Mr. Donihee. And we'll go back to
24 the GNWT.

25 MR. SHAFIC KHOURI: Thank you, Mr.

1 Chair. If you could either give me one (1) minute to
2 find that -- those sections that he refer -- that Mr.
3 Donihee refers to or Mr. Donihee could have the option
4 of summarizing those to me or reading them back to me.
5 That would be great.

6 THE CHAIRPERSON: No. This is twenty-
7 nine (29) minutes now you've been asking for since
8 this morning, but go ahead.

9

10 (BRIEF PAUSE)

11

12 MR. SHAFIC KHOURI: Thank you, Mr.
13 Chair. So what we've presented today in our public
14 hearing presentation is what we see as our concerns.
15 And the -- the report that's being referred to was
16 from pre -- previous to this point, and the public
17 hearing presentation represents our latest
18 positioning. Thank you.

19 THE CHAIRPERSON: Okay. Thank you.
20 Mr. Donihee...?

21 MR. JOHN DONIHEE: Thank you, Mr.
22 Chairman. John Donihee. You did not rec --
23 specifically refer to either -- any of these
24 recommendations in your presentation today.

25 Does that mean that you're abandoning

1 them?

2 THE CHAIRPERSON: Thank you. GNWT...?

3 MR. SHAFIC KHOURI: Thank you, Mr.

4 Chair. Shafic, Government of the Northwest

5 Territories, Shafic. The recommendations that we've

6 laid out in our public hearing presentation are -- are

7 our final recommendations to the Board.

8 There's been developments that have --

9 you know, we've been working with the Developer since

10 the technical report has been submitted, and anything

11 that's been outstanding is identified in our public

12 hearing presentation. Thank you.

13 THE CHAIRPERSON: Thank you. Mr.

14 Donihee...?

15 MR. JOHN DONIHEE: I still didn't hear

16 an answer to the question: Have you resolved the

17 items or the -- the matters identified in

18 recommendation 4, recommendation 5, and recommen --

19 recommendation 6 with the Developer before this public

20 hearing?

21 THE CHAIRPERSON: If you could answer

22 that yes or no, please.

23 MR. SHAFIC KHOURI: Thank you, Mr.

24 Chair. Shafic, Government of the Northwest

25 Territories.

1 What I will say is -- is that whatever
2 has been presented in the public hearing presentation
3 -- anything else that has not been pre -- presented in
4 that public hearing presentation, the assumption can
5 be that it's no longer a concern. Thank you.

6 THE CHAIRPERSON: So what you're
7 saying is, basically, it's -- it's been abandoned, and
8 the position here today is your presentation here
9 today that you put up on the board, and those
10 measures.

11 MR. SHAFIC KHOURI: Thank you, Mr.
12 Chair. No, I would not say -- I would not say -- say
13 that. What I'm saying is -- is that there've been
14 developments that have occurred between us and the
15 Developer. We've posted commitments to the Board.
16 These commitments can be found online. There was some
17 delay in getting them up, I know that, but they are
18 online.

19 We've made recom -- we've made
20 recommendations in our public hearing report -- or
21 public hearing presentation that outline our
22 outstanding commitments since that time, okay?

23 So one (1) of the issues that was not
24 resolved was the Wildlife Effects Monitoring Program.
25 We've had discussions with the -- which was a

1 recommendation in our technical report. We've had
2 discussions with the Developer. They've agreed to
3 continue exploring the idea. We've been sitting down
4 with them, trying to explain various aspects of what
5 might entail in a Wildlife Effects Monitoring Program.

6 So, you know, our final conclusion is
7 what was stated in the -- in our presentation, which
8 is, with the recommendations that have been made in
9 this public hearing presentation and all the
10 commitments that the Developer has made so far, we are
11 satis -- we believe there's no significant -- no
12 significant adverse effects to the environment.

13 THE CHAIRPERSON: Okay. I guess --
14 well, let's go back to Mr. Donihee.

15 MR. JOHN DONIHEE: Thank you, Mr.
16 Chairman.

17 Do I take it from your evidence that
18 you've -- you identified concerns or impacts in your
19 November 29th submission -- that since November 29th,
20 you've been able to resolve some of these things and
21 that, as a result, only -- only the ones, I guess --
22 those aspects of what's in your technical submission
23 that are in your PowerPoint presentation are -- re --
24 remain to be addressed by -- by the Review Board? Is
25 -- if that's what you're saying, that's fine

1 But I guess I'd like -- just like to
2 ask you how you would expect -- you -- you haven't
3 filed any new evidence since the 29th of -- of
4 November, have you, to indicate that these changes
5 took place?

6 THE CHAIRPERSON: Thank you. GNWT...?

7 MR. SHAFIC KHOURI: Thank you, Mr.
8 Chair. Shafic, Government of the Northwest
9 Territories. We have filed new evidence. Like I
10 said, there was delays in getting that evidence
11 posted. I've been -- I've been in contact with the
12 Board on multiple occasions. But, as I know and
13 understand, there are some complications that have
14 been happening at the Board.

15 They're -- initially, it appeared that
16 there was two (2) -- duplication of commitments that
17 we submitted. So what we -- what we've done is submit
18 commitments to the Board that we've discussed with the
19 Developer in one (1) on one (1) conversations. We
20 submitted those in the form of commitments to the
21 Board. There were two (2) different set -- sets of --
22 of commitments that were submitted.

23 At one (1) point, for quite a period of
24 time, those were duplicated on the registry, so one
25 (1) set was missing. That is not cle -- to my

1 knowledge, that has now been resolved. Thank you.

2 THE CHAIRPERSON: Okay, thank you.

3 Mr. Donihee...?

4 MR. JOHN DONIHEE: Thank you, Mr.

5 Chairman. Thank you for that clarification as well.

6 So I -- I take it then that Avalon

7 agreed to rename its WEMMP to a WWHH -- sorry, WWHPP.

8 That's one (1) of the things that's been taken care of

9 since November 29th?

10 THE CHAIRPERSON: Thank you. GNWT to

11 the question.

12 MR. SHAFIC KHOURI: Shafic, Government

13 of Northwest Territories. That is correct. One (1)

14 of the submissions that we've posted to the Board

15 details Avalon's agreement to rename its -- I'm just

16 looking for their wording here, their -- they did

17 agree to the renaming of the -- of their program.

18 It's just every developer seems to have a different

19 name for that in -- for that program.

20 But they have agreed to name it to a

21 wildlife effects -- or wildlife and wildlife and

22 habitat protection plan, yes. Thank you.

23 THE CHAIRPERSON: Okay, thank you.

24 Mr. Donihee...?

25 MR. JOHN DONIHEE: Thank you, Mr.

1 Chairman. Then recommendation number 5 talks about
2 the WEMP, Wildlife Effects Monitoring Plan. And I
3 note -- I'm just looking at your PowerPoint. So
4 that's in here. And we're -- we're good to talk about
5 that one.

6 Is that -- is that right?

7 THE CHAIRPERSON: Thank you. GNWT to
8 the question.

9 MR. SHAFIC KHOURI: Shafic, Government
10 of Northwest Territory. Can I just clarify/. Does he
11 mean -- is that in the -- the set of commitments that
12 were uploaded to the Board -- or uploaded to the
13 public registry?

14 THE CHAIRPERSON: Mr. Donihee...?

15 MR. JOHN DONIHEE: Well, what I'm
16 asking is: Since you said if it's in your PowerPoint
17 today, it's still something that's outstanding, I'm
18 simply asking then, since I have some questions about
19 that, if -- if you have any -- if there isn't
20 something else, I suppose, that some -- somehow
21 resolve this. So you -- you mentioned it today. I
22 intend to ask questions in that area of...

23 Is that -- that consistent with the way
24 you described the exchange between yourselves and --
25 and Avalon on this?

1 THE CHAIRPERSON: Okay, thank you.

2 GNWT to the question.

3 MR. SHAFIC KHOURI: Thank you, Mr.

4 Chair. I'm not quite sure I understand the question,

5 but I'm just going to try and answer something here.

6 In our conversations with the Developer since the

7 technical report submissions from which those

8 commitments came from that I mentioned earlier, we --

9 we sat down. We sat down with the Developer. We

10 identified our -- our wanting them to develop a

11 Wildlife Effects Monitoring Program to test

12 predictions and to -- and -- and which that program

13 would also feed into cumulative effects assessment for

14 boreal -- boreal caribou and barren-ground caribou.

15 The Developer did not agree to develop

16 one. But they de -- they agreed to continue exploring

17 the idea. Even since that time we've sat down again.

18 And we have had some conversations on just the

19 Wildlife Effects Monitoring P

20 And what we're recommending to the

21 Board today is that the Board have the Wildlife

22 Effects Monitoring Program as a -- ensure that the

23 Board has a wild -- or we -- we recommend that the

24 Board ensure the Developer implement a Wildlife

25 Effects Monitoring Program for the project. Thank

1 you.

2 THE CHAIRPERSON: Thank you. Mr.
3 Donihee...?

4 MR. JOHN DONIHEE: Thank you, Mr.
5 Chair. That addresses recommendation 5. I'll -- I'm
6 going to come back to it, because I have some
7 questions about what you've said. But recommendation
8 6 then was that Avalon participate in species-specific
9 cumulative effects workshops with developers -- sorry,
10 governments, developers, co-management authorities.

11 And so are you still wanting them to do
12 that? Are you still recommending that the Board play
13 some role in ensuring that that take place?

14 THE CHAIRPERSON: Thank you. To the
15 question, GNWT.

16

17 (BRIEF PAUSE)

18

19 MR. SHAFIC KHOURI: Shafic Khouri,
20 Government of Northwest Territories.

21 We have had Avalon's participation in a
22 cumulative effects workshop that has occurred since --
23 since that time -- or since the technical report
24 submission. We've also gotten them to commit to that
25 -- I don't have the exact commitment wording in front

1 of me that was submitted to the Board that I
2 identified earlier, but they did agree to attend
3 cumulative effects workshops.

4 As for whether or not -- actually, one
5 (1) sec -- one (1) moment, please.

6

7 (BRIEF PAUSE)

8

9 MR. SUNNY ASHCROFT: Hello? Thanks.

10 This is Sunny Ashcroft. I'm an environmental
11 assessment and habitat biologist with ENR.

12 Avalon has committed to attend our
13 cumulative effects workshop and they have done so.
14 Those took place earlier in February. We have two (2)
15 species-specific wildlife workshops -- wildlife
16 management workshops that will take place in March.
17 We've invited Avalon to attend them. I'm not sure --
18 I think they have prior commitments and may not be
19 able to attend, but we have invited them to do so.
20 Thank you.

21 THE CHAIRPERSON: Okay. Thank you.
22 Mr. Donihee...?

23 MR. JOHN DONIHEE: Thank you, Mr.
24 Chairman. Okay. I'll stay away from the workshops.
25 As you may be aware, the Board has obligations under

1 Section 79 of the federal Species at Risk Act to make
2 a report to the competent ministers when the habitat
3 or populations of listed species may be affected by
4 development. And so in -- in this case, the one (1) I
5 -- guess that attracts most attention is boreal
6 caribou.

7 And I -- I have a -- I guess the first
8 question I have for GNWT is: Is GNWT satisfied, or is
9 it your position that the direct impacts of the
10 project on boreal caribou can be successfully
11 mitigated by the measures that have been set forth by
12 Avalon?

13 THE CHAIRPERSON: Okay. Thank you.
14 To the GNWT to the question.

15 MR. SHAFIC KHOURI: Shafic, Government
16 of the Northwest Territories. I will require one (1)
17 moment. Thank you.

18

19 (BRIEF PAUSE)

20

21 MR. SHAFIC KHOURI: Thank you, Mr.
22 Chair. So to answer that question, I will -- first
23 I'll refer to our wildlife and wildlife protection
24 plan slide. And the...

25 A wildlife and wildlife -- a wildlife

1 and wildlife habitat protection plan outlines the
2 steps necessary to protect personnel, wildlife, and
3 wildlife habitat within the project development area,
4 also commonly described as a project direct footprint.

5 A wildlife and wildlife habitat
6 protection documents the day-to-day standard operating
7 procedures -- operating procedures, including
8 mitigations, reporting, and best practices for the
9 project site.

10 In our presentation slide, Avalon's
11 draft wildlife and wildlife habitat protection plan is
12 intended to mitigate impacts to personnel, wildlife,
13 and wildlife habitat within the local-scale project
14 development area. We have reviewed the plan and
15 believe it needs further development. For example,
16 more information is needed on how mitigation
17 strategies will be tested.

18 Avalon has agreed to collaborate with
19 the Government of Northwest Territories, Aboriginal
20 organizations, co-management partners, and other
21 parties to further develop this plan and revise it
22 during the life of the mine so the -- the direct --
23 any direct project mitigations would be taken care of
24 through that plan. And that's what we're working with
25 the Developer on, and that would include various

1 wildlife species and wildlife habitat measures. Thank
2 you.

3 THE CHAIRPERSON: Thank you. Mr.
4 Donihee...?

5 MR. JOHN DONIHEE: Thank you, Sir. I
6 -- I guess let me ask a question this way, then: Is
7 it fair for the Review Board to conclude that with the
8 proper and effective implementation of that plan you
9 just referred to, that any direct impacts to boreal
10 caribou habitat or populations will be successfully
11 mitigated?

12 THE CHAIRPERSON: Thank you. We'll go
13 to the GNWT to the question.

14

15 (BRIEF PAUSE)

16

17 MR. SHAFIC KHOURI: Shafic, Government
18 of Northwest Territories. The wildlife and wildlife
19 habitat protection plan covers a variety of -- of
20 wildlife species. Boreal caribou are looked at within
21 that wildlife and wildlife habitat protection plan.

22 And then I will just go back to what
23 I've said here, which is we have reviewed the plan and
24 believe it needs further development. For example,
25 more infor -- information is needed on how mitigation

1 strategies will be tested. But because we have Avalon
2 agreeing to collaborate with the Government of the
3 Northwest Territories, Aboriginal organizations, co-
4 management partners, and other parties to further
5 develop this plan, we see that as -- as a mechanism
6 for continuing to work on this -- on -- on that -- on
7 the plan. So -- and that would include any type of
8 project direct -- or direct, project related impacts
9 to boreal caribou as -- and other species as well.

10 THE CHAIRPERSON: So is your answer
11 "no" then?

12 MR. SHAFIC KHOURI: Shafic, Government
13 of Northwest Territories. No, my answer is not "no."

14 THE CHAIRPERSON: It's "yes" then.
15 Okay. Mr. Donihee.

16 MR. JOHN DONIHEE: Thank -- thank you,
17 Sir, for your assistance. I'm not sure it's "yes"
18 either, but... I'm going to try it one (1) more time,
19 and I -- I don't really mean to belabour this. So
20 just listen to the question if you will, okay?

21 Here's the -- here's the essence of it.
22 You know, if there isn't an impact, the Board can't
23 give you a measure. And all we're trying to ask you
24 is, is there going to be -- in the Government of the
25 Northwest Territories' opinion, is there going to be

1 an impact if -- even if the plan is implemented?

2 Or if the plan's going to take care of
3 things and you're going to resolve that impact, do you
4 have confidence in your relationship with all those
5 organizations that you've mentioned, then I suggest to
6 you that the impact on Boreal caribou will not be
7 significant and the Review Board will be in a position
8 to report that to the competent ministers. So that's
9 -- that's what I'm asking you.

10 THE CHAIRPERSON: Thank you, Mr.
11 Donihee, for explaining that in clear language. We'll
12 go to the GNWT.

13 MR. SHAFIC KHOURI: Thank you, Mr.
14 Chair. Shafic, Government of Northwest Territories.
15 The government is confident in that. The Government
16 of Northwest Territories is confident in -- in that.

17 But I think there might be one (1)
18 aspect that's not clear -- that might be confused. We're
19 not asking for a measure on the wildlife and wildlife
20 habitat protection plan. We're asking for a measure
21 on the wildlife effects monitoring program. Thank
22 you.

23 THE CHAIRPERSON: Thank you. Mr.
24 Donihee...?

25 MR. JOHN DONIHEE: Thank you, Sir.

1 Irrespective of what you ask for, the -- the Board
2 needs to report to the minister, so I really did need
3 to ask you that question. But let's ask about -- now,
4 I want to ask you about the wildlife effects
5 monitoring program.

6 So -- but before we go there, you were
7 in the room for the last two (2) days. And, of
8 course, we've heard from YKDFN Chiefs and Elders.
9 We've heard from Lutsel K'e Dene First Nation Chief
10 and Elders. And, you know, there are a lot of concern
11 being expressed about the effects of this project on
12 barren-ground caribou. And so I want to ask you the -
13 - the -- I am going to ask you the same questions.

14 First, in terms of direct impacts of
15 the project on barren-ground caribou, is it the
16 Government of the Northwest Territories' position that
17 this -- direct impacts of this project on barren-
18 ground caribou will be significant?

19 THE CHAIRPERSON: Thank you. To the
20 GNWT government to the question.

21 MS. ALLICIA KELLY: I -- not to -- to
22 -- Allicia Kelly, GNWT. To add to rather than repeat
23 what Shafic just said, which I think also addresses
24 this question, one (1) of our primary concerns with
25 this project is how it contributes to the overall

1 amount of disturbance in the landscape.

2 So Avalon is just one (1) potential
3 project among a number of existing and potential
4 projects that may have a cumulative effect on the
5 landscape. And that's why we want to stop addressing
6 development on a case-by-case basis and start looking
7 at a -- at a landscape level.

8 So while we anticipate that, if
9 Avalon's proposals are followed and our
10 recommendations are adopted and so on, that there is
11 unlikely to be an effect on barren-ground caribou,
12 that's our -- our prediction. And the way to test
13 that, the way to make sure that's the case, is through
14 a Wildlife Effects Monitoring Program. We can say we
15 don't think there's going to be an impact, but we
16 don't know for sure down the road if there has been an
17 impact unless we test for that.

18 Further, by monitoring impacts on the
19 local scale and by Avalon contributing to regional-
20 scale monitoring, that will provide us with
21 information that we can use to ask the cumulative
22 effects questions, to ask whether this project
23 cumulatively, together with other projects on the
24 landscape and, for example, on the range of the
25 Bathurst herd, are having an impact; not this project

1 by itself, but everything all together. Thank you.

2 THE CHAIRPERSON: Thank you. Mr.

3 Donihee...?

4 MR. JOHN DONIHEE: Thank you, Mr.

5 Chairman. I think you partially answered my second

6 question, which was going to deal with indirect or

7 cumulative effects. And I'm going to come back to

8 that, because you said rather a lot.

9 But I -- I still want an answer to the

10 first question, which is direct effects of the project

11 on barren-ground caribou, okay? Not cumulative

12 effects; direct effects.

13 Is it the Government of the Northwest

14 Territories' opinion that those direct effects are

15 going to be significant?

16 THE CHAIRPERSON: In plain language.

17 I would suggest that you answer that in "yes" or "no"

18 and, if you could, explain.

19

20 (BRIEF PAUSE)

21

22 MS. SUNNY ASHCROFT: Hello. Sunny

23 Ashcroft again. I'm going to try to combine the

24 boreal caribou and the barren-ground caribou answer in

25 one (1), since they are essentially the same question.

1 Again, I'll have to refer to our slide
2 and the concluding paragraph that we gave that --
3 sorry, the conclusion slide in the wildlife section.
4 I believe it'll be page 23 or slide 23 in your
5 presentation.

6 MR. JOHN DONIHEE: My slide 23 says,
7 "Thank you."

8 MS. SUNNY ASHCROFT: Okay. The slide
9 right before that one. My apologies.

10 THE CHAIRPERSON: If you just -- when
11 you answer those questions, can you make references to
12 both barren and boreal?

13 MS. SUNNY ASHCROFT: Yes. That's my
14 intention. Thank you.

15 Overall, the GNWT believes that Avalon
16 can undertake the project in a way that does not pose
17 a significant adverse impact to the environment,
18 provided Avalon commits -- or Avalon's commitments
19 made during the project environmental assessment and
20 recommendations put forward by the GNWT during the
21 environmental assessment are carried out, including
22 the recommendations that we have made, which includes,
23 as Allicia has alluded to, the development of a WEMP,
24 a Wildlife Effects Monitoring Program.

25 THE CHAIRPERSON: Thank you. Mr.

1 Donihee...?

2 MR. JOHN DONIHEE: Thank you, Mr.

3 Chairman.

4 And in the GNWT's opinion, are caribou
5 part of the environment?

6 THE CHAIRPERSON: Thank you. GNWT...?

7 MS. SUNNY ASHCROFT: Yes, Mr.

8 Chairman, caribou are part of the environment, both
9 boreal and barren-ground.

10 THE CHAIRPERSON: Thank you. Mr.

11 Donihee...?

12 MR. JOHN DONIHEE: Thank you, Mr.

13 Chairman. I would like now to ask about the in --
14 indirect offence -- effects.

15 You're asking for a WEMP, wildlife
16 effects monitoring plan, which I understand to be
17 intended to deal primarily with cumulative effects at
18 a landscape level.

19 But, you know, if you want to correct
20 me on that, go ahead, because while you're busy
21 correcting me, you can also tell me whether or not you
22 feel that there's sufficient evidence to satisfy the
23 Board that there would be a significant impact if this
24 WEMP were not a measure under the report of EA.

25 THE CHAIRPERSON: Thank you. I'll go

1 back to the GNWT.

2 MR. SHAFIC KHOURI: Thank you, Mr.
3 Chair. Shafic, Government of Northwest Territories.

4

5 (BRIEF PAUSE)

6

7 MR. SHAFIC KHOURI: For the -- the
8 sake of not repeating, I won't repeat the conclusion
9 again which has just been previously stated by my
10 colleague, Sunny. We -- what we -- what we've said is
11 that we've -- we've identified cumulative effect -- cu
12 -- cumulative effect concerns on boreal caribou and
13 barren-ground caribou. A Wildlife Effects Monitoring
14 Program feeds into greater cumulative effects
15 programming for these species.

16 We've identified that the Wildlife
17 Effects Monitoring Program is also necessary to test
18 predictions made by the Developer during the
19 Developer's assessment report. We've said that a
20 Wildlife Effects Monitoring Program is -- we identify
21 it as a follow-up program, as identified in the
22 Mackenzie Valley Resource Management Act.

23 And from my understanding of the
24 process before us, it is the responsibility of the
25 Board to take the evidence we've provided to you, as

1 experts, to make it -- to make its determination on
2 the si -- significance of this project based on the
3 evidence that we've laid before you.

4 In saying that, I can -- I go back to
5 our conclusion, which is -- I won't repeat again, but
6 which is on slide 22 -- or, actually, it's not on -- I
7 -- I can repeat it, actually.

8 "Overall, the Government of
9 Northwest Territory believes Avalon
10 can undertake the project in a way
11 that does not pose significant
12 adverse impact to the environment,
13 provided Avalon commitments made
14 during the project environmental
15 assessment and recommendations put
16 forward by the Government of
17 Northwest Territories during the
18 environmental assessment are carried
19 out."

20 We've laid that evidence out before
21 you, and we look to you to provide that determination
22 on significance. Thank you very much.

23 THE CHAIRPERSON: Okay, Mr.
24 Donihee...?

25 MR. JOHN DONIHEE: Thank you, Mr.

1 Chairman. Those are my questions.

2 THE CHAIRPERSON: Okay, thank you.

3 I'm going to go to Review Board staff.

4 MR. CHUCK HUBERT: No questions from
5 the staff, Mr. Chair.

6 THE CHAIRPERSON: I'm going to go to
7 my far right, Board member John Curran.

8 MR. JOHN CURRAN: Thank you, Mr.
9 Chairman. I think Mr. Donihee covered anything I
10 might be thinking.

11 THE CHAIRPERSON: Thank you. Board
12 member Sunny Munroe...?

13 MS. SUNNY MUNROE: Thank you, Mr.
14 Chairman. I am tempted to ask questions, but I think
15 Mr. Donihee has covered it. Thank you.

16 THE CHAIRPERSON: Okay, thank you.
17 Board member, Richard Mercredi...?

18 MR. RICHARD MERCREDI: Thank you, Mr.
19 Chair. No questions at this time.

20 THE CHAIRPERSON: Thank you. Board
21 member, James Wah-shee...?

22 MR. JAMES WAH-SHEE: Thank you, Mr. --
23 Mr. Chairman. Just to follow up on the question for
24 our legal counsel.

25 Is GNWT aware that -- that if you're

1 asking the Board to consider a measure, that -- that
2 you have to also clearly indicate there is going to be
3 a significant impact, and that's the only way that we
4 can consider measures?

5 Are you aware of that?

6 THE CHAIRPERSON: Thank you. To the
7 GNWT government to the question.

8 MR. SHAFIC KHOURI: Shafic, Government
9 of Northwest Territories. We've provided our -- our
10 expert opinion is -- which is that we have concerns.
11 And we leave it to the Board to determine
12 significance, and that -- that is how we see the
13 process.

14 And there have -- I have had
15 conversations with Board staff. And, to my
16 understanding, that is sufficient. And -- and all
17 that is -- that's sufficient, and it's important for
18 the Board to make a determination off of the evidence
19 that we provide. We're -- we're experts before you,
20 we give you -- we give you all our opinions, and we
21 leave it to you to make that determination on
22 significance. Thank you very much.

23 THE CHAIRPERSON: Thank you. Board
24 member James Wah-Shee...?

25 MR. JAMES WAH-SHEE: Just to follow up

1 on that. I'm not sure that you have answered my
2 question. My question was:

3 Were you aware, as a government, that
4 if you are making a request to the Board to consider a
5 measure, then it's your responsibility, as government,
6 to indicate to us on the Board, to provide evidence
7 that there is a significant impact, for us on the
8 Board to consider whether a measure would be
9 appropriate was really my question.

10 So I'd like to have clarification from
11 the government on that.

12 THE CHAIRPERSON: And maybe before you
13 go to -- you answer that question, just keep it in
14 mind too, as well that, you know, mining development's
15 been happening since -- in this area, anyway -- about
16 1998 it started. So we -- we had a lot of time. So
17 anyways, I wanted you to think about that and then
18 respond back to Mr. Wah-Shee's question.

19 MR. SHAFIC KHOURI: Mr. Chair,
20 Government of Northwest Territories, Shafic. I make -
21 - I make no small matter of this.

22 We've -- in our -- in our presentation
23 to the Board, we've identified our concerns. We've
24 identified concerns on cumulative effects for boreal
25 caribou and barren-ground caribou. We've identified -

1 - and we've identified that a Wildlife Effects
2 Monitoring Program is necessary to test certain
3 things. It's necessary to test the predictions of a
4 developer, and those programs are ne -- are -- will
5 help feed into cumulative effects assessment for bar -
6 - barren-ground caribou, boreal caribou. Those are --
7 that's the role of the Wildlife Effects Monitoring
8 Program.

9 We made a recommendation to the Board
10 to implement -- to have that as -- as a -- to have
11 Avalon develop that Wildlife Effects Monitoring
12 Program in whatever form that that Board sees
13 necessary, that -- however it would dictate that as a
14 measure or -- or how...

15 THE CHAIRPERSON: Thank you. Mr.
16 James Wah-Shee...?

17 MR. JAMES WAH-SHEE: Mr. Chairman, I'd
18 just like to thank you for your -- your answer. Thank
19 you. I -- I have no further questions.

20 THE CHAIRPERSON: Thank you, Mr. Wah-
21 Shee. Board member Percy Hardisty...?

22 MR. PERCY HARDISTY: Masi, Mr. Chair.

23

24 (NATIVE LANGUAGE NOT INTERPRETED)

25

1 MR. PERCY HARDISTY: I've got no
2 questions.

3 THE CHAIRPERSON: Thank you. Board
4 member Rachel Crapeau...?

5 MS. RACHEL CRAPEAU: The one (1)
6 question that I had was about your report -- or report
7 of your socioeconomic agreements. I had a chance to
8 had -- have a quick look at the three (3) diamond mine
9 socioeconomic agreements that GNWT has -- had. It
10 just gives information on how things are going with
11 communities, but there's just kind of like -- just
12 huge, big indicators of how things are going bad.

13 People know, coming from small
14 communities, that there are suicides, there are
15 alcohol-related bad news, there are children being
16 apprehended. Communities -- educated young people who
17 want to go somewhere and -- and work are leaving their
18 small communities.

19 And what I was wondering about is: How
20 much help are these communities getting for helping
21 the -- the youth and the community people become more
22 healthy and going towards well-being, being -- giving
23 people an optimistic outlook for not just
24 socioeconomic and making money, but -- because, coming
25 from a small community, I -- I once heard one (1) lady

1 said that we have Health and Social Service programs
2 in our communities. Maybe we can help these
3 communities do business by providing employee
4 assistance programs in our languages. And maybe our
5 community -- reports from the communities, the health
6 and social well-being of the people, will -- will not
7 look so bad.

8 How can we improve on this kind of
9 reporting to make people feel like, sure, they'll
10 embrace the golden business opportunities and making
11 money through mines, but how can it help the
12 traditional economies, too? I didn't hear that today.
13 That's why I was asking this question, just two (2).

14 THE CHAIRPERSON: Okay. Then I'll go
15 to the GNWT to those two (2) questions.

16 MR. SHAFIC KHOURI: Shafic, Government
17 of the Northwest Territories. I'll pass that over.
18 Thank you.

19 MS. LISA CARDINAL: Lisa Cardinal,
20 Government of the Northwest Territories. I -- I heard
21 a couple of different references in there, so I will
22 do my best to answer the questions that I heard. And
23 please let me know if I miss anything.

24 You're right, the indicators that are
25 in the community and diamonds report are very high

1 level trend indicators. We track them and we try to
2 break them down as best we can by regional centre so
3 that we can capture the small communities in there.

4 It's really difficult to attribute
5 clear cause and effect from economic development. And
6 if we track data at a very small community level,
7 there tends to be a -- a lot of volatility in the
8 data. So we might re -- misrepresent what we're
9 seeing in the data if we do it at a -- at a very small
10 level.

11 Some of the things that the Government
12 of the -- the Northwest Territories is trying to do to
13 improve or reduce some of the impacts on communities
14 is -- and I'd alluded to it earlier -- is the
15 development of community wellness plans.

16 So the Government of the Northwest
17 Territories, through Health and Social Services, is
18 working with communities throughout the Northwest
19 Territories to develop community wellness plans
20 that'll allow communities to identify those priorities
21 in their communities that are important to them and
22 that they want to focus on and that they want to put
23 initiatives or programs or services in place to try
24 and help mitigate.

25 It's intended that all -- all resources

1 that communities have access to could be combined to
2 try and fulfill these community wellness plans. So
3 that would include federal wellness funding that
4 communities have direct access to. GNWT programs and
5 services, we try and align with so that we complement
6 whatever's put in place in the community wellness
7 plans. It could potentially also include impact
8 benefit agreement funding that communities are able to
9 negotiate with -- with industry.

10 I -- I think, as far as traditional
11 economy, I -- I don't think I would be the best one to
12 answer that one and would have to look to another one
13 of my colleagues to answer that. Thank you.

14 THE CHAIRPERSON: Does one (1) of your
15 colleagues want to answer on the -- the second
16 question?

17 MS. SONYA SAUNDERS: Sonya Saunders,
18 GNWT. Just -- I want to confirm that that was a
19 question about support for traditional economy.

20 Is that correct, please? Okay. Thank
21 you.

22 Yeah, I guess I'll speak to this on a
23 couple of levels. First of all, the socioeconomic
24 agreements do allow for cultural relevant pro -- cul -
25 - culturally relevant programming to take place at the

1 mine site. And our understanding is that that is
2 happening in some instances.

3 At a broader level, the government is
4 not -- not tied specifically to development. But in
5 general, we do have a very strong support to
6 traditional economy suite of programs that we offer.
7 This is mainly Industry, Tourism, and Investment. We
8 do work with Environment and Natural Resources, as
9 well as with the schools EC (phonetic) and MACA.

10 So we -- we provide support on a number
11 of levels, including trying to encourage youth to be
12 engaged in trapping and in traditional economies. We
13 have a take-a-kid trapping program, take-a-kid
14 harvesting program. We offer programming through the
15 schools to encourage young people to learn traditional
16 ways.

17 From there, we also then have a number
18 of programs that support existing trappers in -- in
19 being able to get their fur to market. And we also
20 have a number of new programs that we've brought in to
21 assist in taking, for example, seal skin and moose
22 hides, caribou hides, and tanning them and making
23 those then available to artisans to support the fine
24 crafts sector.

25 So I'm not sure if that answered the

1 question. Thank you.

2 THE CHAIRPERSON: Okay, thank you.

3 Ms. Crapeau, do you have any more questions?

4 MS. RACHEL CRAPEAU: The traditional
5 economy information that you just gave, it would be
6 good to see that in your annual report, because
7 somebody might want to go looking somewhere else, in
8 some other report, to try and find it. Good
9 indicators are good indicators. Bad indicators are
10 bad indicators. There's got to be some good news,
11 information somewhere.

12 The other matter that I brought up was
13 the -- do -- maybe -- maybe the GNWT's not really
14 responsible for counselling, but they do support
15 community counselling services, Health and Social
16 Services.

17 And the project being in -- that's
18 going to be happening in the old Pine Point area. And
19 people from that area speak Dene, South Dene language,
20 like my colleague, Percy Hardisty, would say. But I'm
21 sure that they've got counselling services that they
22 could do in their languages from south of the lake
23 here.

24 And I do know that Lutsel K'e people
25 have people who speak in their language who preside --

1 provide health and social services. And N'Dilo has a
2 really good health and social services office. And I
3 was wondering if they're going to be part of the help
4 to provide positive counselling services to future
5 workers so that we don't see such dwindling numbers.

6 I just wanted to make this observation
7 and comment for you at this point. Thank you.

8 THE CHAIRPERSON: Okay, thank you for
9 your observation and comment. I'm going to bring this
10 matter to a close now. I just want to again -- as you
11 know, we've been in this process for about five (5)
12 years. We're to the point where we're in a public
13 hearing process now. We went through a whole
14 technical process and to a hearing.

15 And at the end of the day, it's going
16 to come down to the Board making a decision based on
17 the evidence. And we tried to flush it out of the
18 GNWT, in terms of the impacts and the public concern.
19 And we heard what you have to say. We seen your
20 evidence on the Board based on your presentation. And
21 we're going to take a look at that as well.

22 Again, it's concerns that you guys
23 raised, but -- and we were looking for evidence as
24 well, and I want to point that out. But with that,
25 I'm going to leave it there. The Board is going to

1 review this. It's all been recorded. We will come to
2 this when we're deliberating. And we'll ma -- we're
3 going to make a decision going forward.

4 But based on that, I want to co --
5 thank GNWT for coming in to do their presentation here
6 today. I know that we're off the agenda on this and
7 where we lost a couple of hours already on this whole
8 thing, but we'll -- we'll continue until we're done.

9 With that, I want to say thank you for
10 coming in and your delegation. And next on the agenda
11 is going to be Transport Canada. We're going to take
12 a five (5) minute break. We'll get them to come up
13 and set up.

14

15 --- Upon recessing at 1:54 p.m.

16 --- Upon resuming at 2:05 p.m.

17

18 THE CHAIRPERSON: Okay. If we could
19 start. I just wanted to say that I -- I -- suddenly I
20 have a bad headache. It's just been a long morning.
21 I don't know what it is. But anyway, we'd -- I
22 mentioned earlier that the Board, when they -- it goes
23 through its deliberation, everything comes down to the
24 evidence on the public registry and what's said here
25 today. So that's going to be key, and there's no

1 second kick at the can. This is the only time you're
2 able to do it.

3 So anyways, so I want to make --
4 present the next people here from Transport Canada.
5 And I'm -- I was told that this presentation is going
6 to be short and to the point and there'll be some
7 straight answers, yes and no. So anyways, I'll --
8 let's get on with the show.

9 Transport Canada, can you introduce
10 your delegation, please?

11

12 PRESENTATION BY TRANSPORT CANADA:

13 MR. DALE KIRKLAND: Yeah, I -- I'll do
14 so. Good afternoon, Mr. Chairman, panel, Elders,
15 ladies and gentlemen. My name is Dale Kirkland, and
16 I'm the regional manager of Environmental Affairs in
17 Transport Canada's Prairie and Northern Region.

18 Seated to my immediate left is Mr.
19 Craig Miller, manager of Marine Safety. And sitting
20 to my immediate right is Mr. Greg Black. He's the
21 navigable waters protection officer with the Navigable
22 Waters Protection Program. Seating to -- seating --
23 seated to Mr. Black's right is Chris Aguirre. Chris
24 Aguirre is the lead environmental officer on behalf of
25 Transport Canada on this file.

1 Seated to Mr. Miller's left, as you'll
2 notice, we have Mr. Mike Leonard from the Canadian
3 Coast Guard, Department of Fisheries and Oceans. And
4 given our overlapping interests, Mr. Chair, as it
5 relates to marine shipping incident events, we thought
6 it best he sit with us to assist with any potential
7 cross-examination on that issue. Okay.

8 We would like to thank you for the
9 opportunity today to make this presentation. In the
10 interest of time and efficiency, our presentation will
11 simply provide a summary of our recommendations that
12 are contained in our technical report that we filed to
13 these proceedings back in November. Simply for
14 reference purposes, that is registry document number
15 221. And following this summary, we will conclude
16 with some closing remarks.

17 With respect to stream crossings in the
18 Fred Lake outlet stream, Avalon has assessed and
19 deemed the Fred Lake outlet stream to fall under the
20 Minor Works and Waters Order. Consequently, works
21 conducted in minor navigable waters are exempt from
22 the NWPA application process. Nonetheless, Avalon
23 must ensure that all criteria established in the Order
24 must fully be met in order for the navigable water to
25 be considered minor under the provisions of the Act.

1 Avalon is proposing to install a water
2 intake in Thor Lake, which requires in-water works
3 that have the potential to impact navigation on this
4 waterway. To that end, TC has recommended that Avalon
5 consult the TC Navigable Waters Protection Program
6 pamphlets for minor works, water intakes, and
7 temporary works. If all the conditions outlined are
8 met, an application for approval under the NWPA will
9 not be required for the water intake.

10 As we've heard, the docking facilities
11 will be constructed at the mine site and the two (2)
12 noted plant sites. To this end, Avalon must submit
13 formal applications as early as possible to Transport
14 Canada in order to obtain approval for each specific
15 work. And in this regard as well, Avalon must also
16 inform our department of any design, construction, or
17 operational changes. We will require final design
18 drawings for each proposed work to determine the
19 applicability of the NWPA.

20 With respect to the tailings management
21 facility, I'm just going to take a couple slides and -
22 - and highlight a few key points, Mr. Chairman.

23 Firstly, Transport Canada has
24 determined that Ring Lake, Ball Lake, and Buck Lake
25 are navigable and considers the depositing of tailings

1 into these lakes to be subject to Section 22 of the
2 NWPA. NWPA Section 23 gives the governor in council
3 authority to grant an exemption to Section 22 if there
4 is proof that the public interest will not suffer from
5 the depositing material in these waterways.

6 Therefore, in order to deposit the
7 tailings into Ring Lake, Ball Lake, and Buck Lake, or
8 to proceed with any undertaking that would allow these
9 depositing of tails, it is necessary for Avalon to
10 first obtain a proclamation of exemption by the
11 governor in council under Section 23 of the NWPA.

12 To this end, on -- back in November,
13 Avalon did submit an application to our department
14 seeking a proclamation of exemption under Section 23
15 of the NWPA. I can advise the Board that Transport
16 Canada will continue to review the application for
17 exemption that was submitted by Avalon.

18 It's important to note, and we did
19 highlight this in our submission, Mr. Chair, that the
20 proclamation of exemption process and this
21 environmental assessment process can and will run
22 concurrently. However, the Board's decision on the
23 environmental assessment must be complete before a
24 proclamation of exemption can be issued. And further,
25 should the Board, in its final decision on -- in this

1 review process, issue a -- grant an approval, I can
2 advise that we anticipate the governor in council
3 process could be issued within six (6) months of that
4 decision.

5 With respect to barging, the barging
6 operation represents a key component of the overall
7 infrastructure for this project. All vessels and/or
8 barges are required to comply with the Canada Shipping
9 Act 2001 and their associated regulations, including
10 for requirements for vessel construction and
11 operations.

12 Transport Canada has advised Avalon
13 that, due to the project's location and cold-weather
14 environment in which they will be operating, they
15 should make sure that the barges and all systems are
16 designed for the anticipated ice conditions and comply
17 with the Canada Shipping Act 2001.

18 In addition, sir, Transport Canada is
19 the lead federal authority agency responsible for the
20 national marine oil spill preparedness and response
21 regime. Part 8 of the Canada Shipping Act 2001 and
22 its associated regulations and standards govern the
23 regime which is built upon the polluters-pays
24 principle. Part 8 and its regulations require oil-
25 handling facilities to have emergency plans and

1 prevention plans.

2 In addition, Mr. Chairman, I would like
3 to point out that the regulations to prevent or limit
4 ships or pollution have been put in place under the
5 Canada Shipping Act 2001. Transport Canada
6 investigates all ships' shores/ marine pollution
7 incidents including those that may occur North of 60.
8 We do so in close cooperation with Environment Canada
9 and the Canadian Coast Guard. Whenever there is
10 sufficient evidence, Transport Canada will prosecute
11 marine pluters -- polluters under the Canada Shipping
12 Act 2001.

13 Briefly, sr, with respect to
14 transportation of dangerous goods, Transport Canada
15 has recommon -- recommended to Avalon that they do
16 consult the Transportation of Dangerous Goods Act and
17 Regulations as they relate to the project to ensure
18 that their operations comply with all applicable
19 requirements.

20 And to this end, we've also recommended
21 Avalon and its shippers consult the list of substances
22 that recur in ERAP, an environmental -- emergency
23 response assistance plan, pardon me, to determine if
24 there are any requirements for an ERAP.

25 Closing remarks. For background and

1 context, Mr. Chairman, the Navigation Protection Act,
2 NPA, is a new name for the NWPA and was granted Royal
3 Ascent on December 14th, 2012. The NPA has not yet
4 come into a force. Transport Canada is in the process
5 of analyzing the traditional requirements and is
6 aiming to propose that the NPA be brought into force
7 in the spring of 2014. However, it is the governor in
8 council that ultimately decides when the NPA comes
9 into force. The specific date will be fixed by order.

10 And lastly, until this new NPA enters
11 into force, comes into force, Transport Canada will
12 assess proposals in accordance with the NWPA.

13 And finally, Mr. Chairman, just in
14 terms of closing remarks, Transport Canada looks
15 forward to continued dialogue and cooperation with the
16 Board, with our other federal and territory department
17 agency stakeholders and the Proponent in the ongoing
18 review of this project.

19 That concludes our presentation, sir.
20 We'd be happy to address any questions you may have.
21 Thank you.

22 THE CHAIRPERSON: Thank you very much
23 for your presentation; very direct and to the point.
24 I'm going to go back to the list of parties for
25 questions to the Developer -- or, sorry, to the

1 Transport Canada on their presentation.

2 I'm going to go to Aboriginal Affairs
3 and Northern Development Canada. Do you have any
4 questions to Transport Canada?

5

6 QUESTION PERIOD:

7 MR. PAUL GREEN: It's Paul Green, With
8 Aboriginal Affairs. We have no questions, Mr. Chair.

9 THE CHAIRPERSON: Thank you. Akaitcho
10 Treaty 8 Tribal Corporation...?

11

12 (BRIEF PAUSE)

13

14 MS. STEPHANIE POOLE: Stephanie Poole,
15 Akaitcho IMA office. I do have five (5) questions.
16 I'm not sure if I'll have a follow-up question to any
17 of those, but we'll see how it goes.

18 THE CHAIRPERSON: Oh, you got five (5)
19 questions.

20 MS. STEPHANIE POOLE: Regarding your
21 presentation, I'm wondering how much, if any, security
22 will be required by Transport Canada in case -- or the
23 Coast Guard or any other Cana -- you know, Government
24 of Canada agencies regarding, you know, the
25 possibility of spills into the Great Slave Lake?

1 MR. DALE KIRKLAND: Just one (1)
2 moment, sir. Thank you.

3

4 (BRIEF PAUSE)

5

6 THE CHAIRPERSON: Thank you. I'll go
7 to Transport Canada.

8 MR. DALE KIRKLAND: Can -- ju -- just
9 to help us with that one, because we're interpreting
10 the question maybe a couple of ways. If you could
11 just help us repeat or rephrase, in terms of what
12 you're referring to when you mean 'security'.

13 THE CHAIRPERSON: NWT Tribal Corp...?

14 MS. STEPHANIE POOLE: Thank you.
15 Stephanie Poole, Akaitcho IMA. What I'm referring to
16 is like a security deposit that the government holds
17 in case that there's an accident and that, you know,
18 clean-up is required and so that the government can
19 afford that. That's what I'm referring to.

20 THE CHAIRPERSON: Okay, thank you.
21 Transport Canada...?

22 MR. CRAIG MILLER: Mr. Chair, Craig
23 Miller, with Transport Canada, Marine Safety. When it
24 comes to ship oil spills, the polluter's responsible
25 for the clean-up and the cost associated with that

1 clean-up. There's Marine Liability Acts that make
2 assurances or financial securities for the vessel, the
3 insurances of the vessel.

4 There are limits to that liability
5 stipulated in the Act. And if a clean-up is to go
6 beyond that amount, there is a ship oil spill --
7 Canadian ship oil spill fund available to fund a
8 clean-up. And if it goes beyond amounts in that,
9 there's a -- a ship oil spill international fund that
10 can be drawn upon.

11 THE CHAIRPERSON: Thank you. I'll go
12 to your second question.

13 MS. STEPHANIE POOLE: Stephanie Poole,
14 Akaitcho IMA. I do have a short follow-up to that, if
15 I may.

16 THE CHAIRPERSON: One (1) more follow-
17 up.

18 MS. STEPHANIE POOLE: So in lieu of
19 that, do you -- in your process, do you -- because if
20 the polluter pays or the developer is responsible,
21 during your authorization process, do you do -- as
22 part of the application, having to prove that they
23 have the financial means necessary to -- to cover any
24 of those things?

25 Like do you check if they have any

1 money in the bank?

2 THE CHAIRPERSON: Thank you.

3 Transport Canada...?

4 MR. CRAIG MILLER: Now, Transport
5 Canada would be certifying the vessels in the process.
6 The -- the developer is aside from the ship. It's the
7 ship that's -- shipping companies that would have to
8 have these insurances in place. And, yes, when we
9 visit the vessels once a year, that is one of the
10 documents that is ground truth. We look for the
11 personal certifications and any documents that the
12 vessel has to have on board at that time. We do that
13 annually.

14 THE CHAIRPERSON: Okay. And due to
15 time, we're going to be no follow-ups. So we'll go to
16 your second question.

17 MS. STEPHANIE POOLE: Thank you.
18 Stephanie Poole, Akaitcho IMA. In your presentation,
19 I heard you say that the authorization is given if you
20 can prove that the public interest will not suffer.

21 And I wonder: How do you prove that
22 the public interest will not suffer?

23 THE CHAIRPERSON: I'll go to Transport
24 Canada to the question, but you're asking the
25 question...

1 MS. STEPHANIE POOLE: To the
2 presentation.

3 THE CHAIRPERSON: The presentation?
4 Okay. Transport Canada...?

5

6 (BRIEF PAUSE)

7

8 MR. DALE KIRKLAND: Perhaps -- it's
9 Dale Kirkland, sorry, Transport Canada. In making
10 that determination, we consider the information that's
11 generated through the environmental assessment
12 process, and we also consider the information that's
13 generated through the application process in making
14 our conclusion.

15 THE CHAIRPERSON: Thank you. I'll go
16 to Akaitcho Treaty 8 Tribal Corporation, to your third
17 question.

18 MS. STEPHANIE POOLE: Thank you.
19 Stephanie Poole, Akaitcho IMA. Regarding the
20 exemption process, how will consultation occur with
21 the Akaitcho Dene First Nations?

22 THE CHAIRPERSON: Okay. Thank you.
23 I'll go to Transport Canada.

24 MR. DALE KIRKLAND: Two (2) -- two (2)
25 part answer to that one. One (1) is I'm going to just

1 recognize and acknowledge that the NPMO is the Crown
2 consultation coordinator for the environmental
3 assessment process that we're in right now.

4 And, secondly is that when it comes to
5 Transport Canada making a regulatory decision, we must
6 ensure that -- we, as a department, must ensure we
7 meet those obligations before issuing a decision.

8 THE CHAIRPERSON: Okay. Thank you.
9 Over to Akaitcho Treaty 8 Tribal Corporation for your
10 fourth question.

11 MS. STEPHANIE POOLE: Stephanie Poole,
12 Akaitcho IMA. In your presentation, you made
13 reference to how Transport Canada tracks spills and
14 that, you know, there's a process and that pro --
15 there's an investigation and that prosecutions may
16 occur, if necessary.

17 And I wonder if you could tell me how
18 many prosecutions have occurred to date for Great
19 Slave Lake?

20 THE CHAIRPERSON: Okay. Thank you.
21 I'm going to go to Transport Canada.

22 MR. DALE KIRKLAND: Yeah. Mr.
23 Chairman, I don't have that figure off -- I apologize.
24 I don't have that figure off the top of my head. I
25 will have to, if -- if you're agreeing, by way of

1 undertaking, seek that figure and get back to you as
2 soon as possible.

3 THE CHAIRPERSON: Mr. Donihee...?

4 MR. DONIHEE: Thank you, Mr. Chairman.
5 John Donihee. Then we'll receive an indication from
6 Transport Canada of how many prosecutions have taken
7 place for spills occurring on Great Slave Lake. And,
8 sir, the deadline for submission of -- of these
9 documents would be the 12th of March, is that -- that
10 works?

11 MR. DALE KIRKLAND: Agreeable. I'll
12 get right on that. Thank you, sir.

13

14 --- UNDERTAKING NO. 2: Transport Canada to
15 indicate how many
16 prosecutions have taken
17 place for spills occurring
18 on Great Slave Lake, to be
19 submitted by March 12;
20 also to but to include a
21 list of incidents
22 involving barge damages
23 and any sinkings

24

25 THE CHAIRPERSON: Thank you. I'll go

1 back to Akaitcho Treaty 8 Tribal Corporation for your
2 fifth question and final question.

3 MS. STEPHANIE POOLE: Thank you.
4 Stephanie Poole, Akaitcho IMA. In your presentation,
5 you made reference to the new NWPA, Navigable Waters
6 Protection Act.

7 And I'm wondering, how were the
8 Akaitcho Dene First Nations consulted on this new Act?

9
10 (BRIEF PAUSE)

11
12 THE CHAIRPERSON: Yeah. I wonder,
13 maybe, Stephanie, you could rephrase your question
14 because, I mean, I don't think it's up to Transport
15 Canada, the way I understand the way the legislation
16 is written and so on, for them to go out and consult
17 the communities.

18 Maybe Transport Canada could respond to
19 that.

20 MR. DALE KIRKLAND: It's Dale Kirkland
21 here. You know, I -- I share that concern.
22 Unfortunately, I'm just not in a position to speak and
23 respond to that question, unfortunately.

24 THE CHAIRPERSON: Okay, thank you.
25 That -- that's exactly what I figured. Okay, well,

1 thank you, Stephanie. We'll continue on to the next
2 line of questioning from Blachford Lake Lodge.

3 Deninu Kue First Nation...?

4 Fisheries and Oceans Canada...?

5 They're here.

6 MR. MIKE LEONARD: No questions.

7

8 (BRIEF PAUSE)

9

10 THE CHAIRPERSON: Okay. Fort
11 Resolution Metis Council...?

12 Government of Northwest Territories...?

13 MS. KATE WITHERLY: It's Kate Witherly,
14 with the Government of Northwest Territories. We have
15 no questions. Thank you.

16 THE CHAIRPERSON: Okay, thank you.
17 K'atl'odeeche First Nation...?

18 Lutsel K'e Dene First Nation...?

19 Again, I'll just remind everybody for questions up to
20 five (5).

21 MR. MICHAEL TOLLIS: Mike Tollis,
22 Lutsel K'e Dene First Nation. No questions at this
23 time, Sir.

24 THE CHAIRPERSON: Okay. North Slave
25 Metis Alliance...?

1 MR. ERIC BINION: Thank you, Mr.

2 Chair. Eric Binion, North Slave Metis Alliance. I
3 just have one (1) brief question, "yes" or "no."

4 At this point in time after reviewing
5 Avalon's barging operation plans and the presentation
6 on Monday, can Transport Canada confidently say that
7 Avalon and its contractors has a systematic and
8 integrated safety management plan that is suitable for
9 identifying all possible operational risks associated
10 with barging across Great Slave Lake?

11 THE CHAIRPERSON: Okay. To the
12 question. I believe he's asking for a "yes" or "no."

13 MR. CRAIG MILLER: Yes, with an
14 explanation. For the existing barge operations, yes.
15 The vessels already have a SOPEP in order for them to
16 operate. A SOPEP is a shipboard oil pollution
17 emergency plan approved by Transport Canada. The
18 explanation is, if the project is given approval, the
19 -- the Proponent will have an oil pollution emergency
20 plan required by the regulations for preventiv --
21 preventative maintenance and for emergencies at the
22 oil-handling facility during transfers. So once
23 that's in place, then I have a "yes" for the whole
24 question.

25 I apologize. Craig Miller, Transport

1 Canada.

2 THE CHAIRPERSON: Thank you. We'll go
3 back to the North Slave Metis Alliance.

4 MR. ERIC BINION: Eric Binion, North
5 Slave Metis Alliance. I have no questions. Thank
6 you.

7 THE CHAIRPERSON: Thank you. I want
8 to go to Northwest Territory Metis Nation...?

9 Tlicho government...?

10 The Yellowknives Dene First Nation...?

11 MR. TODD SLACK: Thanks -- thanks, Mr.
12 Chair. It's Todd Slack, with the Yellowknives Dene,
13 and I've just got a couple of questions here.

14 And the first one is: We recognize the
15 Proponent's commitment to remove any barges or
16 containers that may end up at the bottom of Great
17 Slave Lake, but we're wondering what tools Transport
18 Canada and the Coast Guard have to make this happen.
19 This Board has previously heard about the equipment at
20 the bottom of Drybones Bay, where the proponent and
21 the government has chosen to leave it in place.

22 Are -- so are there mechanisms to
23 require -- to make this commitment binding within the
24 current legislation?

25 THE CHAIRPERSON: Thank you. I'll go

1 to Transport Canada.

2

3 (BRIEF PAUSE)

4

5 MR. CRAIG MILLER: Craig Miller,
6 Transport Canada.

7 The answer to the question is no.

8 Under the current legislations, if the barge is not
9 posing a environmental risk, a risk to pollute, or if
10 the barge or equipment is not posing a navigational
11 hazard, then Transport Canada has no mechanism to have
12 the owners do anything with that vessel.

13 THE CHAIRPERSON: Okay. Thank you.
14 I'll go back to YKDFN.

15 MR. TODD SLACK: Thanks. And I -- I
16 wish this question was going to be a little bit more
17 straightforward, but because of this being a somewhat
18 new topic to -- to us, I'm just wondering if -- it's
19 our -- it's my understanding that the Coast Guard is
20 the lead agency, in terms of any sinking and spill.

21 We've also heard that Avalon and its
22 proponents seem to be responsible for a spill response
23 as well. So I'm wondering if we can get a better
24 understanding -- and I think the maximum barge size is
25 going to be 5 million litres.

1 So if there was a maximum spill event,
2 does the Coast Guard have sufficient capacity in our
3 region -- so on Great Slave Lake -- to respond in a
4 timely manner? And if not, what's the sort of
5 timeline that plays out to bring that additional
6 equipment and personnel in? Thank you.

7 THE CHAIRPERSON: Thank you. I'm
8 going to go to Transport Canada.

9 MR. CRAIG MILLER: Craig Miller,
10 Transport Canada.

11 When it comes to shipping oil, the
12 responsibility for a spill, if the vessel is in
13 transit, is the shipper. If the vessel is secured and
14 transferring fuel to the oil-handling facility, it's a
15 joint responsibility of the oil-handling facility,
16 which has their -- their response capabilities that
17 are dictated by legislation, and the barge company
18 would assist in that response.

19 The question infers a -- a catastrophic
20 even of -- of a barge. I just wanted to let the Board
21 know that a barge is not one (1) single tank of fuel,
22 but it's sub-compartmentalized, twenty (20) some-odd
23 compartments of a barge. So for a maximum-size trans
24 -- shipment to be spilled, I -- I can't fathom that
25 event. But the -- the response would be the -- the

1 responsibility of the shipper. And if that -- the
2 shipper is unable, unwilling, or unknown at that time,
3 then the Canadian Coast Guard does have a mandate to
4 ensure that there -- an adequate response is taking
5 place.

6 And I'll refer to my colleague, Mr.
7 Leonard, to go into the details of that.

8 MR. MIKE LEONARD: Thank you, Craig,
9 Mr. Chairperson. Mike Leonard, Canadian Coast Guard.

10 In the event of a spill, Canadian Coast
11 Guard would deploy personnel to monitor the spill --
12 spill cleanup from the company. And if it reaches a
13 magnitude beyond the capacity, then Coast Guard would
14 take over the role and more Coast Guard resources
15 would come in.

16 We have pollution equipment staged in
17 Yellowknife. And -- and also we have a suite in Hay
18 River and vessels as well. So we would -- together
19 with Environment Canada and other government agencies,
20 we would deploy and take over responsibilities for the
21 clean-up of that spill.

22 THE CHAIRPERSON: Thank you. I'm
23 going to go back to YKDFN.

24 MR. TODD SLACK: Thank you, Mr. Chair.
25 And thanks for that answer. So I'm going to assume

1 that I understand this right. And if I don't, please
2 do correct me.

3 So Transport Canada reviews the
4 response plan of the shipper. Considering this
5 situation, what is the -- the maximum response that
6 Transport Canada is going to require as part of that -
7 - that spill response plan?

8 THE CHAIRPERSON: I'll go to Transport
9 Canada.

10 MR. CRAIG MILLER: Craig Miller,
11 Transport Canada. The -- the ship is not mandated to
12 respond to their own spills. They are responsible to
13 ensure that a response is taking place; however, that
14 is dictated in their plan.

15 The plan -- the shipboard oil emergency
16 plan will have immediate instructions to the captain
17 on what to do in the event that a pollution is taking
18 place. It will give him instructions on how to stop
19 polluting. It'll give him instructions on who to
20 contact ashore to report the pollution, and also
21 contacts ashore to coordinate a response.

22 But the vessel itself is not mandated
23 to have response equipment onboard. The vessel, the
24 barge and tug, may have response equipment onboard.
25 Their plan may have a response for an external

1 escaping of oil, but that is not a mandatory
2 component.

3 THE CHAIRPERSON: Okay, thank you.
4 I'll go back to YKDFN.

5 MR. TODD SLACK: So I -- I think we
6 got caught up in a wording thing there. And I didn't
7 say ship, but shipper, or I meant to say shipper. So,
8 okay, yeah, if the ship's in trouble, bad things
9 happened, I understand how they might not want to res
10 -- or might not be able to respond to that.

11 But product enters the environment.
12 There is a plan somewhere by someone. I'm just
13 wondering if you can provide some information as to
14 who's doing the response, when they're responding and
15 how much do they have to be able to respond to.

16 For instance, if they move 5 million
17 litres do they need to have sufficient capacity to
18 address that whole package or does Transport Canada
19 only require a percentage -- a smaller response with
20 the thought that, oh these other resources can come in
21 from elsewhere?

22 THE CHAIRPERSON: Thank you for your
23 fourth question. I'm going to go to Transport Canada.

24 MR. CRAIG MILLER: Craig Miller,
25 Transport Canada. We're now into the specifics of

1 responding to a spill and that's outside Transport
2 Canada's mandate, so I'll have to pass it off to the
3 Canadian Coastguard, who are lead agencies when it
4 comes to responding to a spill.

5 MR. MIKE LEONARD: Thank you, Craig.
6 Thank you, Chairperson. The question was in regards
7 to a magnitude of spill as compared to their -- their
8 contingency plan, was it not?

9 THE CHAIRPERSON: Maybe I'll get you
10 to ref -- rephrase your question or --

11 MR. TODD SLACK: I'll give it a shot.
12 And I -- like I -- I appreciate that there -- there's
13 the mandate issue here. And I don't understand where
14 it delineates.

15 But the question to me is, okay, well,
16 these guys are going to move 5 million litres in a
17 single shipment across the lake. Who is going to do
18 the responding? When do they have to respond? And do
19 they have to have all the equipment loc -- like not
20 local, but regional to be able to respond to that?
21 Thank you.

22 THE CHAIRPERSON: Okay, thank you.
23 I'll go back to Transport Canada.

24 MR. CRAIG MILLER: Craig Miller,
25 Transport Canada. In an effort to clarify who does

1 what the Canada Shipping Act is governed by two (2)
2 ministers, the Minister of Transport and the Minister
3 of Fisheries and Oceans. And that's where we have a
4 shared responsibility when it comes to response.

5 Transport Canada's legislations are in
6 place for preventative measures. We ensure that the
7 vessels are adequately constructed and operated by
8 competent personnel. There's also insurance -- or
9 legislation in there for insurances and legislation in
10 for punitive measures.

11 There's also legislation under the
12 fisheries minister for ensuring an adequate response
13 to a spill. For a barge being towed across Great
14 Slave Lake, the shipper, the shipping company, is
15 responsible for the spill. If they have equipment on
16 the -- on the barge to respond to their own spills,
17 they might. And I can't speak to specifics because I
18 don't have the -- the vessel's SOPEPs in front of me.

19 But where the Coast Guard would get
20 involved if there's a spill, first and foremost, they
21 would monitoring the spill make sure that an adequate
22 response is being mounted by the shipper. And if at
23 any time there was inadequate response, then the Coast
24 Guard would take over in that capacity. And they have
25 equipment cached throughout the Arctic for that

1 contingency.

2 For 5 million litres, once again,
3 that's a compartmentalized barge, but they have
4 capacity to respond to spills. I'll let -- I'll let
5 Mike tell you where -- where they have the capacity
6 located for Great Slave Lake.

7 MR. MIKE LEONARD: Mike Leonard,
8 Canadian Coast Guard. In Hay River, we would have the
9 capacity, combined with the stuff we have in -- or the
10 pollution equipment in Yellowknife, we would have that
11 capacity.

12 THE CHAIRPERSON: Okay. Thank you.
13 I'll go to YKDFN to your final question.

14 MR. TODD SLACK: Okay. Yeah, and
15 thanks, Mr. Chair, and thanks, guys. That's the
16 answer I'm looking for, or the understanding I'm
17 looking for.

18 And then the last potential question
19 here is: Has -- and I think this is a Coast Guard
20 responsibility. Has the Coast Guard considered the
21 probability of being able to work a potential spill
22 relative to the weather? Because it seems to me that
23 the worst-case scenario is during a period of bad
24 weather, and it's my limited understanding that you
25 can't work to contain or clean these things up during

1 that bad weather.

2 So during the hundred and twenty (120)
3 day window or whatever it was, is there a
4 consideration as to how much of that would be
5 unworkable?

6 And so should we be thinking about time
7 windows within that or some other guidance to ensure
8 that, if something bad happens, that you guys would
9 have the opportunity to respond?

10 THE CHAIRPERSON: Thank you. I'm
11 going to go to Transport Canada.

12 MR. DALE KIRKLAND: Mr. Leonard, do
13 you want to tackle that one? Thank you.

14 MR. MIKE LEONARD: Thank you, Mr.
15 Chairperson. Everyone know -- the -- the weather on
16 Great Slave Lake varies quit a bit. And we would work
17 closely with Environment Canada for trajectory --
18 trajectories and -- of the spill as well. But we are
19 definitely limited with the weather scenarios that we
20 have on the Great Slave Lake.

21 THE CHAIRPERSON: Thank you. Thank
22 you to Todd for your final question.

23 I'm going to go to Avalon, questions to
24 Transport Canada on their presentation.

25 MR. DAVID SWISHER: David Swisher,

1 with Avalon. We have no questions. Thank you.

2 THE CHAIRPERSON: Thank you. I'm
3 going to go to Review Board legal counsel and staff.

4 MR. JOHN DONIHEE: Thank you, Mr.
5 Chairman. It's John Donihee. I just have one (1)
6 question. All of the examination so far from the
7 other Intervenors has -- has been in relation to a
8 spill of oil.

9 And I'm -- I'm just curious if you
10 could -- I -- I don't know quite how to ask this, but
11 it's possible there could be a loss of the cargo as
12 well that's going to be in containers, and, you know,
13 whether any of the regulatory framework that you've
14 discussed applies to non -- non-hydrocarbon cargo.

15 This is concentrated material from the
16 -- the plant -- or, sorry, the -- the mill in -- in --
17 at Nechalacho that would be transported across the
18 lake. And so there's been some concern expressed by
19 Intervenors about some of that going over the side, I
20 guess.

21 And can -- can you reflect -- do -- do
22 the same sort of rules and -- and regulations that
23 we've talked about apply in -- in that case? Is it --
24 are they oblivious to whether the cargo is oil or
25 whether it's minerals?

1 THE CHAIRPERSON: Thank you, Mr.
2 Donihee. I'll go to Transport Canada.

3 MR. CRAIG MILLER: Craig Miller,
4 Transport Canada. Thank you, Mr. Chair.

5 The answer is I believe the materials
6 are inert and wouldn't be considered a pollutant that
7 would be environmentally -- affect the environment in
8 such a way that we have to respond. I don't believe
9 it would be considered a noxious substance. There are
10 noxious substances, so I'd have to check the list of
11 noxious substances against the -- the cargo, the
12 concentrate.

13 But I believe it's just inert minerals
14 that were being transported, in which case the only
15 concern would be if the containers did have a -- a
16 measure of buoyancy and were a navigational hazard. I
17 imagine, with the concentrates, they're quite heavy.
18 I -- I don't imagine they float. But I'm just
19 surmising that it would automatically sink and there
20 would be no environmental concern from Transport
21 Canada/Coast Guard concerns.

22 THE CHAIRPERSON: Thank you. Mr.
23 Donihee...?

24 MR. JOHN DONIHEE: Thank you, Mr.
25 Chairman. I take it then that -- from your answer,

1 that there would be no responsibility then from
2 Transport Canada? Not an environmental, not a
3 pollution problem. I'll take your -- let's work with
4 your assumption that they sink and they're not a
5 navigational problem.

6 Effectively, then, it's really the
7 mining company's problem to see, through whatever
8 means they can, if they can recover those materials?

9 THE CHAIRPERSON: Thank you.
10 Transport Canada...?

11 MR. CRAIG MILLER: Craig Miller,
12 Transport Canada. I would -- that would be a correct
13 assumption.

14 THE CHAIRPERSON: Okay, thank you.
15 Mr. Donihee...?

16 MR. JOHN DONIHEE: Thank you, Mr.
17 Chairman. Just one (1) last question. I -- I don't
18 do the kind of law that you're talking about, so this
19 may be a little naive.

20 But is there anything special about
21 these sorts of salvage or recovery operations that
22 would engage the jurisdiction of either the Coast
23 Guard or Transport Canada?

24 THE CHAIRPERSON: Thank you.
25 Transport Canada...?

1 MR. CRAIG MILLER: Craig Miller,
2 Transport Canada. Only in the aspect that the vessels
3 that you use in the sal -- salvage operation are
4 operated correctly, certified for the processes, the
5 people employed are properly certified.

6 THE CHAIRPERSON: Thank you. Mr.
7 Donihee...?

8 MR. JOHN DONIHEE: Thank you, Mr.
9 Chairman. Those are my questions. I think there's
10 one (1) from staff.

11 MR. CHUCK HUBERT: Mr. Chair, I'd just
12 like to go to our Board's technical advisor, Ralph
13 Grismala, please.

14 MR. RALPH GRISMALA: Ralph Grismala,
15 ICF Marbek. I just have one (1) question. Does
16 Transport Canada have any information on statistics of
17 barge incidents, collisions, sinkings, other types of
18 malfunctions?

19 THE CHAIRPERSON: Thank you.
20 Transport Canada...?

21 MR. CRAIG MILLER: Craig Miller,
22 Transport Canada. Yes, there are statistics. I don't
23 have them here, but we can take that as part of the
24 first undertaking if we could somehow link them
25 together or a separate undertaking to provide that

1 information.

2 THE CHAIRPERSON: Okay, thank you.

3 Mr. Donihee...?

4 MR. JOHN DONIHEE: Thank you, Mr.

5 Chair. Why don't we just amend undertaking number 2
6 to include not only the list of spills but to include
7 a list of incidents involving barges da -- damages, I
8 suppose. And I don't think there have been any
9 sinkings, but I guess we -- if there had been, I'm
10 sure you'd tell us about that as well.

11 THE CHAIRPERSON: Okay, thank you.

12 I'm going to got to Review Board staff member -- or,
13 sorry, Board member Rachel Crapeau.

14 MS. RACHEL CRAPEAU: Masi cho for your
15 presentation. Very informative. No questions. Thank
16 you.

17 THE CHAIRPERSON: Thank you. Board
18 member Percy Hardisty...?

19 MR. PERCY HARDISTY: No questions for
20 me, Mr. Chair.

21 THE CHAIRPERSON: Thank you. Board
22 member James Wah-Shee...?

23 MR. JAMES-WAH-SHEE: Thank you, Mr.
24 Chair. I have no questions. I just want to thank
25 Transport Canada and Fisheries and Oceans for their

1 presentation. Thank you.

2 THE CHAIRPERSON: Thank you. Board
3 member Richard Mercredi...?

4 MR. RICHARD MERCREDI: Thank you, Mr.
5 Chair. I'd just like to thank the presenters. No
6 questions.

7 THE CHAIRPERSON: Thank you. Board
8 member Sunny Munroe...?

9 MS. SUNNY MUNROE: Thank you, Mr.
10 Chair. I do have a question. Presumably, the barge
11 company in this case is NTCL.

12 What is the size of their barges --
13 what are the size of their barges? Because Mr. Slack
14 has mentioned 5 million litres, but I don't think
15 that's possible with their equipment, is it?

16 THE CHAIRPERSON: Okay, thank you.
17 Transport Canada...?

18 MR. CRAIG MILLER: Craig Miller,
19 Transport Canada. I believe they've got two (2) sizes
20 of the barges, and they call it fifteen hundred
21 (1,500), one thousand (1,000) series. So you're
22 looking at 1,000 tonnes or however that translates to
23 million litres. And 1,500 tonnes would be the
24 maximum, tonnes being a measurement of a cubic metre.

25 THE CHAIRPERSON: Board member Sunny

1 Munroe...?

2 MS. SUNNY MUNROE: Thank you, Mr.

3 Chair. And that's their largest barge, is the fifteen
4 hundred (1,500) series, right? Is that...

5 THE CHAIRPERSON: Transport Canada...?

6 MR. CRAIG MILLER: Craig Miller,
7 Transport Canada. Yes, that's -- presently, that's
8 their largest vessel.

9 MS. SUNNY MUNROE: Given that they're
10 compartmentalized, what would be, say, the amount that
11 would spill out of one (1) compartment? I know
12 they're not all the same sizes, but approximately?

13 THE CHAIRPERSON: Thank you.
14 Transport Canada...?

15 MR. CRAIG MILLER: Transport Can --
16 Craig Miller, Transport Canada; 200 cubic metres.

17 THE CHAIRPERSON: Thank you. Sunny
18 Munroe...?

19 MS. SUNNY MUNROE: Thank you. And are
20 they double-hulled, those barges? And is there --

21 THE CHAIRPERSON: Transport Canada...?
22 Oh.

23 MS. SUNNY MUNROE: Excuse me, Mr.

24 Chair. And is it a requirement to be double-hulled on
25 Great Slave Lake now?

1 THE CHAIRPERSON: Thank you.

2 Transport Canada...?

3 MR. CRAIG MILLER: Craig Miller,
4 Transport Canada. No, they're not double-hulled, and
5 existing barges on the Mackenzie River don't need to
6 be double-hulled.

7 There's a concern with these barges
8 that are used on the river, and the drafts at times
9 prohibit them from being double-hulled. But that
10 said, the Proponent -- or the -- the shipper has often
11 shipped with no product in the side tanks as a measure
12 to come up with an equivalency.

13 MS. SUNNY MUNROE: One (1) more
14 question, and there's no requirement on Great Slave
15 Lake to be double hulled, presuming they're not going
16 down the river?

17 THE CHAIRPERSON: Okay. Thank you.
18 Transport Canada...?

19 MR. CRAIG MILLER: Craig Miller,
20 Transport Canada. Yeah, Great Slave Lake is
21 considered a tributary adding to the Mackenzie River
22 and is included in the exemption clause.

23 MS. SUNNY MUNROE: Thank you very
24 much. No -- no other questions.

25 THE CHAIRPERSON: Thank you, Board

1 member, Sunny Munroe. Board member, John Curran...?

2 MR. JOHN CURRAN: I'd just like to
3 thank the two (2) gentlemen on the end who stuck it
4 out with us for the past three (3) days and thank you
5 very much for the presentation. No questions.

6 THE CHAIRPERSON: Thank you. Thank
7 you to -- I want to thank the presenters from
8 Transport Canada for being here today. And thank you
9 very much for your time.

10 We'll take another fifteen (15) minute
11 break then we're going to go to the Akaitcho Treaty 8
12 Tribal Corporation.

13

14 --- Upon recessing at 2:50 p.m.

15 --- Upon resuming at 3:02 p.m.

16

17 THE CHAIRPERSON: Okay. Thank you.
18 We'll -- we'll continue on. Before I get to the
19 agenda part I've just got one (1) housekeeping item
20 from yesterday. I'll turn it over to Mr. Donihee.

21 MR. JOHN DONIHEE: Thank you, Mr.
22 Chairman. When our technical advisor asked questions
23 of -- of Avalon he made reference to two (2) documents
24 and he asked whether or not they were the latest
25 filings from the Company and Mr. Swisher indicated

1 that he'd have to double-check.

2 The -- the documents, as I understand
3 it, were -- that were referred to were the "Revised
4 Water Balance Flow Sheet" dated 21st November, 2012.
5 We wanted to know whether that was the latest version?
6 And the second document is entitled "Tailings
7 Management Facility Ultimate Arrangements Year 20,"
8 and it's dated 28th of June, 2012.

9 So we just want to confirm that those
10 are, in fact, the latest versions of those documents
11 on the record.

12 THE CHAIRPERSON: Thank you. I'll go
13 to Avalon.

14 MR. DAVIS SWISHER: David Swisher,
15 with Avalon. I can confirm that those two (2) doc --
16 documents that you've referenced are the latest
17 documents. Thank you.

18 THE CHAIRPERSON: Thank you. Mr.
19 Donihee...?

20 MR. JOHN DONIHEE: Thank you, Mr.
21 Chairman. Just one (1) other item of the housekeeping
22 variety.

23 Avalon filed a -- a table dated
24 February 19th, 2012. It -- it -- as I understand it,
25 it's -- it's a -- parameters that are going to be

1 discharged from the hydrometallurgical plant in Hay
2 River.

3 It's a -- it's a table, but I'm advised
4 that magnesium -- it could be manganese for all I know
5 -- magnesium, thank you, and sulphate were not on the
6 table. We were hoping to ask Avalon to undertake to
7 re-file a complete table for us so that we could have
8 that on the record.

9 THE CHAIRPERSON: Okay. Thank you.
10 I'll go to Avalon.

11 MR. MARK WISEMAN: Mark Wiseman,
12 Avalon. I've almost got it finished as we speak, so
13 you'll have that by the end of the -- the day today.

14 THE CHAIRPERSON: Okay. Thank you.
15 Mr. Donihee...?

16 MR. JOHN DONIHEE: All right, Mr.
17 Chairman, I -- I suggest then given that the hearing
18 won't close until Friday, we can just have that filed
19 as an exhibit and we won't need to take an
20 undertaking.

21 So as soon as we get it, we'll identify
22 it as Exhibit 2 (sic) for the proceedings and that'll
23 take care of that one. Thank you, sir.

24 THE CHAIRPERSON: Okay. Thank you.
25 Okay. We're going to continue on now with the agenda,

1 the last part of the presentation for here in
2 Yellowknife for the last three (3) days is coming to
3 an end here.

4 So we're going to go to the NWT Treaty
5 8 Tribal Corporation for their presentation then we've
6 got questions for them on their presentation. So if
7 you'd go ahead and introduce yourself and delegation.

8

9 --- EXHIBIT NO. 1: Table of Water Quality
10 Parameters for Pine Point
11 Hydrometallurgical
12

13 PRESENTATION BY NWT TREATY 8 TRIBAL CORPORATION:

14 MS. STEPHANIE POOLE: Thank you. It
15 is Stephanie Poole for the NWT Treaty 8 Tribal
16 Corporation, Akaitcho IMA Implementation Office. And
17 with me here today is Stephen Ellis. And we would
18 like to thank you for reconvening a little bit early
19 because Steve might have to -- to leave soon. So
20 we'll just get going.

21 Our presentation outline is the five
22 (5) main areas of concern discussed in our technical
23 report: Direct and cumulative impacts to caribou,
24 wildlife effects and air quality monitoring,
25 traditional knowledge, Aboriginal party participation

1 in environmental monitoring and management, and
2 closure.

3 So regarding the caribou impacts,
4 direct and cumulative, the Akaitcho Dene First
5 Nations' traditional knowledge strongly suggest that
6 the existing mines have had an undeniable impact on
7 the Bathurst caribou herd and have contributed to the
8 very significant decline in the herd numbers.

9 The Proponent does not propose any
10 specific mitigations to minimize regional impacts upon
11 caribou. And the Akaitcho Dene First Nations are
12 concerned that the impacts associated with the
13 development may result in part of the traditional
14 range being isolated from caribou use.

15 The proposed project may be one (1) of
16 ten (10) mines that would exist across the Bathurst
17 caribou range within a five (5) year period.

18 So recommended measure number 1: The
19 Proponent must contribute towards any regional
20 cumulative effects framework that may become
21 operational during the lifespan of the mine.

22 The Government of Canada and the
23 Government of the Northwest Territories must be
24 required to develop and implement a meaningful
25 strategy for the management of cumulative effects as

1 they relate to caribou. This strategy should include
2 clear data management mechanisms, thresholds and
3 adaptive response mechanisms.

4 Monitoring wildlife effects. Akaitcho
5 Dene First Nations require the collaborative
6 development of a wildlife effects monitoring program.
7 Any wildlife effects monitoring program should include
8 a clear monitoring program, appropriate resources for
9 party participation and review, and agreed upon
10 reporting and approval mechanism, and, finally, a
11 dispute resolution system that is efficient and
12 timely.

13 Wildlife effects monitoring program
14 development and implementation should be based upon
15 best practices from existing mines in the Akaitcho
16 territory.

17 Recommended measure number 2: The
18 Proponent must be required to develop the wildlife
19 effects monitoring program collaboratively with the
20 Aboriginal parties.

21 Initial work on the development of the
22 wildlife effects monitoring program should commence in
23 advance of any regulatory authorization and be
24 completed in partnership with the Aboriginal parties.

25 Such a measure is required as the Land

1 and Water Board has been explicit in stating that
2 requiring a wildlife effect monitoring program is
3 outside of the scope of the current permits and
4 licences it is authorized to issue. A wildlife
5 effects monitoring program without an enabling measure
6 is, therefore, unenforceable.

7 In regards to monitoring of air
8 quality, the Akaitcho Dene First Nations require the
9 collaborative development of an air quality management
10 plan. Air quality management plan development and
11 implementation should also be based upon best
12 practices from existing mines in the Akaitcho
13 territory.

14 The parties, boards, and regulators
15 lack any legislative authority to enforce air quality
16 measures. This gives a proponent complete freedom to
17 emit any level of pollution up until they are
18 releasing acutely toxic emissions, and this is not
19 acceptable.

20 Recommended measure number 3: The
21 Proponent must be required to collaboratively design
22 an air quality management plan, including regular
23 post-commissioning stack testing, with the Aboriginal
24 parties. Part of this plan should be a local sediment
25 sampling program to establish current levels of

1 persistent pollutants.

2 Traditional knowledge. The Akaitcho
3 Dene First Nations wish to ensure that their valuable
4 traditional knowledge with respect to the Thor Lake
5 region in forms best design, management and monitoring
6 practices.

7 Recommended measure number 4: The
8 Proponent must be required to demonstrate in a
9 detailed, structured manner how it will secure
10 relevant traditional knowledge and use it to adapt the
11 design and management of the project.

12 Aboriginal party participation and
13 environmental monitoring and management. The Akaitcho
14 Dene First Nations have a responsibility to monitor
15 and manage the lands and resources in their
16 traditional territories. At the other mines across
17 the Akaitcho territory, agencies and/or forums and/or
18 processes have been developed to promote and ensure
19 Aboriginal party participation in project-specific
20 environmental monitoring and management.

21 Recommended measure number 5: The
22 Proponent must be required to work collaboratively
23 with the Akaitcho Dene First Nations to develop and
24 implement a robust approach to meaningfully involving
25 the First Nations in the environmental stewardship of

1 the project. Such an approach must include provisions
2 for data gathering and reporting, feedback and
3 communications, securing expertise and fostering
4 capacity, and informing adaptive management.

5 This approach should be based upon best
6 practices at other mine projects in the Akaitcho tor -
7 - territory and also upon best practices
8 internationally. In this specific instance, given the
9 radioactive nature of the tailings, strict,
10 independent auditing must be imposed in order to
11 prevent environmental damage.

12 Regarding closure. The lack of combon
13 - component-based closure objectives and criteria make
14 it difficult to know what the Proponent's ultimate
15 vision for the site is.

16 Recommended measure number 6: The
17 Proponent must be required to develop a closure and
18 reclamation plan collaboratively with the Aboriginal
19 parties for the project. This plan should include
20 immediate development of a component-based closure
21 objectives delineated within a specific time frame.

22 And that's the end of my presentation.
23 Thank you.

24 THE CHAIRPERSON: Okay, thank you for
25 your presentation, Akaitcho Treaty 8 Tribal

1 Corporation.

2 We're going to go through the list of
3 order again for speaking. The list I've got is
4 Aboriginal Affairs and Northern Development Canada.

5 Any questions to the Akaitcho Treaty 8
6 Tribal Corporation on their presentation?

7

8 QUESTION PERIOD:

9 MS. VELMA STERENBERG: Aboriginal
10 Affairs has no questions at this time. Velma
11 Sterenberg, Minerals, AANDC.

12 THE CHAIRPERSON: I was going to get
13 you to repeat your question, but you put the mic down.

14 MS. VELMA STERENBERG: No questions.

15 THE CHAIRPERSON: Blachford Lake
16 Lodge...?

17 Deninu Kue First Nation...?

18 Environment Canada...?

19 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey
20 McMillan with Environment Canada. We have no
21 questions. Thank you.

22 THE CHAIRPERSON: Thank you.
23 Fisheries and Oceans Canada...?

24 Fort Resolution Metis Council...?

25 Government of Northwest Territories...?

1

2

(BRIEF PAUSE)

3

4

MS. KIMBERLY BALSILLIE: Kimberly

5

Balsillie with GNWT. No comments, nothing.

6

THE CHAIRPERSON: Thank you.

7

K'atl'odeeche...?

8

Lutsel K'e Dene First Nation...?

9

You've got to have some questions.

10

MR. MICHAEL TOLLIS: I'm Mike Tollis,

11

Lutsel K'e Dene First Nation. Could you expand on

12

what you think an oversight board would look like?

13

THE CHAIRPERSON: Okay. Thank you.

14

Akaiitcho Treaty 8 Tribal Corporation...?

15

MS. STEPHEN ELLIS: Steve Ellis here

16

with the Treaty 8 Tribal Corporation.

17

I'd like to expand more than I am

18

today, and we -- we sat before you about -- just

19

before Christmas actually, speaking about the Gahcho

20

Kue project, and the Avalon project has the fortune or

21

misfortune to come about six (6) weeks after that.

22

So we sort of spent ourselves on Gahcho

23

Kue, thinking about oversight for that, so we don't

24

have a concrete idea of what that might look like for

25

Avalon. And, frankly, we haven't had any real

1 conversations with Avalon about that.

2 But I would say that there are examples
3 and best practices of how that's been done for the
4 other existing and proposed mines in the Akaitcho
5 territory. We have sort of an agency model for the
6 BHP Billiton mine. We've got more community-based
7 committee agency models for the other two (2) diamond
8 mines, and we've got more of a collaborative party
9 forum for the Gahcho Kue mine.

10 I think that our thinking would be
11 leaning towards something along the lines of the
12 Gahcho Kue model where the parties come together.
13 It's fairly lean and efficient, but there is an
14 opportunity for the Aboriginal parties to work
15 directly with the Proponent to contribute to the
16 design of environmental management plans and
17 the subsequent monitoring programs that come out of
18 that.

19 I think the specific tweak here is that
20 there is a concern, certainly at the Akaitcho Dene
21 First Nation level, with regards to potential
22 radioactivity, specifically with regards to thorium.
23 And I think there's enough uncertainty that's been
24 introduced during these proceedings to indicate that,
25 at the very least, we shouldn't dismiss outright the

1 potential for thorium issues.

2 Therefore, the idea of having some sort
3 of auditing to ensure that thorium levels do not
4 exceed any thresholds may be something we want to
5 consider in this arrangement. Thanks.

6 THE CHAIRPERSON: Thank you. Lutsel
7 K'e Dene First Nation...?

8 MR. MICHAEL TOLLIS: Mike Tollis,
9 Lutsel K'e Dene First Nation. I have no further
10 questions. Thank you to the Tribal Corporation for
11 their presentation.

12 THE CHAIRPERSON: You're allowed five
13 (5). Okay. Thank you. North Slave Metis
14 Alliance...?

15 MR. ERIC BINION: Thank you, Mr.
16 Chair. North Slave Metis Alliance. It's Eric Binion
17 speaking.

18 I guess I had the same question as
19 Mike, but I just want to clarify with your -- with --
20 clarification with -- of language there for measure
21 number 5, you wrote "independent auditing." That's
22 the same, sort of, as the independent oversight which
23 you were just discussing.

24 Is that correct?

25 THE CHAIRPERSON: Thank you. Akaitcho

1 Treaty 8 Tribal Corp....?

2 MR. STEPHEN ELLIS: That's correct,
3 and to be clear, I don't think what we're
4 contemplating here -- and that's all it is right now
5 is contemplation, because, again, we haven't had
6 robust discussions about it. But we're not
7 contemplating some sort of board or entity that is
8 arm's length from any party.

9 I think what we're talking about here
10 is specifically with regards to independent oversight.
11 It's specifically with regards to thorium and
12 potential radioactive issues.

13 THE CHAIRPERSON: Okay. Thank you.
14 North Slave Metis Alliance...?

15 MR. ERIC BINION: Thank you. North
16 Slave Metis Alliance. It's Eric Binion. No further
17 questions.

18 THE CHAIRPERSON: Thank you.
19 Northwest Territories Metis Nation...?

20 Tlicho Government...?

21 Transport Canada...?

22 Yellowknives Dene First Nation...?

23 MR. TODD SLACK: Todd Slack. We don't
24 have any questions.

25 THE CHAIRPERSON: You're allowed five

1 (5).

2 MR. TODD SLACK: I'll take the other
3 four (4) from Lutsel K'e.

4 THE CHAIRPERSON: Okay. Thank you.
5 I'll go to Avalon.

6 MR. DAVID SWISHER: David Swisher with
7 Avalon. Thanks, Stephanie and Stephen, for their
8 presentation. We have no questions.

9 THE CHAIRPERSON: Thank you. Before I
10 go to legal counsel and staff, I just wanted to
11 recognize Jay Karan (phonetic) in the back room from
12 the NWT Metis Nation, young -- young Elder.

13 Okay. I'm going to go to our legal
14 counsel and staff.

15 MR. JOHN DONIHEE: Thank you, Mr.
16 Chairman. John Donihee. I have no questions, and
17 there are no questions from staff.

18 THE CHAIRPERSON: Okay, thank you.
19 I'll go to my far right, John Curran, Board member.

20 MR. JOHN CURRAN: Thank you, Mr.
21 Chairman. No questions at this time.

22 THE CHAIRPERSON: Okay, thank you.
23 Board member, Sunny Munroe...?

24 MS. SUNNY MUNROE: Thank you, Mr.
25 Chairman. Thank you both for your presentation. I

1 have no questions.

2 THE CHAIRPERSON: Board member,
3 Richard Mercredi...?

4 MR. RICHARD MERCREDI: Yeah, thank you
5 for your presentation. No questions.

6 THE CHAIRPERSON: Thank you. Board
7 member, James Wah-shee...?

8 MR. JAMES WAH-SHEE: Thank you for
9 your presentation. I have no questions. Your
10 presentation was pretty straightforward. It seems
11 like very little questions was re -- required. Thank
12 you.

13 THE CHAIRPERSON: Thank you. Board
14 member, Percy Hardisty...?

15 MR. PERCY HARDISTY: Masi, Mr. Chair.
16 I'd like to thank the people for their presentation;
17 very thorough, clear, concise, so forth. Thank you.
18 Masi.

19 THE CHAIRPERSON: Thank you. Board
20 member, Rachel Crapeau...?

21 MS. RACHEL CRAPEAU: Masi cho for your
22 presentation. It'd be interesting to hear what else
23 develops later on. Thank you. No questions.

24 THE CHAIRPERSON: Okay, thank you. I
25 also want to thank Steve Ellis and your delegation,

1 Stephanie, and the Elders that you all brought here in
2 the last few days. So I want to say masi to all the
3 Elders from Lutsel K'e that were here. Masi for your
4 presentation.

5 This concludes the agenda for day 3.
6 Tomorrow I believe our crew and staff are doing to be
7 heading over to Fort Resolution. Some of the staff
8 are leaving tomorrow, and we're leaving Saturday (sic)
9 morning, so we're probably going to -- I'm hoping to
10 see a lot of these parties that are on my list here
11 probably in Fort Resolution as well just in case there
12 is some questions that need to be answered over there,
13 as well.

14 So we're to the point now we're on day
15 3. We're coming to the end of the agenda. I have a
16 question for Mr. Donihee. There's some questions or
17 closing statements for -- from Avalon. Did we want to
18 do that in that order?

19 MR. JOHN DONIHEE: Sir, my
20 understanding is that, you know, the parties have been
21 instructed about what I would call final submissions
22 or closing argument. And that timelines have been set
23 for that, as well as for the final reply by Avalon.
24 So the -- the reason that the agenda only allows for a
25 closing statement from Avalon is that everybody else

1 is going to get another chance anyway, and this is
2 just a way of, I guess, bringing this particular
3 portion, technical portion of the proceeding to a
4 close.

5 THE CHAIRPERSON: Thank you. I'm
6 going to turn it over to Avalon for your closing
7 statements.

8

9 CLOSING COMMENTS BY AVALON RARE METALS INC.:

10 MR. DAVID SWISHER: Thank you, Mr.
11 Chair. Thank you to the Board and the Board staff and
12 Mr. Donihee for conducting these presentations over
13 the last three (3) days. I think they've been
14 fruitful. And in the absence of dragging these three
15 (3) days on, I'll be very brief.

16 I want to thank all of our Aboriginal
17 partners, as well as the opportunity to be here in
18 Chief Drygeese Territory. We want to thank all of the
19 Intervenors. And -- and also I want to thank the
20 Avalon support that we've gotten through our
21 consultants and our own staff internally.

22 So again, we look forward to the
23 hearings in Fort Resolution. And we look forward to
24 supporting the Board in any way we can for an
25 expedient process. Thank you.

1 THE CHAIRPERSON: Okay, thank you. So
2 this is -- comes to the end of day 3. And we're going
3 to close out with a closing prayer. I'm going to get
4 -- I'm going to ask Elder Judy Charlo if she could
5 come up to do the closing prayer. Yes.

6

7 (CLOSING PRAYER)

8

9 --- Upon adjourning at 3:23 p.m.

10

11

12

13 Certified Correct,

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17 _____

18 Lorraine Douglas, Ms.

19

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