



MACKENZIE VALLEY ENVIRONMENTAL

IMPACT AND REVIEW BOARD

GIANT MINE REMEDIATION PROJECT

ENVIRONMENTAL ASSESSMENT HEARING

EA 0809-001

Mackenzie Valley Review Board:

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HELD AT:

Tree of Peace

Yellowknife, NT

September 14, 2012

Day 5 of 5

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1	TABLE OF CONTENTS	
2		Page No.
3	List of Exhibits	9
4	List of Undertakings	10
5		
6	Discussion	11
7		
8	Continued Position Presentation by Alternatives	
9	North - Perpetual care, related risks and	
10	adaptive management	17
11		
12	Dr. Ian Gilchrist Comments	32
13		
14	Position Presentation by NSNA - Perpetual	
15	care, related risks and adaptive management	40
16		
17	Position Presentation by City of Yellowknife -	
18	Perpetual care, related risks and adaptive	
19	management	59
20	Question Period	65
21		
22	Position Presentation by NSMA -Perpetual care,	
23	related risks and adaptive management	68
24		
25	Question Period	73

1	TABLE OF CONTENTS (cont'd)	
2		Page No.
3	Presentation by Developer - Oversight, Consultation	
4	and long-term funding	106
5	Question Period	127
6		
7	Position Presentation by YKDFN - Oversight,	
8	Consultation and long-term funding	205
9		
10	Position Presentation by Alternatives North -	
11	Oversight, Consultation and long-term funding	228
12		
13	Question Period	242
14		
15	Position Presentation by Alternatives North and YKDFN -	
16	Oversight, Consultation and long-term funding	254
17		
18	Question Period	263
19		
20	Public Comments	277
21	Closing Comments by the Chairman	285
22		
23	Certificate of Transcript	291
24		
25		

1	LIST OF EXHIBITS		
2	EXHIBIT NO.	DESCRIPTION	PAGE NO.
3	8	February 19th, 2010 memo to	
4		Lisa Dyer from Health Canada	
5		with table attached	12
6	9	Three (3) documents consisting of	
7		answer to IR-10 from Alternatives	
8		North, a guideline produced by	
9		the NWT Water Board, and Water	
10		and Effluent Quality Management	
11		Policy produced by the Mackenzie	
12		Valley Land and Water Board	15
13	10	Technical memorandum from the	
14		Developer in response to Mr. Curran's	
15		question about the comparison between	
16		diffusers and mixing zones at various	
17		locations	274
18	11	Considerations Regarding	
19		Establishment of Environmental	
20		Monitoring Committee for the	
21		Giant Mine Remediation Project	285
22			
23			
24			
25			

1	LIST OF UNDERTAKINGS	
2	Number	Description Page No.
3	3	The Developer to provide the document
4		entitled Best Available Practical
5		Technology For Water Treatment For
6		The Giant Mine Remediation Project
7		by September 25, 2012 153
8	4	Developer to provide a broad
9		schedule of planning, engagement with
10		the parties, and design steps,
11		including tailings cover, on the
12		diffuser, on the freezing versus
13		wetting alternatives, and the
14		evaluation of the assessment of the
15		sediments in Baker Creek and the
16		resulting options for Baker Creek
17		on the remediation site, by
18		September 25, 2012 276
19		
20		
21		
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23		
24		
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1 --- Upon resuming at 8:03 a.m.

2

3 THE CHAIRPERSON: Thank you. Good
4 morning, good morning. Can we start? Good morning.
5 We said we were going to start at 8:00, so we're going
6 to get Board member Danny Bayha to do the opening
7 prayer.

8 MR. DANNY BAYHA: Good morning. I'll
9 say the Lord's Prayer so today to give us the wisdom,
10 the guidance to make the best decisions that we can to
11 move forward.

12

13 (OPENING PRAYER)

14

15 THE CHAIRPERSON: Good morning. I hope
16 everybody's fully rested. I still see some stragglers
17 coming in from -- anyway, this morning -- yesterday,
18 we didn't have an opportunity to finish off the
19 presentation, so this morning I want to go to YKDFN,
20 and they have twenty (20) minutes, North Slave Metis
21 has ten (10), and then we'll go to questions right
22 after that. And then we've got a -- a special -- okay.
23 Well, I guess we're still halfway in Mr. O'Reilly's
24 presentation this morning, so we'll -- we'll proceed
25 with that this morning.

1 MR. JOHN DONIHEE: Mr. Chairman...?

2 THE CHAIRPERSON: Sorry, Mr. Donihee.

3 MR. JOHN DONIHEE: If I might, sir,
4 could I have three (3) minutes to handle some
5 housekeeping items?

6 THE CHAIRPERSON: Please proceed.

7 MR. JOHN DONIHEE: I just wanted to go
8 through the list of materials that have been promised
9 and try to strike a few off the list.

10 Undertaking Number 2, which -- in which
11 the Developer indicated that they would review their
12 files and produce some materials that they had received
13 from Health Canada in relation to arsenic loadings,
14 that undertaking has been satisfied, and I have three
15 (3) documents provided to me by counsel for the
16 Developer which I'd like to file together as Exhibit
17 Number 8. I think it's 8. I'm sure the court reporter
18 will sort me out if I've got the wrong number.

19 So I'd -- I'd like to file that as
20 Exhibit Number 8. There's a February 19th, 2010 memo
21 to Lisa Dyer from Health Canada, and a table that --
22 that goes along with that. So that satisfies
23 Undertaking Number 2.

24

25 --- EXHIBIT NO. 8: February 19th, 2010 memo to

1 Lisa Dyer from Health
2 Canada with table attached

3

4 MR. JOHN DONIHEE: There were a number
5 of other things the Board asked be done, which didn't
6 result in undertakings at the time, but since it's
7 Friday morning and some of them haven't been done yet,
8 I think we should deal with them.

9 The first of them was a request of DFO
10 and Environment Canada to -- to indicate how they had
11 worked with Health Canada, and as well to, you know,
12 attempt to reach Health Canada and see whether they
13 couldn't provide some assistance to the Board.

14 That's been done as well, in part, with
15 assistance from the Developer and AANDC, so I think
16 that, as far as that issue relates to Environment
17 Canada and DFO, that it's been -- it's been satisfied
18 as well, Mr. Chairman.

19 There's one (1) outstanding -- there was
20 a question by Mr. O'Reilly about how many people work
21 at the water treatment plant now, and how much
22 employment will be provided through the water treatment
23 plant over the long term, and we were told there'd be
24 an answer to that by the end of the week from the
25 Developer.

1 If they don't have it, I wonder if they
2 will undertake to provide that within the next two (2)
3 weeks.

4 THE CHAIRPERSON: I'm going to the
5 Developer.

6 MR. ADRIAN PARADIS: Adrian Paradis on
7 behalf of the project, I'll ask Mike Nahir to speak.

8 MR. MIKE NAHIR: Hi. Thank you, Mr.
9 Chair. Mike Nahir. The answer is four (4),
10 specifically on water treatment, just to be clear. For
11 now and into the future. Thank you.

12 MR. JOHN DONIHEE: Excuse me. That --
13 that's for now and in the future?

14 MR. MIKE NAHIR: Yeah. Okay. So just
15 to be clear, currently there is four (4) staff employed
16 seasonally between four (4) and six (6) months,
17 depending on the requirement at the site. The -- the
18 plan or -- and what was stated in the DAR was full-time
19 employment for four (4) people for twelve (12) months
20 of the year. Thank you, Mr. Chair.

21 THE CHAIRPERSON: Mr. Donihee...?

22 MR. JOHN DONIHEE: Thank you, Mr.
23 Chairman. There was another question by Mr. O'Reilly
24 about diffusers, ice thickness, best available
25 technologies on water treatment -- it was a rather

1 broad-ranging sort of question -- and guidelines
2 related to the design of diffusers in the NWT, et
3 cetera.

4 And I've -- I've had three (3) documents
5 provided to me by the Developer's counsel in response
6 to that request, and I'd like to have them filed as
7 Exhibit 9.

8 They consist of an answer to an
9 Information Request from Alternatives North, it's IR
10 Number 10, and two (2) -- a guideline produced by the
11 NWT Water Board, and the Water and Effluent Quality
12 Management Policy produced by the Mackenzie Valley Land
13 and Water Board.

14 So I realize that these are publicly
15 available, but I'd like to have them filed as -- as
16 Exhibit 9 -- 8. Sorry, I'm losing track. Thank you.

17

18	--- EXHIBIT NO. 9:	Three (3) documents
19		consisting of answer to IR-
20		10 from Alternatives North,
21		a guideline produced by the
22		NWT Water Board, and Water
23		and Effluent Quality
24		Management Policy produced
25		by the Mackenzie Valley

1 Land and Water Board

2

3 MR. JOHN DONIHEE: The last question on
4 the list that I've been keeping related to a question
5 by Mr. Curran and it had to do with relative sizes of
6 mixing zones at -- at sites that were referred to in an
7 answer to a question asked by -- asked to Mr. Hull.
8 And that -- that's the only other issue that sort of
9 remains outstanding.

10 And I guess if -- the question seemed to
11 be, you know, whether the zones that Mr. Hull was
12 talking about, how do they compare to the size of the
13 mixing zone which proposed for the Developer for the
14 actual diffuser.

15 And I'm wondering whether there has been
16 any progress on that one.

17 THE CHAIRPERSON: Thank you. I'm
18 going to go to the Developer.

19 MR. MICHAEL NAHIR: Thank you, Mr.
20 Chair. We, at the time, committed to being able to
21 deliver that by noon today and we can honour that
22 commitment. Thank you, Mr. Chair.

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

25 MR. JOHN DONIHEE: Thank you, Mr.

1 Chairman. Those are all the items I had.

2 MR. JOHN CURRAN: Mr. Chairman...?

3 THE CHAIRPERSON: Yeah.

4 MR. JOHN CURRAN: When I heard my
5 question there I -- could you repeat it again, Mr.
6 Donihee, I'm not sure it quite captured what I'd asked,
7 but...

8 THE CHAIRPERSON: Mr. Donihee...?

9 MR. JOHN DONIHEE: Yes -- Yes, sir.
10 John Donihee. What I wrote down was that you asked
11 that before the closing of the -- of the week, you
12 asked about the relative sizes of mixing zones at sites
13 described in an answer by Mr. Hull to one of your
14 earlier questions. And -- and how they compared to the
15 size of the mixing zone that is actually proposed for
16 the diffuser as set out in the DAR.

17 THE CHAIRPERSON: Thank you, Mr.
18 Donihee. Mr. Curran...?

19 MR. JOHN CURRAN: Yeah, I just didn't
20 hear the word "relative" there. So, yeah, just --
21 thanks.

22 THE CHAIRPERSON: Okay. Thank you.
23 We'll continue on this morning. Mr. O'Reilly has a
24 presentation, then the North Slave Metis. And then I
25 want to take one (1) guest speaker from the public to

1 come up and speak. And we'll -- once we've done that
2 then we'll go back into the rotation for today.

3 Mr. O'Reilly...?

4

5 CONTINUED PRESENTATION BY ALTERNATIVES NORTH -
6 PERPETUAL CARE, RELATED RISKS AND ADAPTIVE MANAGEMENT:

7 MR. KEVIN O'REILLY: Thanks, Mr. Chair.

8 Kevin O'Reilly with Alternatives North. Perhaps we
9 could just have the lights down a little bit so we
10 could see the presentation. Great, thanks.

11 Mr. Chair, I just want to put this
12 presentation into a little bit of context. It was
13 submitted on August the 22nd before the Developer had
14 prepared and submitted its presentation. So I'll try
15 to update a little bit of progress that we may have
16 made since then.

17 So it's about perpetual care. This is
18 what I'd like to try to go over today. I want to talk
19 a little bit about what we believe are some of the best
20 practices, what the position of the Developer is and
21 some of the commitments that they've made, and I'd like
22 to draw some conclusions for you as well.

23 So, there was a couple of key lines of
24 inquiry for this Environmental Assessment and they
25 included containment of the arsenic trioxide basically

1 forever, and also questions relating to the monitoring
2 and maintenance activities at Giant Mine after the
3 active freezing stage.

4 So, clearly, this -- this idea of
5 perpetual care is -- is central to what you -- you
6 folks are doing as the Review Board. I want to make it
7 clear that -- that we recognize that no matter what we
8 do with the mine site, that some level of perpetual
9 care is going to be required to at least treat the
10 water, and so on, for a good number of years.

11 But I want to -- you know, I -- I've
12 been working on this for twenty (20) years wearing a
13 variety of different kinds of hats and so on. But I
14 can tell you that it -- I was at the same workshops
15 that Daryl was at and this issue of perpetual care,
16 setting up a system that we -- where we have to take
17 active care and management of this site forever, it was
18 raised as a major theme and a concern even back when we
19 were reviewing the alternatives, back in 2003 and '05,
20 even before that.

21 There's some key questions that I think
22 you folks, as the Review Board, need to -- or, we would
23 like you to try to think about. And I think you've
24 heard these things as well.

25 So do the selective remediation options

1 minimize or reduce the perpetual care requirements for
2 this project? Has the Developer adopted best practices
3 and lessons learned from other perpetual care sites and
4 situation? And is there a plan for perpetual care?
5 After putting this stuff together for eight (8) years,
6 four (4) years into an environmental assessment, where
7 are we at with these -- these sort of questions?

8 I'm sorry, this isn't a great slide, but
9 this is a table from our report, and I -- I need to
10 take a few minutes to just sort of walk you through
11 this slide. And I think it's important that I do that,
12 because the Developer's told you several times now that
13 they have minimized the perpetual care requirements, at
14 least -- I -- I'm not trying to put words in their
15 mouth, but I think that's what they've said, and I
16 guess we respectfully disagree with that.

17 So in this table here, in the first
18 column here, this -- these are the different parts of
19 the mine. In the second column here, this is, I think,
20 generally what they've proposed to do, and the
21 engineers might get a little bit excited at my attempt
22 to try to simplify some of this stuff, but this last
23 column, I think, is where we might and should be going
24 if we were really looking at minimizing perpetual care
25 requirements.

1 And, once again, this is a gross
2 simplification. I'm not a technical guy, but I think
3 we've heard some of these concerns at the hearing, so I
4 just want to walk you through this a bit.

5 So in terms of the arsenic storage or
6 the chambers underground, basically, the -- the plan is
7 to freeze the stuff in place forever. But if we were
8 to sort of look at how we might try to do this over the
9 long term, we've heard people say, and particularly the
10 Yellowknives, Take the stuff up above ground and
11 process it, get it out of here somehow.

12 So we -- that's the -- the long-term
13 objective, I think, for -- for everybody, maybe even
14 the Developer. They've said, If something better comes
15 along, we'll look at that, and maybe even do it.

16 So for the tailings that are on the
17 surface, what the proposal is, is to drain them, grade
18 them, you know, put graders out there, make them
19 flatter, put some channels in, and then cover them.
20 But that really requires that we maintain that cover
21 forever and monitor it, manage it, and so on.

22 Maybe a better idea is to use some of
23 those tailings and use them to fill up some of the --
24 the empty space underground. And I think the Developer
25 is heading in that direction. There's a lot of

1 tailings on surface. Maybe it all wouldn't go
2 underground, but are there ways that we can use some of
3 those tailings, mix them with some cement, put them
4 back underground to stabilize some of the -- the voids
5 underground?

6 Baker Creek. The proposal is to, you
7 know, channel that, make sure that it's not going to
8 overtop in the short term. The long term, we're a
9 little bit fuzzier on that. We're not -- but the
10 proposal -- the developer said, Don't -- we're not
11 going to look at diverting it away from the site. But
12 maybe that's something we should be looking at more
13 seriously is diverting this away from the site. I know
14 there's tradeoffs involved, but it would reduce the
15 potential for Baker Creek to perhaps melt or thaw out
16 those frozen blocks into the future.

17 On the open pits, the idea is basically
18 to fence and berm them, put a sort of a barrier around
19 the outside, put signs up, 'Do not go in there,' and so
20 on. But you need to maintain those fences, the berms
21 forever. Maybe it's a better idea to actually backfill
22 the pits, or let water fill in. If the water's going
23 to be safe, let them fill with water over the long
24 term.

25 Water treatment. We're going to have a

1 new water treatment plant, and the idea is to put the
2 water into Back Bay. Well, I think, you know, maybe we
3 should be looking at trying to reduce the water
4 treatment requirements. This is a -- a simplification
5 again. Maybe there's some biological in situ treatment
6 options or removing the sources of some of the arsenic
7 underground or whatever containing it which is what the
8 frozen block is designed to do.

9 But maybe there's some other options
10 that we can look at to minimize perpetual care
11 requirements. One (1) of them that we heard from the
12 City was maybe design a better plant so that you're
13 putting water into the -- into Back Bay that's the same
14 as the background levels.

15 So for buildings and infrastructure,
16 basically, the idea is to demolish the buildings. Any
17 toxic stuff is going to be frozen in -- underground,
18 say for the roaster complex, or as backfill in one (1)
19 of the pits, or landfill as non-hazardous stuff at
20 site.

21 We should be maybe looking at trying to
22 recycle and reprocess all of that toxic material as
23 best as we can so that there's not much or virtually
24 nothing left at the site. Just an idea.

25 Contaminated soils. The idea is to

1 basically excavate and landfill the soils that are at
2 site that are contaminated. Maybe there's a way to
3 remove and retreat those in some way to reduce and
4 eliminate the maintenance and monitoring that's going
5 to be required.

6 So why I sort of walked you through this
7 is, I think what we're -- what we've really got before
8 us is not a perpetual care -- or sorry, not a
9 remediation plan. What we've really got is a
10 stabilization plan. This is not a remediation plan;
11 it's a stabilization plan.

12 It's about managing risks, and when I --
13 when we've heard about the objectives of the plan from
14 the Developer, I think it's clear that they don't
15 really reflect the needs or wants of this community.
16 Whether it's folks uptown, people in Dettah and N'Dilo,
17 the community -- the -- the objectives of this plan do
18 not reflect our needs.

19 So if we're going to do this right, I
20 think it's clear to me now this is going to cost more
21 money, a lot more money, to do this right. And I think
22 what you've heard from people is that there's a
23 tremendous amount of fear that this all we're going to
24 get is in this column. This is all we're going to get
25 out of this process is doing this rather than heading

1 towards this.

2 So there's a tremendous amount of fear
3 that, as many commitments and so on as the Developer
4 has made, it -- this is -- it's not a remediation plan,
5 it's a stabilization plan. And, unfortunately, you
6 folks are sort of put in the position of being the
7 gatekeeper here in some way to try to move this along
8 or -- are we going to go from -- are we going to move
9 from here to something like this, or -- I -- I just
10 don't know at this point, but -- and -- so you've got a
11 lot of responsibility.

12 I think I have some ideas later that I
13 want to talk about, about how we can move from this to
14 something more like this in terms of moving this from a
15 -- a stabilization plan to a remediation plan, but I
16 want to move on with the presentation. Thanks.

17 So I want to shift focus again back to
18 perpetual care. This is something that's -- that we've
19 -- been near and dear to our hearts. We have had three
20 (3) independent papers prepared for you on this topic,
21 and we had a workshop with the Yellowknives Dene First
22 Nation in Dettah in September of last year. And I
23 think it's fair to say that our understanding and
24 knowledge and so on of this is -- has been growing, and
25 I think we've heard the same thing from the Developer

1 as well.

2 So these are the sorts of things that
3 proper -- if the -- the solution is to do perpe -- or
4 to have a -- freeze the stuff forever, we need to have
5 a proper perpetual care planning system and management
6 in -- in place, and it includes things like the record
7 management, land use control, site designation, long-
8 term funding - which I'm sure we're going to talk about
9 more today - communicating with future generations,
10 transitioning to -- from active remediation to
11 perpetual care, scenario building and planning, and --
12 and a plan to do all of this.

13 So what I want to do is walk you
14 through, hopefully quickly, what we feel are some of
15 the best practices in some of these areas from the
16 material that Joan looked at and some of the additional
17 material we've found and filed on your registry.

18 So when it comes to record management
19 and preservation, we think the Hanford site in -- in
20 the United States, they've done a good job. All the
21 records that -- that were in government files and
22 archives, they've been disclosed. Most of those are
23 actually available online for people to look at.

24 In France, what they decided to do is
25 they're going to save all the records for sites,

1 nuclear waste sites, put them on a special kind of
2 paper that lasts for hundreds of years, and keep two
3 (2) copies, one (1) at the site, one (1) in their
4 national archives, and they make summaries that go all
5 across the country.

6 So for -- for Giant Mine, we don't have
7 a detailed inventory of records. I asked for one, and
8 they don't seem to have one. We've heard that they may
9 deposit the records at the National Library -- or,
10 sorry, the Archives in Ottawa, but we've got an
11 Archives here in Yellowknife. Maybe some of these
12 records should be with the Yellowknives Dene First
13 Nation office in -- in Dettah and Dhilo. But the --
14 and they talk about developing a long-term plan for
15 these records, but we're not there yet.

16 So on site designation and land use
17 controls. I think we heard a little bit from Karen
18 yesterday about this, sorry. The Hanford site has an
19 interpretive centre there where they've -- people can
20 go and visit and understand the story of what happened
21 there.

22 Superfund sites in the United States
23 have well developed control programs for their sites
24 and who's going to take care of them into the future,
25 and so on, and what kind of land use controls there

1 are. For -- for Giant, we've really just got no plans,
2 some vague commitments to discuss this with the City
3 and others and no analysis of the tools or options that
4 might be available.

5 Long-term funding. Well, we're going to
6 talk a lot more about this, I think, today, but in
7 Hanford and some of the other sites in the United
8 States they've actually set up special trust funds to
9 manage these sites into the future, sort of outside of
10 the normal stream of government revenues. And we have
11 a report from the Pembina Institute that's been filed
12 with you and we have a presenter that will talk more
13 about that today.

14 For the Giant Mine the government said
15 we have a regular funding system, it's reliable, a
16 proven track record, they might look at other options
17 before they get into the long-term stuff. But they --
18 they didn't even respond to the report that we filed
19 with the -- from the Pembina Institute on what these
20 options for Giant could start to look like.

21 Communicating with future generations.
22 At Hanford I mentioned how they have an interpretive
23 centre. Joan talked to you on Monday about this
24 Western Isolation Pilot Project in the US where they're
25 looking at site markers and symbols. They've done a

1 lot of thinking and work around that. And I -- you --
2 I think some of you folks have seen this film about
3 nuclear waste management in Finland and how people are
4 struggling with how do you actually communicate this
5 stuff with future generations.

6 So from -- from the Developer here, we
7 don't really have any plans for signage that I know of,
8 monuments or symbols at the site. And what -- what
9 should we be trying to tell people about this? We've
10 got a vague commitment, again, to talk about this with
11 an advisory group.

12 Transition plan. How do we -- you know,
13 once the active stuff is done and it goes into a
14 perpetual care phase, is there a plan for how that's
15 going to transition? With Superfund sites they do that
16 in the United States. Hanford, they did a very good
17 job. There's actually a plan that we filed with you on
18 the Public Registry about moving that site from active
19 remediation to long-term stewardship. For this
20 project, we don't have a plan. There's a -- again, a
21 vague commitment to discuss with the stakeholders.

22 So scenario building and planning. The
23 waste isolation pilot project in the US, they've done
24 some really interesting work around multi-stakeholder
25 panels to develop scenarios and modelling. France,

1 they had a national debate about what to do with
2 nuclear waste where reversibility emerged as the big
3 theme, and they've actually enshrined that in
4 legislation now.

5 Other sites in the US -- or sorry, in
6 Canada around nuclear waste, they're looking at things
7 like glaciation and shoreline change. This project --
8 maybe I misunderstand this, but the Risk Assessment has
9 really been limited to a hundred year time frame that
10 goes on and on. But some of those bigger events far
11 off into the future maybe glaciation shoreline change,
12 no central government. I'm not sure that they were
13 actually well considered in the -- in the risk
14 assessment work to date.

15 Comprehensive Perpetual Care Plan.
16 There is some -- one for the Hanford site, it's that
17 stewardship plan I talked about. In France, I
18 mentioned the big debate they had and how they've
19 enshrined reversibility into legislation there. So the
20 Developer's position on this was, Well, we can -- we're
21 going to talk about this further. They've committed to
22 prepare one now, which is -- that's good progress, but
23 it's still a vague commitment and we're not really
24 convinced that they've learned a lot of lessons from
25 the other sites and situations where we can learn a lot

1 from these things.

2 So I want to draw for you a few
3 conclusions, if I may. And -- so it's our view that
4 the -- the Developer's commitments and lessons learned
5 and so on, on perpetual par -- perpetual care really
6 fall far short of what we think as best practices and
7 lessons learned from other sites and that there's still
8 a lot of significant public concern around these
9 matters.

10 And I -- I mentioned earlier how this is
11 really a stabilization plan, it's not really a
12 remediation plan. And I -- but I think there are ways
13 for us to continue to work together on this. But I
14 think the -- the folks at the good -- the good people
15 with government that have put this plan together have
16 sort of boxed themselves in.

17 They've gone forward with a plan that
18 doesn't really reflect the needs and desires of the
19 community and that's what they got approval from --
20 from Treasury Board to -- and -- and other senior
21 decision makers in moving forward. So that's all the
22 mandate and the scope they have to work with and we're
23 sort of boxed in at this point. And it's -- it's as
24 difficult thing for us because it's not the plan that I
25 think people want.

1 But if we're going to move forward
2 together in a real partnership, these folks have to be
3 willing to give up some control and I think that's what
4 this is about. To build a real partnership we -- they
5 have to give up some control and it's going to require
6 an agreement where we all work together. And I -- but
7 I want to end it, sort of, there, but -- and I -- but I
8 want to talk about, I think, what some of the steps
9 moving forward are, but that will be -- sorry, in the
10 next presentation.

11 The last slide I have is this is -- we -
12 - we recommended that a perpetual care plan be
13 developed and that it be a binding measure, not just a
14 commitment from the Developer. The de -- the Developer
15 said, Well, we're willing to talk more about that. But
16 we still stand by that recommendation and we hope that
17 you'll make a binding measure. Thank you very much.

18 THE CHAIRPERSON: Thank you, Mr.
19 O'Reilly. I'm going to hold off on the questions. I
20 want -- what I want to do is invite up a special guest.
21 And after we're done with the comments from the special
22 guest, I'm going to go to YKDFN where they agreed to do
23 their presentation in twenty (20) minutes, and I have
24 the North Slave Metis for ten (10). So we're going to
25 proceed with that.

1 But before we do that I want to -- I'd
2 like to -- last night, as you recall, we had members
3 that had an opportunity to come up and speak. And so
4 at the door we had a sign-up sheet and -- but it was a
5 little bit too late. So this morning we have a special
6 guest here from the audience, Dr. Ian Gilchrist,
7 indicating that he would be prepared to make a few
8 comments this morning and the Board would like to hear
9 from him as well.

10 So he's here, and he's a resident of
11 Yellowknife and a member of the public. Dr. Gilchrist
12 was a long time member of the NWT Water Board and
13 served as the Chief Medical Officer of Health for the
14 Northwest Territories before he retired. So I'd like
15 to welcome the special guest.

16 Dr. Gilchrist, can you please come up to
17 the podium.

18

19 DR. IAN GILCHRIST COMMENTS:

20 DR. IAN GILCHRIST: Good morning and
21 thank you very much. I want to thank the Board for
22 providing these five (5) days of very intense and very
23 important meetings with good people and experts of all
24 kinds on a really difficult problem. And everybody is
25 now tired from the hard work of this week. And I want

1 to just offer a very thoughts and questions.

2 And the first thought that -- the first
3 question that I had that came to me was that I note
4 that this is called the Giant Mine Remediation Project
5 that we're talking about. And I would ask the panel of
6 Developers, each one to themselves, what do you think
7 is your role? Why are you doing what you do?

8 And I would -- before you think that
9 through yourselves, I would hope, very much hope, that
10 you would say, each of you from your various
11 specialities, that your answer is to help make sure
12 that people and the living things around them are kept
13 safe and healthy from the risky material that we call
14 arsenic.

15 But from what I've heard and read, I
16 have the sense that maybe the thinking is not all the
17 way there. One of the early statements I heard from
18 the Developers was that, Our responsibility is to
19 remediate. But then when the plan is given in more
20 detail, it sounds like the goal rather ends with clean
21 fish, clean air, water, soils, et cetera, and doesn't
22 quite reach to the people themselves.

23 So my question is this: Is it not
24 important, along with all the monitoring of those other
25 things, to actually look at people whose lives are

1 spent in this place where there is arsenic?

2 There has been criticisms about Health
3 Canada is not represented here. And I wonder too about
4 GNWT Health and Social Services who have the doctors,
5 the nurses, the clinics, et cetera, who actually look
6 after most people, but who may them -- not themselves
7 be very aware about arsenic and what arsenic can do to
8 people's health. But surely what this means is that
9 the Developer's team is really incomplete.

10 After all, if the responsibility is to
11 remediate and make things better, surely you need to
12 know what kind of remediation people need. After all,
13 peoples -- people as old as I am, who have lived here
14 all their lives living with arsenic, and yet it's about
15 forty (40) years since the Canadian Public Health
16 Association was called in to look at how people's
17 health might be being affected.

18 And arsenic is sneaky stuff. For a few
19 hundred years people knew that you could pop off your
20 enemies by getting a good strong dose of arsenic into
21 them. But until just about twenty-five (25) years ago
22 everybody thought that just a little bit was okay. We
23 used to make our playgrounds with arsenic woods --
24 arsenated woods and all kinds of other things until it
25 suddenly became clear that small amounts building up in

1 people's bodies over time were not so good at all.

2 And more recently, the world has seen in
3 Bangladesh that authorities with the very best
4 intentions and very good people, very bright experts,
5 had actually made many people sicker with arsenic. So
6 I think that just guessing how arsenic might affect
7 people here by monitoring the food, water, et cetera
8 doesn't quite go far enough.

9 The amount of arsenic that will have
10 gotten into people's bodies over the past eighty (80)
11 years will have certainly gone up and down and it's
12 probably going down now. But remember that we are told
13 that the people in this community will have the risk
14 forever.

15 There is a need to look back at people's
16 health. There is a need to look forward and do some
17 projections about people's health. And if in your
18 system of monitoring you are looking at everything else
19 except the final goal, people's health, then it seems
20 to me that it fails.

21 And we've heard lots of things about ISO
22 and studies out of the University of McGill and
23 reflections on studies done around the world about
24 arsenic and this is all good. But it's also true that
25 arsenic exists in many forms, people exist in many

1 forms, environments are different from place to place,
2 and everything falls on a bell curve.

3 So by using averages and standards from
4 elsewhere without looking at who we are here, who the
5 people are, who the people have been, what the people's
6 health is like, it seems to me that you really are not
7 able to achieve the final objective which is people's
8 health.

9 I noticed that we talk a lot. And the
10 Board is usually -- the screen is usually saying
11 "perpetual care." And it sounds to me like this is a
12 good thing, the perpetual care of the Giant site. I
13 would suggest that that title, that topic, needs to be
14 accompanied by another one which is: Perpetual caring,
15 perpetual caring for the people. And I think it leads
16 you to go beyond some of the very physical, technical
17 stuff that we have seen here.

18 And I think that the Board perhaps would
19 be wanting to encourage the Developers to consider
20 maybe these aspects of this problem that I think are
21 most fundamental. Thank you.

22 THE CHAIRPERSON: I'm want to thank
23 Dr. Gilchrist for that. Actually it's an eye opener
24 for this morning, Friday morning. Your words are very
25 powerful and strong and spoken like a wise Elder in our

1 community and I want to say Masi to you.

2 And I believe one (1) of my staff have a
3 quick comment and then I'm going to go back into
4 presentation.

5 MR. ALAN EHRLICH: Thank you, Mr.
6 Chair. And thank you very much, Dr. Gilchrist. I just
7 want to be clear that Dr. Gilchrist attended this
8 session as a member of the public and has spoken as a
9 member of the public. He is not an internal or
10 external advisor to the Board or any other parties. So
11 I wanted to make sure that the context of that
12 statement was important.

13 However, unlike other members of the
14 public, he's the former -- former Chief Medical
15 Officer, has extensive familiarity with epidemiology
16 and an in-depth direct knowledge of arsenic issues in
17 Yellowknife. So because some of his statement was
18 technical, we -- when the Board is trying to figure out
19 how to weigh this, it would be extremely helpful if Dr.
20 Gilchrist could put a CV or something like that on our
21 -- our Public record because he was speaking partly
22 from the position of his area of expertise. And, as I
23 said, we -- we didn't plan that on the way in.

24 Mr. Chair, through you, may I ask if --
25 if Dr. Gilchrist would be willing to put some kind of a

1 CV or resume on the Registry?

2 THE CHAIRPERSON: Thank you. Dr.

3 Gilchrist...?

4 DR. IAN GILCHRIST: Yes, of course.

5 THE CHAIRPERSON: For the record, he
6 said, yes.

7 MR. ALAN EHRLICH: Thank you very much,
8 Dr. Gilchrist. And thank you for the obvious time and
9 thought that you've put into the evidence that you've
10 given this Board.

11 THE CHAIRPERSON: Thank you. I'm
12 going to go to one (1) Board Member who had a quick
13 comment, then we'll go back to the presentation.

14 John Curran...?

15 MR. JOHN CURRAN: Dr. Gilchrist, thank
16 you very much again for -- for sharing your
17 experiences, your knowledge, your background with this
18 -- with this group. You are a passionate voice for
19 your cause. And again, thank you for your talk.

20 It -- it is clear to me that the -- the
21 long-term legacy of Giant Mine has left a mark on the
22 people of Yellowknife. And -- and I mean, let's be
23 clear, this is a problem that we, as a community, will
24 be facing for a long time.

25 That said, in 2008 this Board did rule

1 that the long-term legacy of Giant Mine is outside the
2 scope of these proceedings. But I would encourage you
3 to pursue this cause in any and all appropriate forums
4 and would offer my assistance with that when this
5 process is done.

6 THE CHAIRPERSON: Thank you, Mr.
7 Curran. And thank you, Dr. Gilchrist, for your
8 comments as well. Masi.

9 We're going to continue on with the
10 presentation this morning. I've got YKDFN and the
11 North Slave Metis. But YKDFN agreed to do theirs in
12 twenty (20) if not shorter, so I'm going to turn it
13 over to them. Thank you.

14 Also, just so that, as we're -- he's
15 getting set up, the -- again, we're on monitoring,
16 oversight, and perpetual care; that includes risk,
17 failure modes, long-term funding, adaptive management
18 and consultation. So this is just the continuation, so
19 those presentations have to be in line with -- with the
20 agenda that we have before us. Thank you.

21

22 POSITION PRESENTATION BY YKDFN - PERPETUAL CARE,
23 RELATED RISKS AND ADAPTIVE MANAGEMENT

24 MR. TODD SLACK: Thank you, Mr. Chair.
25 And I thought Kevin's presentation was -- was pretty

1 good, but I sure would have preferred to follow him
2 than Mr. Gilchrist there.

3 I'm going to take advantage of his --
4 his thoughts to introduce a -- a housekeeping item that
5 -- if I might, and please give me some guidance at any
6 point here. It'll only take a minute, and I know how
7 valuable these minutes are so.

8 It seems clear from the discussion
9 between the Developer and the Board experts that this
10 human health is -- from what I understood of it, that
11 this is an issue in which further research can be done.
12 And what the Yellowknives would like to see is the work
13 that was done in the '70s and the '80s between Dene
14 Nation and the United Steelworkers.

15 We have a bookmark in time that that
16 trajectory can be extended out, and I'm sure Dr.
17 Gilchrist is much more familiar with this than I am,
18 but here we have a point in time where we can match it
19 with new work being done and look at the health of the
20 people today.

21 So if possible, what we'd like to do is
22 put some of those research reports into the record as a
23 -- and Mr. Donihee will, I'm sure, have the right
24 language here -- either as an exhibit, or if we could
25 undertake to provide those. The Yellowknives Dene

1 would do everything they can to get them on -- on the
2 record within those two (2) weeks.

3 However -- oh, sorry. I was just going
4 to leave that with you, and you guys could give me
5 guidance either now or later.

6 THE CHAIRPERSON: No, we could do that
7 right now. Mr. Donihee...?

8 MR. JOHN DONIHEE: It's John Donihee
9 for the Board. Mr. Chair, perhaps we could just
10 discuss this at the next break, and -- and we'll get
11 back to Mr. Slack on that point.

12 THE CHAIRPERSON: Very good. Please
13 proceed with your presentation.

14 MR. TODD SLACK: Thank you. And
15 recognizing that we went long yesterday, I'm going to
16 do everything that we can to shorten this up and
17 tighten up the points.

18 The first point that I want to focus on
19 is the lack of closure objectives. So this'll seem
20 very familiar to the Board, because we were talking
21 about this two (2) weeks ago in Behchoko, but it's more
22 troubling in this case because the whole point of this
23 project is closure, how it's going to be closed,
24 whereas in the Fortune case, the closure was only part
25 of the aspect -- or part of the impacts that were being

1 considered.

2 With this environmental assessment, the
3 few closure objectives - and I'm using that word in a
4 very variable sense, not in the specific sense related
5 to closure and closure planning - and within the DAR,
6 that word is used many ways to mean many things. But
7 the five (5) closure objectives that are listed there
8 are very broad, and they've been unilaterally defined
9 by the project.

10 Now, YKDFN feel that having folks from
11 the south outline what this land is going to look like
12 after the remediation is done, how it can be used for
13 the people here, that just doesn't seem like a very
14 good way of going about business and meeting that test
15 of acceptability.

16 And had local parties been involved from
17 the get-go in setting the objectives -- and no offence
18 to the -- the engineers here, because, like, I know
19 they're good guys and they're whip smarts, and some of
20 the things they say, it sounds like magic to me but
21 this project wouldn't have been designed about
22 stabilization through frozen block.

23 It would have been about how and why the
24 land can be returned to the people, the end use, and
25 the frozen block would simply have been a tool to get

1 from the condition that they inherited the site, that
2 they permitted, that their regulators allowed to
3 happen, to move into how this land use can come back to
4 the people.

5 Now, I'll -- I'll just throw out an
6 analogy here, and I -- I'm always very dangerous with
7 my analogies. You don't just mail order a rifle, go
8 out, start walking north, and expect to have a
9 successful hunting trip and come back with meat for the
10 family. There's more to that, and that hunt -- that
11 rifle that you mail ordered, that's a tool to get to
12 the end of a successful hunting trip. It is not the
13 purpose.

14 So clear closure objectives which would
15 have been collaboratively developed with the parties,
16 would have provided a clear understanding as to what
17 everyone wanted to see, and so we've been forced to
18 come to the Board and try to explain what is needed to
19 get beyond just the engineering of the frozen block.

20 The objectives are then linked to
21 closure criteria, which are measurable values, so that
22 everyone can tell: Has this successful -- has this
23 closure been successful, and has it been implemented in
24 a way that everyone has transparency, and it's -- we
25 can all say, Hey, yeah, it's done?

1 In this case, clarity is essential. The
2 proponent is the inspector. The mixed mandate and the
3 potential conflict of interest -- and it's not just
4 potential conflict of interest, that is real, and it
5 exists. So if you're the inspector and you don't have
6 good objectives and you don't have good criteria to --
7 that you're inspecting, well, what -- what exactly is
8 it that you're doing out there in terms of evaluating
9 whether the closure's been done?

10 These kind of conflicts are bound -- are
11 bound to happen, and confidence is undermined every
12 time that perception exists, and doubly so when these
13 conflicts occur.

14 Now, obviously, in a project that
15 requires a great deal of trust for successful execution
16 and to -- for clarify, this is one (1) of the issues
17 that Yellowknives keep returning to. This project is
18 all about trust.

19 The engineers, you know, we have to have
20 faith in them, and it sure feels as though they have
21 done a good job in developing that method for today,
22 but the clear, common, and universal objectives, clear
23 criteria, this is what is going to give everyone
24 confidence that they're meeting -- they're doing what
25 they said.

1 The -- these objectives and criteria,
2 they are what drive the monitoring. The monitoring is
3 evaluating whether that criteria has been met. So when
4 we hear the project talk about the monitoring plans and
5 what they're going to do, well, what exactly are we
6 talking about if we don't know what the criteria that
7 we're monitoring for are?

8 Now, we can guess, we can put one (1)
9 step in place at a time, but that's all haphazard.
10 That's not the kind of defined approach that we want to
11 use to produce a successful remediation here.

12 That monitoring or, well, the results of
13 it, are linked to adaptive management, which we've
14 heard a lot about as well. So you don't have
15 objectives, you don't have criteria, you don't have
16 monitoring, you don't have adaptive management.

17 And again, this can be done in a
18 haphazard way as well. It's a windy day, so we don't
19 go and dig up the tailings. Yeah, that -- it makes
20 sense. But that is one (1) aspect of a much bigger
21 plan, and that is a short-term risk. We're -- we're
22 talking about much bigger issues here, and this whole
23 process needs to be much com -- much more
24 comprehensive. And it all -- again, to repeat myself,
25 it starts with objectives that have been commonly

1 defined -- or collaboratively defined.

2 Now, I'm just going to repeat some of
3 the exact comments I said at Nico -- or Fortune, pardon
4 me. The proponent was there, so they've heard this, or
5 maybe not these particular people, but the proponent
6 has heard:

7 "At this point, the end -- end land
8 use and objectives are unclear and
9 seem to be unilaterally defined.
10 During the EA stages, YKDFN have
11 consistently sought information on
12 what the function of this area will
13 be after operations, to little
14 satisfaction. It seems that the
15 proponent does not intend to address
16 this matter until later. In other
17 closure processes, it has been our
18 experience that the lack of a
19 committed vision means that closure
20 goals and objectives will never truly
21 be -- never truly, collaboratively be
22 developed after the fact. The
23 proponent will drive the agenda based
24 on the imprecise language and
25 statements made at the environmental

1 assessment. Experience shows that
2 the lack of precision in objectives
3 can result in significant differences
4 in interpretation as the development
5 [and this is in that case] approaches
6 closure."

7 Well, we're already at closure. We
8 already have significant differences of opinion. The
9 clarity will remove those.

10 So we, the Yellowknives, acknowledge
11 that a full closure plan, similar to what's been done
12 at the other mines, is a significant undertaking, and
13 often in other things, the parties say that it's not --
14 they don't need a full plan for the EA stage.

15 And in other files, we have been clear
16 that we don't necessarily require a plan on the same
17 vein as Ekati and Diavik, but the framework of these
18 top-level issues, they must be in place to drive the
19 establishment of the subsequent processes. In this
20 case, in this proposal, the whole reason we're here is
21 the closure plan, and we don't have a good closure
22 plan.

23 This project -- I understand that they
24 have sought to stabilize, I understand they inherited a
25 mess, but they -- they created that mess, and to say

1 things are hard is not acceptable in this case.

2 The private sector has managed to
3 produce world-class closure plans for their mine sites.
4 The timelines are very similar. I understand that
5 there are differences between those two (2), but just
6 because it is hard, that is not a good answer when the
7 risks are this high.

8 So for two (2) years, the Yellowknives
9 have sought to obtain information through -- on closure
10 objectives and closure criteria through IRs, through
11 meetings, through the EMS working group, because that's
12 the starting point to review the plan. If you think of
13 -- if you think of this as a flow chart, as a -- a
14 moving ri -- a river, the closure objectives are the
15 starting point; that's where everything begins. In
16 this case, we're talking about it from the frozen block
17 as the starting point.

18 So -- and the proponent heard us. I
19 have no doubt that they heard what we were asking for.
20 I have no doubt that there was clarity there, and in
21 the second round of IRs, we finally started to see this
22 coming together, but then they backed away.

23 You know, the -- the first cut, it
24 wasn't to the same standards that other projects in the
25 north have been held to, but what makes this worse is

1 not that they backed away, but that they had already
2 backed away when they submitted it to the Board. The
3 Information Request was out of date by the time you
4 guys released it.

5 I'll -- I'll move on. When the project
6 can't tell you what we're going to do and when they've
7 succeeded, well, to me and to the Yellowknives, that's
8 a big issue, because they would have complete freedom
9 of action to tell us when they're done, and there would
10 be no recourse.

11 And given the general behaviour of the
12 project in responding to the YKDFN concerns, we're
13 forced to ask the Board for a measure on this, and what
14 we're asking for is to require the company to
15 collaboratively develop closure goals, site components,
16 clear closure objectives, all as defined in the drafts
17 of Land and Water Board Guidelines, and this should be
18 done prior to the issuance of any additional
19 determinations under the MVRMA.

20 So, Mr. Chair, I'm going to move on to
21 the issue of accountability, and I recognize that we're
22 giving the proponent a hard time, but I can't -- it's
23 warranted. The risks and the requirement for a good
24 project here -- I don't know how to describe what the
25 word is. It's -- it has to happen.

1 Now, the Yellowknives have been real
2 clear. We're -- we want to find solutions. We want to
3 work together on this. Chief Sangris laid it out
4 Monday, and I have said it every day that I've spoke to
5 the Board. The Yellowknives want to be part of this
6 process going forward, but working together is a two
7 (2) party solution -- two (2) part solution, sorry.
8 "Party's" a bad word for that. It requires people, it
9 required relationships and, more importantly, it
10 requires openness.

11 And we've said it numerous times this
12 week, and it's not acceptable to just have people fly
13 in to Ottawa and drop in and visit. This project needs
14 to be run out of Yellowknife. We need the people that
15 are exposed to the danger to be the decision makers, as
16 the Chief said, living in the dark shadow of this mine.

17 Our colleagues here, they -- I'm sure
18 they have the best of intentions and that they're
19 committed to a good job. But it's never going to be
20 the same as having local directors.

21 When you see people that have a street
22 -- or, have a -- see people on the street and have a
23 quick word, that's just as important as that fly-in
24 meeting except it happens dol -- dozens of times of
25 year and that's the kind of thing that builds

1 confidence in the team.

2 Now we've seen a significant hollowing
3 out of the local senior project staff when these
4 positions move south and YKDFN want that to be stopped
5 and reversed. We recognize that this is perhaps at the
6 edge of the Board's authority but we recommend that a
7 strong suggestion be made to the proponent that
8 underlines that this un -- hollowing out of staff, it
9 erodes trust and it's that trust that's essential to
10 avoiding public concern.

11 Now, Mr. Chair, I understand that
12 suggestions don't carry a lot of weight. I'm not sure
13 if you can make it a measure, but a clear message has
14 to be sent. And we've tried to tell the pro -- tell
15 the proponent but they're not hearing it from us,
16 perhaps it'll have better resonance from the Board.

17 I'm going to move on to the EMS that we
18 heard about and I think it's important to put this
19 process in context. I -- and I have attended all and -
20 - maybe not all, maybe I missed one (1) of the meetings
21 to date and we have to acknowledge that little has been
22 achieved to date.

23 We talked about definitions, but these -
24 - the definitions that we -- we arrived at that
25 couldn't be used by the project engineers because they

1 insisted on ISO 1401 compliance; why, I'm not sure, but
2 -- and the word "objectives" and that, for instance,
3 the word "objectives" means something different in that
4 than it means in the Land and Water Board guidelines.

5 I understand this is a technicality, but
6 I want to point out the limitation of results to date.
7 There's a letter on the rec -- on the registry from the
8 proponent on what the results are. Have a look at
9 that. You know, when you look at that letter, they
10 talk about a lot of things that will be done.

11 Well, we've talked about commitments and
12 why we want measures, and we'll talk about that more
13 today, but things that will be done. Yellowknives
14 aren't terribly -- don't have a lot of faith in -- in
15 that at this point in time.

16 This is not to say that the EMS doesn't
17 have potential because we -- we believe that this is a
18 good opportunity and the Yellowknives are committed to
19 working through this. But this working group has no
20 tenure; it has pruned -- hasn't produced much in terms of
21 results. And the Yellowknives don't believe that this
22 will be the, sort of, potential solution for the many
23 problems that the Board -- or, the proponent seems to
24 think that it's going to address.

25 In a similar vein, Mr. -- Mr. Chair, I'm

1 going to talk about the Giant Mine Advisory Committee
2 just for a minute here. And we've heard -- the Board
3 heard about this in Dettah the other day and, again,
4 though recently established this is another tool with
5 good promise that could help facilitate consultation,
6 build community trust, and relationships between the
7 project and the First Nation, and act as a conduit for
8 knowledge exchange. YKDFN are asking that this
9 commitment be formalized with a multi-year agreement
10 that provides certainty of funding and continuity.

11 And the GMAC itself, similar to the EMS,
12 may be a tool for many issues in the long-term but the
13 greatest achievement, to my mind, that it could achieve
14 is to mitigate the extremely adverse perception that
15 exists by the Yellowknives with this site.

16 A few months ago -- and I think Mr.
17 Hockley said it again during this process, but either
18 way, it was right then, it's right now. Ian, he
19 pointed it out, and I'm going to paraphrase and I hope
20 paraphrase it truly: Communities that participate and
21 benefit from the reclamation, those are the successful
22 reclamations. Getting past -- getting past the history
23 and the impacts -- and listen, that's not going to be a
24 small matter, but if a successful remediation and -- is
25 the goal and that remediation includes non-engineering

1 based issues, and we have knowledge that tells us the
2 more successful ones have higher community
3 participation, then this is a worthwhile enterprise
4 that can help overcome the shortcomings of today.

5 I have two (2) more topics and I think I
6 can, sort of, skim over them because we've heard a lot
7 about this. And the first is the provision of
8 information. We're always trying to set up the -- the
9 route forward, the framework forward. And part of this
10 is the information that gets provided to the parties so
11 that we know what's going on so that we can evaluate
12 it.

13 And throughout this environmental
14 assessment process, the Yellowknives have not been
15 happy with the response that the pro -- the proponent
16 has had. This includes the responses to the
17 Information Requests which we would characterize as
18 generally weak and often incomplete or ineffective
19 answers, or they don't the question.

20 It includes the provision of some
21 reports which only seem to be available to the
22 proponent, without being made available to the parties.
23 A good example of this was the ice -- the initial ice
24 report that they had which had never been made
25 available except through the IR phase after the fact.

1 Now, listen, I don't want to read every
2 report. Like, there's a lot of that stuff that belongs
3 to them, but knowing that it exists and that resource
4 is there to potentially answer questions, that's
5 important.

6 And then the development of material in
7 private, in secret. This is the -- the site
8 stabilization plan which was approved during the
9 technical sessions, and we -- we heard the proponent
10 response yesterday: that they brought it up at the
11 sessions. Well, I was there. They brought -- it was a
12 passing reference. It was a paragraph in, I don't
13 know, what -- however many pages was in the technical,
14 hundreds, maybe a thousand (1,000) pages. This is the
15 same as what happened in Jo-Jo Lake in which the
16 response was developed in private as well.

17 And the Yellowknives, you know, we're --
18 we're interested in what -- in going forward here, and
19 we want to pursue an open information approach rather
20 than a closed one, that all information should be made
21 available unless specific publicized criteria are met.
22 In that case, it doesn't have to be made available.

23 The project response in the Round 2 IRs
24 was that they wanted to pursue the opposite scheme:
25 that all information is not available unless

1 specifically indicated that it is. That doesn't bring
2 confidence to anyone. You know, the number of things
3 that may exist that no one knows about is going to be -
4 - it's incredible with this project.

5 And their ultimate recourse there was to
6 use the Access to Information Act to -- to seek
7 information that you don't know exists. But, more to
8 the point, anyone who's ever used ATIP, listen, this
9 process is not a friendly one, it doesn't work, and it
10 takes forever.

11 In my life, I've used it three (3) or
12 four (4) times, all with AANDC, and on one (1) -- the
13 first one (1), it was taking so long that we went to
14 the Information Coordinat -- Commissioner and we went
15 through the appeals process, and he agreed that AANDC
16 didn't fulfil their duty.

17 So why does all this matters? Why does
18 all this matter, pardon me. It matters because there's
19 no commitment to provide the information that parties
20 may or will need. It matters because we've already
21 seen information control and message shut down with
22 this project. That Jo-Jo Lake spill, it met with
23 complete silence. All calls were referred to Public
24 Works in Edmonton, and they refused to comment.

25 The site stabilization plan was

1 developed, approved, and moved towards implementation
2 in secret, and all through using emergency powers, even
3 though it's in front of the Board here. And we still
4 don't have a copy with all the details. I understand
5 financial stuff has to be kept quiet, but there's a lot
6 of redactions in that.

7 And then I'm going to come back to one
8 (1) last example, and that's the org chart that they
9 submitted to the Board. Listen, government loves
10 organizational charts, they love flow charts, we -- we
11 all know this.

12 You have a look at that org chart and
13 you tell me that's this project, and explain to me how
14 that works, I'll -- I'll buy you the coffee in the
15 morning, because there are things that we know exist --
16 the project oversight committee, the project mana --
17 management committee -- which aren't noted there. I'll
18 -- I'll just -- and we've been asking for that org
19 chart for two (2) years. You know, I'll -- I'll leave
20 it at that.

21 So the last thing I'm -- I'm going to
22 talk about, and I have two (2) minutes and I'll do it
23 in one (1), is perpetual care and language. Within the
24 Yellowknives organization, there's been quite a -- a
25 discussion, and the key point here is: Seventy-five

1 (75) years ago, you weren't going to hear a lot of
2 English around here. It was Dogrib, Chip. In -- in
3 seventy-five (75) years from now, we shouldn't simply
4 assume that it's going to be English again.

5 The Yellowknives members want this to be
6 a priority, and we think that this belongs in the
7 perpetual care plan, and we're asking for a measure to
8 see this implemented within three (3) years. Thanks,
9 Mr. Chair. That concludes my presentation.

10 THE CHAIRPERSON: Thank you, Todd with
11 the Yellowknives Dene First Nation, for your
12 presentation.

13 I'm going to go to the City of
14 Yellowknife, and the City of Yellowknife is going to do
15 their presentation in ten (10) minutes from yesterday
16 and today. They -- they've got twenty (20) minutes,
17 but they're going to put it in half the time, so -- and
18 then I'll do North Slave Metis last, and then we'll
19 take a break, and then...

20

21 (BRIEF PAUSE)

22

23 POSITION PRESENTATION BY CITY OF YELLOWKNIFE RE
24 PERPETUAL CARE, RELATED RISKS AND ADAPTIVE MANAGEMENT:

25 MR. CARL BIRD: Thank you to the Board

1 for making this slight change in the agenda. My name
2 is Carl Bird, I'm the director of corporate services
3 and chief financial officer for the City of
4 Yellowknife, and this falls --

5 THE CHAIRPERSON: Excuse me. Can you
6 stop for a second? Can we -- we've got some background
7 noise here. If we could -- maybe if you want to do
8 some discussion, they go to the outside, if you have
9 to.

10 Please proceed.

11 MR. CARL BIRD: Thank you, Mr. Chair.
12 This is -- would normally come under -- after the
13 presentation on the financial issues of perpetual care,
14 but thank you for the change due to some timing issues
15 that I have.

16 What I want to discuss today is payment
17 in lieu of taxes. The City's position is that the
18 Developer should be making payments in lieu of taxes
19 during the time that this project is -- is underway,
20 and it seems like it's going to be perpetual.

21 The last time that the City collected
22 taxes on this property was 2005, when the property was
23 still under the management of Royal Oak and, at that
24 time, taxes were two hundred and sixty-two thousand
25 dollars (\$262,000). Now, we don't expect that the

1 taxes will be that high, but our assessment of the
2 properties and the -- and the improvements will be done
3 as they're -- as the improvements are made, and we do
4 expect that the Developer will be making payments in
5 lieu of taxes in accordance with territorial statutes
6 which -- which allow for municipalities to levy a
7 charge against the federal government, the Government
8 of Canada, for payments in lieu of taxes.

9 Since the Developer has taken over this
10 responsibility, no PILT has been paid. We've -- we
11 went forward with a request for PILT and it was denied.
12 We don't know the grounds upon which it was denied.
13 There was legal precedent. There are other federal
14 government facilities within the municipal boundaries,
15 and they all pay payments in lieu of taxes.

16 A few years ago, there was a
17 contribution agreement established to replace this
18 requirement, and it -- but it's not really an
19 appropriate method. The contribution agreement is
20 under the form of a municipal services agreement.
21 Municipal services agreements do come into play
22 occasionally, but that's when a municipality is
23 providing services outside of its boundaries.

24 This would be appropriate with the GNWT
25 for providing ambulance and fire services along the

1 Ingraham Trail, it could be for providing services to
2 Dettah that they can't provide themselves if we got
3 into an arrangement like that, where there would be a
4 reimbursement of the costs of those expenses. This is
5 not appropriate for providing services, municipal
6 services, with inside the municipal boundary.

7 The main municipal services that we're
8 talking about here are -- are public safety-type
9 municipal services: fire, emergency, ambulance, those
10 type of things that can easily be required on a -- on a
11 commercial facility as big as this is going to be
12 within the boundaries of the City of Yellowknife.

13 In addition to this not really being an
14 appropriate method, it has also created administration
15 bur -- administrative burden for both the City and --
16 and AANDC staff.

17 With PILT, we do an assessment, we
18 determine the -- the assessed value of the property, we
19 have a formula for calculating the payment in lieu of
20 taxes -- oh, I'm sorry -- payment in lieu of taxes, and
21 -- and then we submit that to the Government of Canada,
22 along with all the other properties within the
23 municipal boundary where payment in lieu of taxes would
24 be due.

25 It's clear in recent Supreme Court

1 decisions in Montreal and Halifax that that is the
2 method in which payments in lieu of taxes are to be
3 calculated, and that the federal government, where
4 they've entered into agreements for payment in lieu of
5 taxes -- which they have in the municipality of
6 Yellowknife. As previously stated, we collect payment
7 in lieu of taxes on properties with values of well over
8 a billion dollars in -- sorry, a million dollars in the
9 -- in the municipal area. That's the value of the
10 properties, not the taxes. So there are Supreme Court
11 decisions that support this.

12 Due to the condition of the land mass, a
13 large portion will never be available for any other
14 commercial or residential use, although we have heard
15 that this -- the proponent has indicated that they are
16 going to work with the City to create portions of the -
17 - of the area for other uses, residential or at least
18 recreational and maybe some other commercial. But
19 there's a large portion of it will -- that will
20 continue to only be used by the proponent to provide
21 perpetual care to -- to this site. So the City should
22 not be disadvantaged financially due to this lack of
23 potential use.

24 Again, this is an accepted methodology,
25 and the Cities, Towns, and Villages Act of the -- of

1 the Government of the Northwest Territories clearly
2 outlines how PILT is to be calculated and assessed
3 against the federal government. Again, there are
4 recent Supreme Court of Canada decisions that confirm
5 the methodology for assessing Government of Canada
6 property for PILT is -- is appropriate.

7 So, in conclusion, the City will be
8 asking the Developer to agree to make payments in lieu
9 of taxes for land and improvements related to this
10 project starting in 2013. We will be assessing that
11 property and the land, and we will be submitting, with
12 our PILT request to the federal government, PILT in an
13 appropriate amount for this property.

14 And, basically, that concludes my
15 presentation on payments in lieu of taxes under this
16 area. Thank you.

17 THE CHAIRPERSON: Thank you.

18

19 (BRIEF PAUSE)

20

21 THE CHAIRPERSON: Thank you. Okay.

22 The second part of the presentation of the City, so I'm
23 going to go to the -- okay.

24

25 (BRIEF PAUSE)

1 THE CHAIRPERSON: Thank you for that
2 presentation. So that presentation that the City did
3 is for yesterday and for today. So today, under
4 parties' presentation on oversight, consultation and
5 long-term funding, they were allocated twenty (20)
6 minutes for that today, so, with that --

7 MR. CARL BIRD: Excuse me, Mr. Chair.

8 THE CHAIRPERSON: Yes.

9 MR. CARL BIRD: I'm sorry to interrupt.
10 Could I just maybe ask one (1) question of the
11 proponent related to my presentation?

12 THE CHAIRPERSON: Absolutely.

13

14 QUESTION PERIOD:

15 MR. CARL BIRD: Okay. I guess,
16 ultimately, my question is: Will the proponent agree
17 or support or not -- I guess will they -- will they --
18 will the proponent agree to not object to paying
19 payments in lieu of taxes for the land and improvements
20 as they are assessed by the City of Yellowknife within
21 the municipal boundaries?

22 THE CHAIRPERSON: Thank you. I'm going
23 to go to the Developer. Yesterday we were tired. I
24 think everybody was tired. We were starting to get
25 some yes on -- on the proponent on this here. So I

1 hope it's a good morning. I'm going to go to the
2 Developer to the question.

3 MS. JOANNA ANKERSMIT: Thank you, Mr.
4 Chair. The Developer's position has been, and
5 continues to be, that it's not required to pay PILT for
6 Giant Mine site. There is a -- it's also my
7 understanding that -- that the PILT issue is outside
8 the scope, so I'll just leave it at that.

9 THE CHAIRPERSON: The City, did you
10 want to -- are you okay with that question or that
11 response, or do you have another question?

12 MR. CARL BIRD: Actually, no, I'm not
13 very happy with that answer, considering that we've
14 heard previously during these hearings that the
15 proponent has agreed to abide by all territorial and --
16 and federal and legislation and municipal ordinances.

17 So it seems to me that this is a -- a
18 departure from that commitment, and so I'd like to
19 understand why they would depart from the commitment in
20 this area when they've already agreed to abide by such
21 legislation and any agreements that are already in
22 place. Thank you.

23 THE CHAIRPERSON: Okay. Thank you.
24 Did the Developer want to respond to that comment? Or
25 if not, then we already have it on record, and please

1 proceed.

2 MS. HEATHER POTTER: Yes. Heather
3 Potter for Justice Canada. Just to be clear, it is the
4 Government of Canada's position that we are not
5 required under the legislation to pay PILT, therefore,
6 there is no inconsistency with our prior position.

7 Having said that, we also submit that
8 that is an issue which is not something that should be
9 considered by this Board that's not properly before the
10 Board and is, in fact, out of scope. Thank you.

11 THE CHAIRPERSON: Okay, thank you.
12 It's on record. Thank you. I'm going to go to the
13 North Slave Metis and yesterday they agreed to times.

14 And earlier I mentioned that we're
15 talking about monitoring, oversight, perpetual care.
16 And upon presentation that we've been hearing are
17 including risk failure modes, long-term funding, and
18 adaptive management consultation.

19 So you have ten (10) minutes for your
20 presentation. Thank you.

21 MS. SUSAN ENGE: Mr. Chair, just a
22 clarification. Did you just say that we were to speak
23 on two (2) -- two (2) issues on the agenda including
24 long-term care or funding?

25 THE CHAIRPERSON: No. No, the -- the

1 agenda that's laid out on monitoring, oversight,
2 perpetual care.

3 MS. SUSAN ENGE: Right.

4 THE CHAIRPERSON: And in it -- that
5 presentation here today has to be related to this,
6 that's what I'm saying. Thank you.

7

8 (BRIEF PAUSE)

9

10 POSITION PRESENTATION BY NSMA - PERPETUAL CARE, RELATED
11 RISKS AND ADAPTIVE MANAGEMENT:

12 MS. SUSAN ENGE: Okay. Thank you, Mr.
13 Chair. And as well, thank you for the opportunity to
14 speak on the issue of monitoring, oversight and
15 perpetual care.

16 The North Slave Metis Alliance is very
17 concerned about the Developer's proposal regarding
18 perpetual care and its possible effect on the health
19 and safety of the North Slave Metis people.

20 The NSMA has objected and continues to
21 object to the proposed frozen block method designed to
22 entomb the arsenic trioxide at Giant Mine indefinitely.
23 However, we recognize that if the pro -- if the project
24 goes forward in this manner, it's necessary that we put
25 our concerns on the public record with respect to the

1 proposal.

2 So the NSMA is pleased to hear that the
3 Developer plans to improve on the five (5) areas
4 mentioned in their presentation; that said, we'd like
5 to see additional improvements in the perpetual care of
6 the arsenic trioxide, and in that respect, we recommend
7 the creation of an independent regulator and a long-
8 term -- with a long-term mandate to monitor the site.

9 Some of the work the independent
10 monitoring agency would do is establish consultation
11 and participation procedures between stakeholders,
12 facilitate the creation of a perpetual care trust fund,
13 and oversee administrative law and binding measures.
14 The oversight would enable the creation of public
15 records and permit a means for readily accessing
16 information in accordance with the Government of
17 Canada's guidelines.

18 Furthermore, the IMA would facilitate
19 transparency by assisting in the regulation of disputes
20 between stakeholders. In other words, it could handle
21 complaints and concerns about the remediation process.
22 These mechanisms would ensure accountability of
23 decision making and increased participation.

24 In addition, the IMA would monitor the
25 creation and use of a perpetual care trust fund. The

1 trust fund would be utilized to set aside contingency
2 resources for the post-remediation passive care and
3 maintenance stage. Such a fund would exist in order to
4 cover the estimated \$1.9 million in yearly fees in the
5 event of economic or political disruptions thus
6 ensuring the long-term success of remediation for the
7 Giant Mine site.

8 The establishment of a trust fund should
9 be expanded to factor in further contingencies such as
10 the long-term maintenance and monitoring, possible
11 control failures, site worker health liabilities, and
12 indefinite research and development. The trust fund
13 would be necessary in researching a permanent solution
14 for the underground arsenic trioxide and removing the
15 frozen block stop-gap measure that's now being
16 proposed.

17 Lastly, the independent regulator agency
18 would have the authority to require the Developer to
19 provide reasons for their actions or changes in
20 objectives. And if need be take action against the
21 Developer if the Developer refuses to take proper med -
22 - remedial action. The ability of an IMA to enforce
23 its mandate would ensure the proposed remediation of
24 the Giant Mine site would be satisfactorily undertaken
25 by the Developer.

1 In conclusion, the North Slave Metis
2 Alliance would be pleased to play a meaningful role in
3 the ongoing monitoring and governance of the Giant Mine
4 site. And to that end, the NSMA would be a Member of
5 the proposed IMA so that we can hear first-hand from
6 experts and stakeholders what the Developer is doing
7 about the arsenic trioxide.

8 The meaningful involvement of all
9 affected aboriginal groups in oversight and monitoring
10 is not only imperative, but funding for capacity
11 building and training is also necessary.

12 I'd like to extend my comments to
13 suggest that the critical gap in the perpetual care of
14 humans being monitored is there, is evident as you move
15 forward in this remediation plan. We believe this
16 project should be an interim-only solution. Perpetual
17 care is not a guarantee in the provision of monies
18 assigned to this project because so many factors can
19 trip up any safety measures that you had in mind,
20 perhaps that is occurring five hundred (500) years from
21 now, a thousand years, who knows how -- how long.

22 We also recommend that Health Canada and
23 Health and Social Services, GNWT be consulted in the
24 implementation of a long-term human health monitoring
25 plan. A longitudinal study would be implemented during

1 and post-remediation in order to monitor and assess
2 human health, particularly the accumulation of arsenic
3 trioxide. And we strongly endorse Alternative North's
4 statement this morning that this is a stabilization
5 plan and not a remediation plan.

6 With that, I would like my Elder to say
7 a few words. Thank you.

8 ELDER ED JONES: Ed Jones here. I just
9 want to say a few words. I did live on Latham Island
10 before and during the Giant operations.

11 What I am concerned about is in this
12 water management plan I keep hearing that they're not
13 going to do anything about the tailings that spilled
14 into Yellowknife Bay. The reason why I'm concerned is
15 that some of the fish are bottom feeders.

16 And also that they plan to pump treated
17 water into Yellowknife Bay. I don't think this is a
18 very good idea. And that's all I have to say for now.
19 Thank you.

20 THE CHAIRPERSON: Okay. Thank you to
21 the North Slave Metis and the Elder for speaking.

22 We're going to go to questions, then
23 we're going to go for coffee right after that. So, I'm
24 going to go to the Developer.

25 The -- is there any questions for the

1 parties that made presentations for -- like YKDFN,
2 Alternatives North, North Slave Metis, and the City of
3 Yellowknife.

4

5 QUESTION PERIOD:

6 MR. ADRIAN PARADIS: Adrian Paradis on
7 behalf of the project team. No, thank you. Thanks,
8 Mr. Chair.

9 THE CHAIRPERSON: Okay. I'm going to
10 go to the City of Yellowknife. Is there any pres --
11 questions for the Yellowknives Dene First Nation,
12 Alternatives North, North Slave Metis on their
13 presentation?

14 MR. CARL BERG: Mr. Chair, Carl Berg,
15 City of Yellowknife. No, we have no questions.

16 THE CHAIRPERSON: Okay. Thank you.
17 I'm going to go to Alternatives North. Is there any
18 questions to the City, the Yellowknives Dene First
19 Nation, the North Slave Metis on their presentation?

20 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
21 It's Kevin O'Reilly with Alternatives North. I do have
22 one (1) question about -- and I just want to find out
23 or get on the record what the City's position is
24 regarding an environmental agreement for the -- for
25 this particular project because I don't think the

1 gentleman might be here this afternoon when this might
2 get talked about.

3 So just wondering what their position is
4 on independent oversight and environmental agreement
5 for this project. Because the City has participated in
6 this Oversight Working Group. We sort of reached an
7 end of that work as far as we can tell. And so I'm
8 just wondering if the City could say something about,
9 is this something that they continue to support or not.
10 Thanks.

11 THE CHAIRPERSON: Thank you. I'm
12 going to go to the City.

13 MR. JEFF HUMBLE: Thank you, Mr. Chair.
14 Jeff Humble, City of Yellowknife. The City, we clearly
15 support an environmental agreement and the oversight
16 group to -- to look at the perpetual care of the -- the
17 Giant Mine townsite.

18 THE CHAIRPERSON: Okay, thank you.
19 Any further question, Mr. O'Reilly?

20

21 (BRIEF PAUSE)

22

23 THE CHAIRPERSON: None. Thank you.
24 North Slave Metis Alliance, is there any questions for
25 the Yellowknife -- City of Yellowknife, Yellowknives

1 Dene First Nation, or Alternatives North on their
2 presentation?

3

4 (BRIEF PAUSE)

5

6 MS. SUSAN ENGE: Susan Enge, Metis
7 Alliance. I would just like to inquire with the City
8 if they have put together any team to assess the health
9 conditions of Yellowknifers or have any plan to build
10 in the -- an oversight of the -- of the remediation
11 plan?

12 THE CHAIRPERSON: Thank you. I guess
13 the question will be is that -- would that question
14 should be maybe to the Developer because this is
15 outside the scope.

16 I'm wondering maybe if the City would
17 want to respond to that question?

18 MR. JEFF HUMBLE: Jeff Humble, City of
19 Yellowknife. Thank you, Chair. The City certainly
20 supports some kind of oversight in that regard and
21 whether that can be incorporated into the oversight
22 committee in scope remains to be determined.

23 But certainly we have no financial
24 budget to -- to look at those aspects. And we concur
25 with the Chair that the City believes that that would a

1 -- a Developer's responsibility.

2 THE CHAIRPERSON: Okay, thank you. Is
3 there any further questions for the North Slave Metis
4 Alliance?

5 MS. SUSAN ENGE: Susan Enge, Metis
6 Alliance. Just another question for the City.

7 I think in your presentation you talked
8 a bit about wanting to collect taxes from the
9 remediation -- if there's any kind of operation or some
10 of the activities that will be taking place at the
11 site. And I'm wondering what you intend to use those
12 taxes for.

13 THE CHAIRPERSON: Thank you. We'll go
14 back to the City.

15 MR. CARL BERG: Mr. Chair, Carl Berg
16 from the City of Yellowknife. Just to be clear, we are
17 collecting pay -- we would be collecting payments in
18 lieu of taxes just to be clear.

19 Those would go into the general revenues
20 of the City as all taxes, so that we could support all
21 our municipal services, some of which will be provided
22 to that area the same way we provide municipal services
23 to all other taxpayers and governments who pay property
24 -- payments in lieu or grants in lieu of taxes. Thank
25 you.

1 THE CHAIRPERSON: Thank you. North
2 Slave Metis, any further questions?

3 MS. SUSAN ENGE: No further questions,
4 Mr. Chair. Thank you.

5 THE CHAIRPERSON: Thank you. I'm
6 going to go to Environment Canada. Any questions for
7 the City of Yellowknife, the Yellowknives Dene First
8 Nation, Alternatives North, or North Slave Metis
9 Alliance on their presentation?

10 MS. AMY SPARKS: Thank you, Mr. Chair.
11 Amy Sparks, Environment Canada. We have no questions
12 on the presentations. Thank you.

13 THE CHAIRPERSON: Okay, thank you.
14 I'm going to go to the Department of Fisheries and
15 Oceans. Again, any questions for the City of
16 Yellowknife, the Yellowknives Dene First Nation,
17 Alternatives North, North Slave Metis Alliance on their
18 presentation?

19 MS. BEVERLY ROSS: Thank you, Mr.
20 Chair. Bev Ross, Fisheries and Oceans Canada. We have
21 no questions for any of the presenters you listed.

22 THE CHAIRPERSON: Thank you. I'm
23 going to go to the Board's technical advisor, staff, or
24 counsel.

25 Is there any questions for the

1 Yellowknives Dene First Nation, City of Yellowknife,
2 Alternatives North, North Slave Metis Alliance on the
3 questions -- on their presentation?

4 MR. ALAN EHRLICH: Mr. Chair, Alan
5 Ehrlich for the Board. There are no questions from
6 Board staff, technical advisors, or legal counsel at
7 this time.

8 THE CHAIRPERSON: I'm going to go to
9 my right. Board Member, Danny Bayha. Any questions
10 for City of Yellowknife, the Yellowknives Dene First
11 Nation, Alternatives North, and North Slave Metis
12 Alliance?

13 MR. DANNY BAYHA: Thank you, Mr. Chair.
14 I guess this is for the YKDFN.

15 At the community hearing we had some
16 suggestions on how we move forward in terms of the
17 regulatory process and what we're doing here. Brought
18 up the whole issue of -- that it may go to another
19 level of -- of examination, if you will, or evaluation.

20 Do -- in your presentation you never
21 really mentioned that. I'm just wondering what your
22 thoughts on that are. Thank you.

23 THE CHAIRPERSON: Thank you, Mr.
24 Bayha. I'm going to go to YKDFN.

25 MR. DANNY BAYHA: Maybe I -- you know,

1 he said it could go to a review panel. That was just -
2 - you know, he mentioned that in a Dettah hearing.
3 Thank you.

4 THE CHAIRPERSON: YKDFN...?

5 MR. TODD SLACK: Thanks, Mr. Bayha. It
6 -- I was pausing because it's a difficult question --
7 it's a difficult question. Is there a risk with this
8 site? Yes. Does that risk outweigh -- and I don't
9 think of risk in the same way that Mr. Oboni and Mr.
10 Halbern (sic) see it.

11 Does something have to be done? Yes. I
12 think that the Yellowknives have been clear in what
13 they want to see, what mitigations and accommodations
14 are required so that the project doesn't have to go to
15 EIR. The consideration had been made in terms of a
16 potential impact review. And we would have preferred
17 that we could have arrived at an agreeable solution
18 with the proponent, but we just haven't had much luck.

19 So, if the Board can't provide the
20 measures to create that framework for us to move
21 forward with enforceable commitments then, as
22 regrettable as it might be, then perhaps the -- the
23 review is the only option to seek out those kind of
24 commitments. That's not desirable, but the pro -- the
25 project is not providing it. If the Board can't do it,

1 the concerns are going to remain and it's unfortunate.

2 THE CHAIRPERSON: I think Mr. Bayha
3 asked the question: Can you -- I guess, the question
4 is: Do you -- so I guess, support if it goes to the EIR
5 or not?

6 MR. TODD SLACK: If the appropriate
7 mitigations cannot be put into place then, yes, the
8 Yellowknives would have to pursue those mitigations and
9 accommodations through an EIR, but that is not the
10 preference. The preference is to get mitigations and
11 accommodations in place.

12 THE CHAIRPERSON: Okay, thank you.
13 I'm going to go to Mr. Bayha.

14 MR. DANNY BAYHA: Thank you for that
15 answer. The other -- I'll move on to the City of
16 Yellow -- of Yellowknife. I'm curious about -- the
17 question was posed earlier if -- by NSMA there that the
18 issue of -- of health.

19 Have you engaged or -- or planning to
20 engage -- I realize you may not have the budgets to do
21 that, but have you been in -- in terms of the health of
22 the residents of Yellowknife, in the proposal as -- as
23 proposed, the future possible potential impacts to the
24 health of the -- of the community residents here, or
25 have you -- or, planning to -- to engage in some sort

1 of a -- of a -- you know, to -- to ensure that the
2 health is protected in the future for the residents.

3 I don't know. I'm just wanted to know
4 if you have -- after all, you know, you -- with the
5 City that referred the project, if I can -- if I'm
6 correct there. So I just wanted to know of your
7 thoughts on that and your future plans.

8 THE CHAIRPERSON: Thank you.
9 YKDFN...?

10 MR. JEFF HUMBLE: Thank you, Mr. Chair.
11 Jeff Humble, City of Yellowknife. I certainly respect
12 the question and I think it's a relevant question.

13 We do feel it's outside of our -- our
14 jurisdiction and responsibility to -- to deal with
15 health matters relating to -- to the Giant Mine. We
16 certainly have significant concerns that we've
17 expressed over the past several days, the -- the
18 biggest one, of course, being the -- the water issue
19 and that is first and foremost.

20 We very strongly believe that water
21 treatment should be incorporated into -- into the scope
22 of the plan and that -- and that relates to the
23 pipeline that we emphasised earlier.

24 Mr. Chair, the only other -- I shouldn't
25 say the only other, but the other aspect certainly is

1 the -- is the Yellowknife Bay area and the activities
2 around the Giant Mine town site including the harbour.
3 We don't have clear -- a clear understanding of exactly
4 what the sediment contaminants mean for Yellowknife
5 residents. That area has been noted as --- it should
6 not be an area where people swim, but people do moor
7 their boats.

8 But we do not have clear direction on
9 what exactly the health impacts of that vicinity of the
10 Yellowknife Bay area -- area are. And that was
11 something, as we again reiterated, in our presentations
12 should be somehow flexibly incorporated into -- into
13 the analysis of the -- of the Developer's remediation
14 plans. Thank you.

15 THE CHAIRPERSON: Thank you. That was
16 the City of Yellowknife responding, so I'm going to go
17 back to Danny Bayha, Board Member.

18 MR. DANNY BAYHA: Thank you, Mr. Chair.
19 I -- that's all I had for now, thank you.

20 THE CHAIRPERSON: Thank you. I'm
21 going to go to Board Member Rachel Crapeau.

22 MS. RACHEL CRAPEAU: I have one (1)
23 question for the Yellowknives Dene. Todd mentioned
24 criteria.

25 What more needs to be done to sort out

1 details regarding criteria? An example you gave was,
2 let's not dig up dirt on a windy day.

3 And the reason why I ask about that is
4 whatever instructions or directions are put in -- in an
5 agreement or contract sometimes does not get spelled
6 out clearly. And before we got our road to Dettah
7 fixed up just a little bit, but we still have more than
8 half of it as a gravel road, and I remember clearly
9 driving back and forth to Yellowknife, and on a really
10 rainy day a contractor was watering the road. And I
11 found it very, very funny, disconcerting. And when
12 you're driving on the really slippery, watery road in
13 the rain and then having it watered makes you kind of
14 worry about your safety on the road.

15 So direction and details in future
16 monitoring objectives or risk assessments, do you feel
17 that in -- enough was done, or much more work is
18 needed?

19 Because ultimately, in the end, most
20 people worried about the fish. There's not much
21 Dethdori (phonetic) in -- in the YK Bay. We haven't
22 been getting a lot of that kind of fish in our net --
23 in our nets lately. And I know one (1) elderly lady
24 from N'Dilo just loves that fish. So if we can find it
25 I always make sure I try to bring it to her.

1 So these issues I'm wondering about, if
2 you feel if we need to do a lot more work. Thank you.

3 THE CHAIRPERSON: Yeah, thank you.

4 Responding to the question --

5 MR. TODD SLACK: Thanks -- thank,
6 Rachel.

7 I'm -- I'm cognitent of the time issue
8 here, but it's a bit of a long answer.

9 The I -- I think of closure as a pure --
10 the -- the need for closure planning as a pyramid. At
11 the top you have closure goals which are broad
12 statements that indicate how you're going to do this in
13 only the broadest sense.

14 Below those you have mine components.
15 And I'll use the fish as a -- as an example as a single
16 line of thought all the way through here. And it's
17 just off the top of my head, it might not be the --
18 the line of thought preferred by the Yellowknives or
19 any of the parties.

20 But you have this, Hey, let's return
21 Baker Creek to as productive a condition as possible.
22 Below that you have your mine components. And we've
23 heard from the pro -- the proponent they -- there's
24 seven (7) mine components. Each of those compon -- and
25 Baker Creek is one, I think. Each of those would have

1 a number of objectives within it; keep the water safe,
2 improve sediment, any number of issues related to fish
3 and fish health.

4 Within those objectives, under each one
5 -- so, if we're talking about fish, let's use the idea
6 of fish health, and so this is a big pyramid. You --
7 you can look at things like sediment quality and the
8 criteria that you may want to use there is the CCME
9 sediment quality guide -- interim sediment quality
10 guidelines or -- the -- I'm not sure if they're CCME or
11 another acronym, but there are guidelines that you
12 would apply in that case that should protect freshwater
13 aquatic life.

14 And so that would then drive the -- the
15 monitoring. So your monitoring would test whether
16 you're meeting that criteria throughout the -- the
17 stretch. And if you aren't then that's where the
18 adaptive management comes in to make sure that you are
19 meeting that criteria based on potential mitigations
20 that you've already identified. And I use the dust
21 example, but we'll stick with the fish here. And that
22 adaptive management would be to remediate the stream
23 such that sediment quality object -- or, criteria is
24 being met.

25 So at the top it's very narrow, but at

1 the bottom the criteria and the mitigations that are
2 possible are -- is very wide. Is that a lot of work?
3 Which is the essential question. Yes, it is. And I
4 would --

5 THE CHAIRPERSON: Can I inter -- can I
6 interrupt here.

7 MR. TODD SLACK: Sure.

8 THE CHAIRPERSON: A matter of time I'd
9 like to ask my Board members to keep their questions to
10 the point and to the brief and then the response is
11 direct. So can you just get to the answer, please.
12 Thank you.

13 MR. TODD SLACK: Sure. It's something
14 I feel real passionate about.

15 Is it a lot of work? Yes. BHP took two
16 (2) years, Diavik took a year and a bit. Is it getting
17 faster? Yes. Because we have examples to work from.
18 But is it easy? No.

19 THE CHAIRPERSON: I'm going to go back
20 to Board Member Rachel Crapeau further questions?

21 MS. RACHEL CRAPEAU: That's it for my
22 questions.

23 THE CHAIRPERSON: Okay. Board Member,
24 Richard Mercredi...?

25 MR. RICHARD MERCREDI: Thank you, Mr.

1 Chair. No, I'd just like to thank the presenters. I
2 have no questions at this time.

3 THE CHAIRPERSON: Thank you. I'm
4 going to go to Percy Hardisty, Board Member.

5 MR. PERCY HARDISTY: No questions, Mr.
6 Chair.

7 THE CHAIRPERSON: Thank you. I'm
8 going to go to Board Member, Mr. James Wah-shee.

9 Any questions for the presenters?

10 MR. JAMES WAH-SHEE: Yeah. Thank you,
11 Mr. Chairman.

12 First of all, I wanted to know if the --
13 if the representative of the Government of the
14 Northwest Territories is sitting on that table there?

15 MS. JOANNA ANKERSMIT: Thank you, Mr.
16 Chair. Unfortunately Dr. Case was called away this
17 morning. He does anticipate to be back later today.
18 He sends his regrets.

19

20 (BRIEF PAUSE)

21

22 MR. JAMES WAH-SHEE: Just so that
23 perhaps he can be forewarned that I -- I am prepared
24 right now to ask a question. And perhaps you can
25 convey that question to the GNWT representative.

1 Having said that, I think it's not appropriate to have
2 the other half of the -- the proponent, the Developer
3 to ab -- to be absent from this particular hearing.

4 Now the question that I was going to
5 propose was a follow-up to my colleague's question,
6 Danny Bayha, concerning the health.

7 Now the -- as I understand it, the -- I
8 can appreciate the response regarding the health issue
9 of the residents of the City of Yellowknife, D'Nilo,
10 and Dettah. So in regards to the -- the health, as I
11 understand it, GNWT is the one that's responsible for
12 the delivery of health services and programs in the
13 Northwest Territories.

14 So I -- I guess my question would be, is
15 that: Do they have any plans in regards to doing some
16 kind of a study or a monitoring or the impact of this
17 project, particularly the impact on the -- the people
18 that reside here? We need to know who is responsible
19 for looking at health issues in regards to the impact
20 of this project.

21 And not only just doing one (1) little
22 study. It's got to have to be an ongoing monitoring,
23 so that we, the people that live -- and the residents,
24 would know what the state of our health is and what
25 potential impact it may have. And that's the question

1 that I have. Thank you.

2 THE CHAIRPERSON: Thank you, Mr. Wah-
3 Shee. Was that your only and final question?

4 MR. JAMES WAH-SHEE: That's it.

5 THE CHAIRPERSON: Thank you. I'm not
6 sure if the Developer is prepared to answer that
7 question, but we could maybe table that till this
8 afternoon once the -- I imagine he will return? I'll
9 go to the Developer.

10 MS. JOANNA ANKERSMIT: Thank you, Mr.
11 Chair. Dr. Case isn't here. We do have members of the
12 team that -- that work in GNWT. They are here with us,
13 but I would prefer to wait till this afternoon till Dr.
14 Case has returned to join us.

15 THE CHAIRPERSON: Okay, thank you.
16 We'll table that question till after lunch once he's
17 here. Is that okay, Mr. Wah-Shee?

18 MR. JAMES WAH-SHEE: Oh, that's fine by
19 me. Thank you.

20 THE CHAIRPERSON: Okay, thank you.
21 Board member and my friend at the very far end, Mr.
22 John Curran.

23 MR. JOHN CURRAN: Thank you, Mr.
24 Chairman. I will try to be brief, but I do have some
25 questions that go back to presentations that were made

1 towards the end of the day yesterday and then I'll --
2 I'll try and work through in chronological order here.

3 So Alternatives North, Kevin, we saw a
4 presentation from your contractor on designations, vari
5 -- from different levels. I guess I -- I just want to
6 preface this with, well, while we do have a duty to
7 future generations, we -- we do have a bit of a duty
8 here as well to the current residents and organizations
9 of Yellowknife.

10 Have you done any research on -- on what
11 a label like that might do for our organizations and
12 our businesses here in town? I know that it can be
13 quite difficult to recruit workers from outside the
14 City and outside the North. And I wonder if -- if you
15 think that it might be easier to get people to come
16 here if we are known as arsenic land, or Dumpee McDump
17 Park, or -- or whatever it might be that we call it?

18 THE CHAIRPERSON: Okay, before I go to
19 the -- who was the question to?

20 MR. JOHN CURRAN: The question, Mr.
21 Chairman? This is to Alternatives North.

22 THE CHAIRPERSON: Okay, Mr.
23 O'Reilly...?

24 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
25 It's Kevin O'Reilly for Alternatives North. And I

1 would prefer that Ms. Lagrely Hamre (phonetic) be here,
2 but she had to go back to her regular job. So I'll try
3 to do my best to answer, but I don't think the purpose
4 of the paper was to suggest in any way that any
5 specific designations or labelling be done of the site.
6 It was simply a discussion paper and I -- that was is
7 in the title, to -- to try to get people to start to
8 think about this idea of designating the site.

9 We don't have any specific plans or
10 ideas about that, but it was to at least start that
11 discussion, because there's a lot of different stories
12 about the site that -- that need to be remembered and
13 told. How that's done, and so on, I think we need to
14 work together to do that and I think that's what Karen
15 -- Karen's paper was suggesting and that's what we
16 would prefer.

17 The difficulty with this is that, as
18 I've said before, here we are eight (8) years after
19 this plan's been developed, four (4) years into the
20 environmental assessment, and the Developer has not put
21 forward any ideas around this. So we were sort of put
22 in the difficult position of trying to put forward some
23 ideas. And that's what this paper was really about,
24 was to at least start us talking about that. And
25 there's obviously a lot more work that needs to be

1 done.

2 And certainly, we don't want to scare
3 people away, but we want people here to remember what
4 happened. Thanks.

5 THE CHAIRPERSON: Mr. Curran, to your
6 questions and, again, if you could just keep them to
7 the point. Thank you.

8 MR. JOHN CURRAN: Yeah. So did I hear
9 you correctly there that you don't support the measures
10 that your contractor has put forward?

11 THE CHAIRPERSON: Thank you. Mr.
12 O'Reilly...?

13 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
14 It's Kevin O'Reilly with Alternatives North. I don't
15 think our -- Ms. Lagrely-Hamre actually recommended any
16 specific measures for the Review Board. It -- it was a
17 discussion paper, so the recommendation really was that
18 we need to work together to discuss this and figure out
19 what sort of designations and land use controls are
20 appropriate for the site. And it was an id -- the --
21 the thing was to -- the purpose was to put some ideas
22 out on the table to start that discussion. Thank you.

23 THE CHAIRPERSON: Thank you. Mr. John
24 Curran...?

25 MR. JOHN CURRAN: Thank you, Mr.

1 Chairman. Do you think that it would be, perhaps,
2 appropriate then that part of that discussion include
3 what such designations might do to property values here
4 in Yellowknife for homeowners and other landowners? I
5 -- I'm not certain, but I -- I don't think I want to
6 buy property in Love Canal. Just your thoughts on --
7 on that part of the discussion, then.

8 THE CHAIRPERSON: Thank you. We'll go
9 to Kevin O'Reilly.

10 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
11 It's Kevin O'Reilly with Alternatives North. I think
12 that the paper recognized that there's a whole variety
13 of stories and perspectives that -- that need to be
14 told about the Giant Mine from the Yellowknives Dene
15 First Nation, the Mining Heritage Society, people that
16 have lived here, the non-aboriginal people.

17 There's a whole variety of stories that
18 need to be told about the site, and we need to find
19 ways to -- to remember that, so that the people that
20 come after us know what happened, know what we did,
21 know what those stories are. And I think that was what
22 the purpose of the paper was.

23 The economic issues and so on that --
24 that might arise from that, we have yet to have -- have
25 that discussion and certainly that should probably be

1 part of the debate and discussion that would take
2 place. Thanks.

3 THE CHAIRPERSON: Thank you. John
4 Curran...?

5 MR. JOHN CURRAN: Well, I -- in the
6 interest of time, let's just move on, I guess. We'll
7 agree to disagree on -- on maybe what you intended with
8 your proposal. But anyways, I guess moving on to
9 today's material, whoo-hoo.

10 Do you respect the wisdom and authority
11 of this Board?

12 THE CHAIRPERSON: Thank you. Kevin
13 O'Reilly...?

14 MR. KEVIN O'REILLY: Thanks. Kevin
15 O'Reilly with Alternatives North. Of course we respect
16 the -- the wisdom and -- and judgment of the Board;
17 that's why we're here. Thank you.

18 THE CHAIRPERSON: Mr. O'Reilly, to your
19 -- I'm sorry, John Curran...?

20 MR. JOHN CURRAN: Okay, well that's --
21 that's reassuring, because I -- I have heard from the
22 Proponent that there is a commitment to a records --
23 creating a records system, creating independent
24 monitoring programs, and a variety of other things that
25 you seem to keep hammering on and -- and your concern

1 that we're not going to follow through on them.

2 I can tell you, sir, that I do respect
3 what you're saying and they will be included in -- in
4 what we decide. At least, I'll be -- I'll be pushing
5 for that. So, thank you for your -- your reciprocated
6 respect there, I guess.

7 Now -- sorry, the question would be,
8 you've mentioned at one (1) point that they don't
9 reflect the needs of the community. Which community do
10 you speak for, sir?

11 THE CHAIRPERSON: Thank you. Kevin
12 O'Reilly...?

13 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
14 It's Kevin O'Reilly with Alternatives North.

15 Well, I've lived in this community for
16 twenty-six (26) years. I've worked for federal,
17 territorial, aboriginal governments for -- in fact,
18 when I first moved up here in 1985 I was working for
19 the Dene Nation. I've been involved in this project,
20 in one form or another, wearing various hats, including
21 City council, for nine (9) years.

22 But Alternatives North, we've provided
23 some information to you, I think, on our membership and
24 representation, our background and what sort of issues
25 we've been involved in in the past. Alternatives North

1 is a registered non-profit society here in the
2 Northwest Territories. It's been around for twenty
3 (20) years, been involved in a variety of issues, anti-
4 poverty strategy, we've helped prepare alternative
5 budgets, a whole variety of things in -- in those sorts
6 of areas.

7 Yeah, I -- and I think that we've done
8 our best to work both with the Yellowknives Dene First
9 Nation and the City of Yellowknife during this process.
10 And I think we've made constructive suggestions and
11 proposals. We bring a lot of ideas, I think, to the
12 table.

13 And, you know, as an example, I -- I'm
14 taking a week off work, so I can be here and
15 participate in this hearing because I think this is an
16 important thing. So I'm not sure what else I can say.
17 I think I'll -- I'll leave it at that. Thank you.

18 THE CHAIRPERSON: Thank you. John
19 Curran, any further questions?

20 MR. JOHN CURRAN: Yeah, just a -- a few
21 more pages, Mr. Chairman. So the answer is -- was
22 Yellowknife, "yes" or "no"?

23 THE CHAIRPERSON: Excuse me, you said
24 pages? I'm going to have to cut you off pretty soon
25 here. Mr. O'Reilly...?

1 MR. KEVIN O'REILLY: Thanks. Kevin
2 O'Reilly for Alternatives North. You know, I -- I
3 don't think Alternatives North can --

4 THE CHAIRPERSON: Very good. Thank
5 you, Mr. Curran. "Yes" or "no," Mr. O'Reilly to the
6 question?

7 MR. KEVIN O'REILLY: Sorry, do -- does
8 Alternatives North represent Yellowknife? Is that what
9 the question is?

10 THE CHAIRPERSON: Yes.

11 MR. KEVIN O'REILLY: I -- I don't think
12 we could say that we represent all Yellowknifers, but -
13 - yeah, thank you.

14 THE CHAIRPERSON: Okay, thank you. Mr.
15 Curran...?

16 MR. JOHN CURRAN: I guess the -- the
17 reason for my -- my concern there on which community
18 you represent, certainly you've made it clear with the
19 -- the records that were filed with the Review Board
20 that you are a coalition. And certainly a number of
21 the groups that are part of that coalition are not
22 Yellowknife based. You also indicate that there are
23 twenty-four (24) members and you -- you wouldn't
24 divulge who those individual members are.

25 I -- I'm just trying to understand what

1 sort of clandestine organization this is, and whose
2 interest it represents, that's all, sir. And I'm
3 sorry, in the interest of time, I guess we'll move on
4 then. I just want to -- just trying to understand
5 who's participating. So I guess we can move up to the
6 next -- the next one here.

7 YKDFN, my hearing yesterday indicated
8 that the Proponent -- I heard the Proponent say that
9 they were willing to include the YK Dene and the North
10 Slave Metis in a number of things: independent
11 monitoring, final routing of Baker Creek, use and
12 location of the diffuser.

13 Does -- do you have faith in this
14 Board's wisdom and authority to enforce these measures?

15 THE CHAIRPERSON: I'll go to YKDFN to
16 the question.

17 MR. TODD SLACK: Thanks for the
18 question, Mr. Curran. Of course we have faith in the -
19 - the ability of the -- of the Board to exercise their
20 jurisdiction. That's why we're asking for these as
21 measures, not just for commitments. We're hoping that
22 you can put these things into place where there's a --
23 a minimum of enforceable backdrop to them. That's why
24 we're -- we're coming to you and we're asking.

25 THE CHAIRPERSON: Thank you. Mr.

1 Curran...?

2 MR. JOHN CURRAN: I guess, in the
3 interest of time then, if -- if the Board's already got
4 a commitment, just respect the fact that the Board will
5 hold them to that commitment, so that we can get
6 through stuff today. That would be my only request on
7 that one.

8 Now, North Slave Metis Alliance, for --
9 oh, I guess, we'll just allow Sue to come back up here
10 unless there's someone else that would like to speak
11 for her. I just am curious, do -- do you share Mr.
12 Slack's agreement there, that you respect this Board's
13 ability to hold the Developer to its commitments to
14 involve YK Dene, the North Slave Metis in independent
15 monitoring, final routing of Baker Creek -- what are
16 some of the other ones that we've heard so far, the use
17 and location of the diffuser?

18 And are you satisfied that this Board
19 will do what it needs to do to make those things happen
20 and -- and have you at the table to make those
21 decisions?

22 THE CHAIRPERSON: Thank you. North
23 Slave Metis?

24 MS. SUSAN ENGE: Thank you. Susan Enge
25 Metis Alliance. This is my first encounter with the

1 Board and first, I guess, encounter with the
2 recommendations that you will be coming forth with.
3 And if the question is: Do we trust that you've heard
4 our concerns and will incorporate that in your final
5 report? I absolutely do.

6 I think you've heard our message, as an
7 indigenous group here in this region and -- and that we
8 care about what's going on. So, yes, I put my full
9 trust in you and -- and I think we're all in it
10 together. And we look forward to your report. Thank
11 you.

12 THE CHAIRPERSON: Thank you. Any more
13 questions, John Curran?

14 MR. JOHN CURRAN: Just one (1) more,
15 Mr. Chairman. One (1) more for Ms. Enge. You
16 mentioned the idea of trust funds and this has come up
17 a few times already. And I'm sure it'll come up later
18 today as well.

19 But you had mentioned, in case of
20 political collapse, that we want to make sure that's
21 there's money there to -- to pay for this. Is that
22 correct?

23 THE CHAIRPERSON: Thank you for your
24 final question. And I'll go -- oh, okay. It wasn't
25 your final question. I'm going to go to North Slave

1 Metis.

2 MS. SUSAN ENGE: Susan Enge, Metis
3 Alliance. Yes, that's correct.

4 THE CHAIRPERSON: Thank you. And to
5 your final question, Mr. Curran?

6 MR. JOHN CURRAN: So if the Mayans get
7 it right, and we do have mass societal collapse, I'm
8 wondering what bank branch is still going to be open so
9 that we would be able to access those funds, and which
10 construction companies would still be operating that we
11 could contract to still do the work, and how that --
12 that trust fund would actually mitigate the idea of
13 political collapse?

14 THE CHAIRPERSON: Is -- North Slave
15 Metis?

16 MS. SUSAN ENGE: Thank you, Mr. Curran.
17 Susan Enge, Metis Alliance. I know there are
18 speculative measures that's part of this whole
19 discussion. And I anticipate when we cross that bridge
20 that -- that there is a vehicle or some measure in
21 place to address such a catastrophic situation such as
22 that. Thank you.

23 THE CHAIRPERSON: Thank you. Thank
24 you, Mr. Curran for your questions. We'll take a ten
25 (10) minute break.

1 --- Upon recessing at 10:08 a.m.

2 --- Upon resuming at 10:48 a.m.

3

4 THE CHAIRPERSON: Before we go into the
5 Developer's presentation, if you could turn on the
6 light for a second. Can you turn it all on. Thank
7 you. We were -- this morning we were going through
8 presentations that were finished off from yesterday and
9 some of this morning. And we were questioning the
10 parties on their presentations.

11 And prior to breaking, there were some
12 comments made by Board members that needs to be
13 addressed. So we were able to break. And while during
14 break, we caucused. And I want to turn the mic over to
15 Board member John Curran. John Curran...?

16 MR. JOHN CURRAN: Thank you, Mr.
17 Chairman. Before the break I asked a series of
18 questions of three (3) intervening parties:
19 Alternatives North, YKDFN and the North Slave Metis
20 Alliance.

21 I wanted to clarify my understanding of
22 their recommendations and how they understood that our
23 process would address those recommendations. It has
24 been a long week, and time pressures have weighed on
25 all of us in this room.

1 My questions were intended to be sure
2 that I understood the representative capacity of
3 Alternatives North and all of the recommendations they
4 have made. I want to assure these parties that I
5 appreciate their work and that I will work with the
6 Board to ensure a full and fair consideration of their
7 submissions.

8 If there is any possibility that my tone
9 or approach to these questions offended these parties,
10 I want to be clear that was not my intent. The
11 compressed agenda affected my ability to take my time
12 with these questions and may have conveyed a certain
13 aggressive tone; that was certainly not my intent.

14 And I -- on a personal level, I would
15 like to apologize to Mr. O'Reilly, if I offended him.

16

17 (BRIEF PAUSE)

18

19 THE CHAIRPERSON: Thank you. Before I
20 proceed to the presentation I'm going to go to the
21 Developers if you have any comments. Thank you.

22 MS. JOANNA ANKERSMIT: Sorry, Mr.
23 Chair, comments on the presentations? No, we have no
24 comments at this time.

25 But if I could, Mr. Chair, introduce

1 Lisa Dyer. She is with the GNWT, and is the director
2 of environment, I believe is her title right now. So
3 I'd like to welcome her to the table.

4 Dr. Case is otherwise -- well, Lisa can
5 let you know where he is, but unfortunately he can't be
6 with us. He's with the Minister still. He will still
7 attempt to join us later on today, but in the meantime
8 we're fortunate to be joined by Lisa Dyer.

9 THE CHAIRPERSON: Thank you. And I'd
10 like to welcome you. And I believe this afternoon we
11 have one (1) question to the GNWT.

12 I want to go to the North Slave Metis
13 Alliance and Yellowknives Dene First Nations, and Kevin
14 O'Reilly, if they have any comments in regards to Mr.
15 Curran's statement.

16

17 (BRIEF PAUSE)

18

19 MS. SUSAN ENGE: Thank you, Mr. Chair.
20 Susan Enge, Metis Alliance. I do appreciate Mr.
21 Curran's comments after the break. There was
22 discussion during the coffee break about the tone, and
23 it might have put some of us on the -- on the defensive
24 as well, so I appreciate your comments. Thank you very
25 much.

1 THE CHAIRPERSON: Thank you. YKDFN...?

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

3 And we don't have any real comments. Everyone's
4 working hard, and -- and we were all in Behchoko for
5 long nights two (2) weeks ago, and we're long nights
6 now, and I'm a big believer that hard questions, and I
7 -- I worry about my tone with the proponent sometimes,
8 too. But hard questions are going to make for a good
9 project, and I fully understand how sometimes things,
10 especially on the record, can not perhaps come out
11 exactly right.

12 THE CHAIRPERSON: Thank you. Mr. Kevin
13 O'Reilly...?

14 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
15 Kevin O'Reilly, with Alternatives North. I want to
16 thank Mr. Curran for his thoughtful apology. I -- I
17 served nine (9) years on City Council, so I got a
18 pretty tough hide. But I know we're all tired, and we
19 will do our best to respect your process and time
20 lines, and be respectful and make hope -- helpful
21 contributions hopefully. Thank you.

22 THE CHAIRPERSON: Thank you very much.
23 With that then we'll move on now. I want to thank Mr.
24 Curran for coming out and making your statement. Much
25 appreciated. Thank you very much. Also to the

1 Developer and the parties. Masi cho.

2 Now I'm going to go into the Developer's
3 presentation on oversight, consultation, and long term
4 funding. So we have forty (40) minutes. And I
5 understood that you guys agreed to do it in thirty (30)
6 minutes, so I want to thank you for that. Can we put
7 the marker on for thirty (30) minutes, please.

8

9 PRESENTATION BY DEVELOPER - OVERSIGHT, CONSULTATION,
10 AND LONG-TERM FUNDING:

11 MS. JOANNA ANKERSMIT: Thank you, Mr.
12 Chair. If I may, I'll get a couple of seconds in
13 before Alan turns the buzzer on. Thank you much --
14 very much for the opportunity to -- to speak about
15 this.

16 Before I begin I just want to -- to
17 mention in this presentation I'll be one (1) of the
18 speakers. Mr. -- Mr. Adrian Paradis, beside me, will
19 also speak. Joined on -- us at the table is Lisa Dyer,
20 as I mentioned before; Michael Van Aanhout, who you saw
21 yesterday and will continue to add -- help -- help us
22 add some perspective and contribute to the discussion;
23 and Mr. Mark Palmer, another member of our team.

24 Slide 2, please. Project oversight has
25 been a consistent theme throughout this environmental

1 assessment process and indeed during this week's
2 proceedings. We have heard, and feel we understand the
3 perspectives presented by the parties and the public on
4 this issue. We have been working collaboratively with
5 the parties, as you've heard, to work through and
6 understand various perspectives on oversight related to
7 the Giant Mine project.

8 Before describing our proposed approach
9 to project oversight, I'd like to put things in context
10 and describe some of the existing oversight mechanisms,
11 both -- within both the federal and territorial
12 governments in the Mackenzie Valley regulatory regime.

13 Slide 3, please. The Government of
14 Canada, as I mentioned in my opening remarks, has a
15 number of accountability and oversight mechanisms in
16 place that are relevant to this project. First, the
17 Parliament of Canada and officers to Parliament,
18 including the officer of the Auditor General, and the
19 commissioner of Environment and Sustainable
20 Development.

21 The commissioner of Environment and
22 Sustainable Development personally visited the Giant
23 Mine this summer and his office, as -- as many of you
24 will be aware, have completed a num -- a series of
25 audits over the years concerning federal contaminated

1 sites. In addition to the audits, the commissioner's
2 office oversees a public petition process, and also
3 seeks independent advice from a panel of environmental
4 advisors.

5 The Treasury Board of Canada has a key
6 role in setting policies for, and overseeing
7 expenditures, related to public funds to ensure value
8 for money for all Canadians. The Treasury Board is
9 also one (1) of the departments that co-chair's and
10 oversees the Federal Contaminated Sites Action Plan
11 that currently is the primary source for funding for
12 this project.

13 Also visiting this summer was the
14 Minister himself, Minister Clement, who's currently the
15 Minister of the -- president of the Treasury Board.

16 The next slide, please. The Minister of
17 Aboriginal Affairs and Northern Development is the
18 minister responsible for the project. Given the scale
19 of this project, a significant governance and
20 accountability regime has been put in place internally
21 to ensure that we stay within scope, schedule, and
22 budget within -- for this project.

23 The Project Management Board that you
24 see there is a senior internal governance body for the
25 project. It's membership includes Directors General

1 from Aboriginal Affairs and Northern Development Canada
2 in both the NCR, national capital region, and here in
3 the region. As well, as -- it also includes the
4 regional Director General from Public Works and
5 Government Services Canada.

6 The Department releases annual reports
7 on its plans and priorities, audits and evaluations.
8 And the Northern contaminated sites program, as we've
9 talked about earlier this week, produces an annual
10 report each -- each and every year, which is available
11 to the public.

12 The next slide, please. These are
13 pieces of legislation that lay out -- obviously pieces
14 of legislation that have come up throughout the week,
15 and -- and you're likely aware of. So I won't spend
16 much time on this slide, except to say that they
17 collectively guar -- guide our -- our planning
18 implementation, and will have a key role in the
19 monitoring of the project.

20 One (1) piece of legislation in
21 particular, as I was reviewing this last night, that I
22 wanted to mention again is the Mine Health and Safety
23 Act. It's the legislation that governs most aspects of
24 the remediation project, and deals with the physical
25 welfare of workers. I raise this specifically because

1 in the community of Dettah and in N'Dilo I've heard
2 concerns from the people there about the concern they
3 have about people working on the mine site. This is an
4 important piece of legislation for folks to understand,
5 and to, I think, help alleviate some of the concerns.
6 There are -- there are -- is legislation that -- that
7 will govern the work of -- of those people on the site,
8 and if there's anything that -- that can be done to
9 help people understand that particular piece, I thin --
10 I certainly think that's worth doing.

11 The next slide, please. Again this
12 slide relates to the independent peer review panel that
13 has been referred to a number of times throughout the
14 week. And I won't spend much time on it, except to say
15 that it has had a significant role in the independent
16 review of the -- of the plans being put before this
17 assessment process.

18 Slide 7. There are a number of existing
19 commitments related to accountability and oversight.
20 You -- you've heard a number of these this week as
21 well, but worth quickly reviewing: The Environmental
22 Management System working group of the parties that --
23 that's been discussed. As well as the Aboriginal
24 Government body that we met -- had committed to in the
25 DAR. We've been in discussions with the YKDFN, and the

1 role of GMAC going forward is something that we're
2 engaging with them on and look forward to that process
3 continuing.

4 The process -- the project is also in
5 the process of establishing what we call an independent
6 engineer who will report to the management Board of the
7 project. And its role is to provide -- for
8 independently assuring that the project is delivering
9 primarily in the area of value for money. It's a best
10 practice that we're learning from -- that was used at
11 the Sydney Tar Ponds Project, which I'm sure many folks
12 in this room are familiar with.

13 And further, in the Environmental
14 Management System we're committed to the following ways
15 of -- of following mechanisms for oversight and
16 transparency. A few examples: third-party audits of
17 the environmental Management System that we've been
18 speaking of; quarterly public reporting; annual public
19 reports that will summarize and review the operational
20 environmental data collected; and a state of the
21 environment report prepared every three (3) years
22 during the first fifteen (15) years of remediation and
23 then every five (5) years thereafter in order to
24 summarize, review, and interpret the data collected,
25 and provide recommendation for modification to the

1 monitoring program or site operations.

2 The next slide, please. Oversight is --
3 is very important, as we've all been hearing throughout
4 the week. Recognizing this, we supported and
5 participated in an overshop -- sorry, an oversight
6 workshop that was organized by the YKDFN and
7 Alternatives North in March of 2012. Based on those
8 discussions we init -- a working group was -- was
9 hatched to explore establishing some sort of arms
10 length committee to monitor and advise on the
11 environmental aspects of the project through
12 implementation.

13 This group has made some excellent
14 progress. They've been -- they've been working very
15 hard to find areas where we agree and find areas where
16 we think there's still some challenges.

17 In May 2012, the working group prepared
18 a discussion paper and -- and we've consented with
19 Alternatives North, I believe, to have that placed on
20 the record. It's an -- it's an important piece of work
21 that I -- it is a foundational documents and I believe
22 -- I believe Alternatives North will be putting that on
23 the record.

24 Slide 9, please. As indicated in our
25 letter submitted to the registry on the 31st of -- of

1 August, we've accepted the working group's conclusion
2 regarding the need to establish an environmental
3 monitoring advisory committee, and we've committed to
4 working with all interested parties and affected
5 governments and organizations to establish the
6 committee ahead of the full remediation phase of the
7 project.

8 The following slides provide the guiding
9 principles, mandate, and process for establishing the
10 committee largely based on the discussions held at the
11 working group.

12 Slide 10. The mandate of the
13 committee's proposed to be: To provide arms length
14 advice to the Giant Mine Remediation Project team as it
15 implements the environmental management system. And
16 that will include advice on adaptive management, best
17 practices, perpetual care, and communications. Will
18 work to increase public confidence through regular
19 engagement with the both the proponent and the
20 community. Provide input to develop and implement the
21 Environmental Management System engagement plans in
22 perpetual care, and advise on the long-term operations
23 and maintenance.

24 Slide 11, please. The working group
25 developed the proposed guiding principles listed here.

1 For clarity I'll provide what is the project's
2 interpretation of these principles. The government
3 will not transfer accountability or -- for remediating
4 a site to any other party. The committee would be
5 established to provide arm's length advice, as I've
6 mentioned, to the proponent regarding implementation of
7 the environmental aspects of the project, including
8 advice on adaptive management and best practices.

9 The committee and the Giant Mine
10 Remediation Project team will operate in the principle
11 of full, frank, transparent and timely disclosure of
12 all appropriate information, including all annual
13 reports and other relevant program and project-specific
14 reports. And the project team will give full and
15 serious consideration to the reports and
16 recommendations of the committee, implementing those
17 recommendations it considers appropriate, and
18 responding to the committee with its written response
19 with specific periods, including if, how and when the
20 recommendations will be implemented and, at all times,
21 avoid duplication with regulator requirements.

22 Slide 12, please. A lot has been -- a
23 lot of thinking has been brought to the area related to
24 the -- the items that you see on the slide. We
25 certainly heard at the community sessions this week

1 that the public has a lot of thoughts and insights and
2 -- and, I think, wishes towards what they -- what might
3 be seen on an independent oversight body, an
4 environmental management advisory committee such as
5 this.

6 We're certain looking at something that
7 would exist through project implementation in the
8 monitoring phases, and for -- for dispute resolution,
9 definitely a mechanism in place to ensure there's an
10 appropriate process for disputes related to the process
11 that is agreed to by the parties.

12 A comparison of the discussion paper in
13 the letter illustrates there are aspects of the
14 establishment of the committee that still need to be
15 worked out. Challenging issues, like membership and
16 ensuring a role for the community at large, the nature
17 of the agreement that establishes the committee, the
18 role of the committee in encouraging in the areas of
19 research that will lead to improved site remediation
20 and long-term security. We believe that broader
21 discussions with all interested parties and affected
22 governments and organizations will address any, as of
23 yet, unresolved issues. And we commit to beginning
24 those discussions, building on the work of the working
25 group, before the end of the year.

1 Thank you, Mr. Chairman. I'll now pass
2 it over to Adrian Paradis, who will speak to the public
3 engagement -- sorry, public and Aboriginal engagement.

4 MR. ADRIAN PARADIS: Thank you, Mr.
5 Chair. For the sake of time, I will skip some of our
6 slides and go straight to some of the concerns we've
7 heard and how we've tried to incorporate them into our
8 planning. This is not meant to downplay our engagement
9 or -- but to focus the discussions for the short time
10 that we have remaining.

11 I want to frame -- I do want to frame
12 partially some of the -- some of these discussions. I
13 mean, people talk about what engagement is and why and
14 -- and the lack thereof or their concerns about how
15 we've responded.

16 We want to reiterate we are open. We
17 are here. We have members of the commu -- we have
18 members from our team who are part of the community.
19 So we want to show briefly how we've tried to
20 incorporate some of the concerns that we've heard. And
21 this is by no means an exhaustive list. It is just
22 meant, for the sake of timing here, a brief highlight.

23 I'm going to -- for the folks on the
24 line, I'm going to go to slide 20. There, I'm actually
25 at slide 20. AS we've heard multiple times throughout

1 the week, water is life. We are undertaking a
2 comprehensive water and sediment quality study of Back
3 Bay to improve our understanding of the current
4 conditions of Back Bay and Yellowknife Bay.

5 This is part of our normal planning.
6 This was something that we've always had to do.
7 However, we have heard during both the pre-hearing --
8 pre-technical workshop that maybe the geographical
9 boundary was not sufficient and it needed to be
10 expanded. There was specific concerns regarding the
11 extent of it, and if -- did it -- if it properly
12 captured the potential location of the new city in --
13 intake. We're assured that this study incorporates
14 fully that geographical boundary.

15 We have also heard from the city about
16 their concerns regarding the sediment quality in and
17 around the potential marina around Giant Mine. We have
18 committed to conducting a sediment study in that area,
19 which results will be made available to the city for
20 their determination of whether or not this is an
21 appropriate venue for selection.

22 As mentioned on Tuesday, we have
23 conducted modelling for the diffuser, and there's been
24 some clarifications or questions about what extent and
25 what communications we've had with the city regarding

1 the diffuser, or -- and ice thickness. I'd like to
2 clarify some of those comments.

3 We have only talked to this -- we have
4 not talked to the city about the diffuser at that
5 location with our discussions with the city fire chief.
6 Our discussions were: What are the standards that the
7 City uses to be protective of the ice for safety in
8 winter recreation?

9 Our intention was to take what is a
10 known and well thought of program, I believe, in the
11 city, to see if we can incorporate our monitoring and
12 our management going forward, and use it to compliment
13 the city's existing program.

14 We have developed a procurement plan for
15 this program to maximize the northern economic
16 development opportunities in carrying out the Giant
17 Mine Remediation Project for northern and Aboriginal
18 parties. We have hosted a May, 2010 workshop on
19 procurement, industry day. We've also hosted one in
20 August 1st of 2012. The intention of these was to
21 bring together interested parties and interested -- in
22 the business community, and find out what their
23 interest was, and find out what the capabilities were.
24 It was also an opportunity for networking within the
25 business community to allow them to better build

1 competitive packages. We hope that this is going to be
2 a fruitful endeavour for the business community of the
3 Yellowknife and the Northwest Territories.

4

5 (BRIEF PAUSE)

6

7 MR. ADRIAN PARADIS: I'm going to skip
8 ahead here a little bit more. I believe you've heard
9 some of the other -- other ones. I -- I will spend a
10 brief time on the advisory committee from the YKDFN,
11 Giant Mine community advisory committee, and I will try
12 and address I believe a question that was brought up
13 yesterday by Ms. Rachel Crapeau.

14 The Giant Mine advisory committee, and
15 we've heard -- we have strong hopes that the committee
16 will be our key kind of in -- how do I say this the
17 best -- this will be our key window to access the YKDFN
18 and get their input, and get their thoughts into the
19 planning. The committee, while young, I believe on
20 both parties, we have both strong hopes, and we think
21 this is a very useful vehicle to go forward with
22 building trust across both sides. It is no -- by no
23 means going to be a -- quick to occur. We understand
24 that we have a hill -- a large hill to climb, but we
25 are here for that.

1 Yesterday we were asked how many
2 community working groups do we participate, and what
3 are all these communities and what are the committees
4 and working groups, what do they do. I'll try and
5 briefly outline some of the -- some of the standard
6 engagement that we do throughout the month.

7 We have what is the Giant Mine Community
8 Alliance. The Community Alliance is members of the
9 City of Yellowknife, the Mining Heritage Society,
10 Northwest Territories Federation of Labour -- Labour, the
11 Yellowknife Chamber of Commerce, North Slave Metis
12 Alliance, and the YKDFN as observers.

13 Some of the last folks there, the North
14 Slave and the YKDFN, have been intermitted, agree --
15 admittedly; hence, bringing forward the Giant Mine
16 Advisory Committee of the YKDFN.

17 The City of Yellowknife we meet with
18 monthly, the first week of the -- the first Tuesday of
19 the month. We also try and meet monthly with GMAC
20 community advisor from the YKDFN ,to hear what the
21 concerns are and then try and say where -- what status
22 the project is.

23 We have developed, and you've heard a
24 lot about it, the EMS working group of the parties. I
25 myself am not actively involved in it, but I have high

1 hopes that this pro -- this continues to go forward.

2 We've heard from -- we've heard and
3 talked extensively about oversight. We have been, over
4 the last six (6), eight (8) months, wor -- meeting
5 biweekly with an oversight working group. This is only
6 a small snapshot of our typical month.

7 We also have, especially during the
8 summer months, a multitude of different folks who we
9 speak to and talk to, a lot of it just simply around
10 coming out to site. We have a Heritage Society,
11 universities. Lots of my team spend lots of time doing
12 site tours. We've been trying to work with different
13 folks to promote and -- well, maybe not promote, but
14 incorporate their hopes to actually use Giant as movie
15 sites.

16 None of that is to say that is
17 engagement, but it is to try and dispel the myths. I
18 think bringing folks into site gives them an
19 opportunity to see what we do, see where we're at, and
20 explain things. I think a large part of what we have
21 to do is simply explain what we're doing so they have
22 an understanding to be -- see what's behind there. You
23 drive past Giant, but you can't quite see the extent of
24 it from the highway, so bringing people onto site,
25 showing them what's going on, they get a little better

1 sense of what -- what everything is at.

2 I'm sorry, folks, I am somewhat rushed.

3 I'm trying to ri -- bring this down very quickly so we
4 can move on, and just not listen to a talking head.

5 I want to end on a few -- few key points
6 here. The team, while you see lots of folks here from
7 out of town, there is a very large team here in the
8 community, not a very large, but there is -- there's a
9 very -- there's a lot of folks here in the community.
10 They are very actively engaged. And we are trying to
11 be, hopefully, intensively engaged. I speak internally
12 to my team of what we need is: not them again, why are
13 you here again, we talked to you last week. We're not
14 there yet, but that's the hope.

15 I think we have been particularly maybe
16 productive and increasing over the past years.
17 Engagement is be -- the engagement process has been
18 established with new commitments moving forward. We
19 are hoping for this advisory and oversight committee to
20 be a strong public advisory body. Meaningful
21 engagement is fundamental for the success of this
22 project. We've talked about that yesterday. We talked
23 about our vision and what we hope this reclamation,
24 this remediation project can be.

25 Dr. Gilchrist spoke today about the

1 physical aspects and our ability to extend beyond that.
2 That is the hope. And maybe when I -- I think I was
3 the one who spoke: What is our responsibility? It is
4 to remediate. And I think it is my limitation, as a
5 scientist who's studied reclamations of soils, the
6 physical water bodies, to say that is what I focus on.

7 My hope is that, by fixing the land,
8 that you get to that next stage. And I see the little
9 light flashing, so I will end. We are committed to
10 working with the commu -- communities, the public and
11 the Aboriginal groups, to help achieve these goals, and
12 not only our goals, but the goals of the community
13 moving forward.

14 With that, I'll ask Joanna.

15 MS. JOANNA ANKERSMIT: I have nothing
16 to say about slide 25.

17 Slide 26. So project funding, obviously
18 this is important to everybody. As you know, we're the
19 -- Aboriginal Affairs and Northern Development is the
20 project sponsor and responsible for the remediation.
21 It seeks funding through the normal budgetary process,
22 but has had the benefit of the Federal Contaminated
23 Sites Action Plan in order to be able to provide secure
24 funding over the last number of years to get us to this
25 point.

1 As I mentioned before, the -- the FCSA
2 program has been earmarked in the government's fiscal
3 framework until 1920. The Pembina research that's been
4 done -- and I believe Duncan is here from Pembina
5 Institute. He'll be able to talk about a variety of
6 other kind of funding mechanisms that the government
7 has used for various other projects or initiatives.
8 And so I think that will be very informative when we
9 get to that -- that presentation.

10 The next slide, please. As I mentioned,
11 funding for this project to date has been stable and
12 consistent. The current approach has allowed us to
13 effectively manage cost variations and ensure the
14 protection of human health and the environment. This
15 bullet speaks particularly to incidences that have
16 happened on the site where we've had to take measures
17 to ensure that remediation corrective measures were put
18 in place. We've been able to do that in a -- in an
19 effective manner with our existing funding mechanism.

20 And it's important to know that
21 ministers that are responsible for -- for funding
22 decisions have been ware -- made aware of the ongoing
23 costs in a -- in full costing. As the project advances
24 that -- those costs are continually shared with -- for
25 -- with decision makers. And we have spent, you know,

1 to date 160 million. It -- it's a lot of money and --
2 and it has been a stable source of funding to allow us
3 to get to the plan that -- that's being reviewed
4 through this process.

5 The next slide, please. A couple of
6 points to note on this graphic. We're not showing
7 actually dollars on -- on the scale here. That's
8 because we're only trying to illustrate the broad
9 pattern. I mentioned earlier in the week that there
10 will be an intensive construction phase and there will
11 be an intensive period of -- of expenditures. You can
12 see that in the -- in the project implementation area
13 there.

14 The pattern includes a gradual ramping
15 up of the expenditures that -- that intense high annual
16 outlay during the peak of the project implementation
17 and active remediation. The other part of the pattern,
18 which is -- is a much lower level of funding, that's
19 required over the very long term.

20 As I mentioned yesterday, I believe in a
21 question, we anticipate that to be in the order of --
22 of \$2 million annually. And -- and that amount of
23 money, while not negligible, is certainly within the
24 Government of Canada's traditional kind of
25 infrastructure spending.

1 The next slide, please. So in summary,
2 oversight, engagement, and funding presentation, the
3 Government of Canada and the GNWT, in selecting the
4 preferred remediation option for the site, have
5 recognized and accepted that this project will have an
6 element of long-term care, maintenance and monitoring.

7 The Government of Canada does welcome
8 the interest and participation of stakeholders and the
9 public in the Giant Mine Remediation Program. And
10 timely implementation of this remediation plan along
11 with the described environmental management system and
12 oversight mechanisms, will ensure that health and
13 safety is protected and that public concerns going
14 forward are addressed and hopefully minimized.

15 With that I'll say, thank you, Mr.
16 Chair.

17 THE CHAIRPERSON: Thank you for your
18 presentation. Before I go to questions, we've got some
19 of our young future leaders of tomorrow here. So I'd
20 like to ask the teacher from St. Patrick's School to
21 come up to introduce your students. There's a podium
22 up here.

23 MR. JEAN DUBOIS: Good morning. My
24 name is Jean Dubois (phonetic), I'm a teacher at St.
25 Pat's High, and I'm here with my grade 11 northern

1 studies class. It's a French immersion class. They're
2 right over there. That's why there's only three (3) of
3 them, it's French immersion.

4 And we're here in northern studies to --
5 we study northern history -- I guess I could do this --
6 and we also study more contemporary northern issues.
7 And that's why we're here, to learn a little bit more
8 about this -- probably one of the biggest northern
9 issues there is. So thank you for having us.

10 THE CHAIRPERSON: Thank you. And
11 we're glad you guys are here to watch our proceedings.
12 And I want to welcome you guys, so Masi.

13 I want to thank the developer for their
14 presentation. And the process again, we will follow
15 the order of questioning. And I'm going to go to the
16 City of Yellowknife, if you have any questions to the
17 developer on their presentation this morning.

18

19 QUESTION PERIOD:

20 MR. DENNIS KEFALAS: Dennis Kefalas,
21 the City of Yellowknife. Mr. Chair, no questions at
22 this time.

23 THE CHAIRPERSON: Thank you. I'm
24 going to go to the Yellowknives Dene First Nation.
25 Questions to the developer on their presentation here

1 this morning on the presentation oversight

2 consultations and long-term funding. Thank you.

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

4 No, we'll address this through our presentation.

5 Thanks.

6 THE CHAIRPERSON: Thank you.

7 Alternatives North, Mr. O'Reilly?

8 MR. KEVIN O'REILLY: Thanks, Mr. Chair.

9 It's Kevin O'Reilly, with Alternatives North. I'm
10 hoping we could turn to slide 6 of the presentation.

11 Thanks, Joanna, for doing that.

12 Yes, sorry, this is the slide that talks
13 about an independent peer review panel. So I'm just
14 wondering, can the developer tell us who is actually on
15 this panel and what sort of areas of expertise they
16 have. Thank you.

17 THE CHAIRPERSON: Thank you, Mr.
18 O'Reilly. I'm going to go to the developer, to the
19 question.

20 MR. MICHAEL NAHIR: Thank you, Mr.
21 Chair. It's Mike Nahir. The -- the independent peer
22 review panel was a panel that was constituted for --
23 originally for the frozen block options assessment.

24 As we move forward we're going to be
25 reconstituting the members of the independent peer

1 review panel to suit the work going forward. So that
2 as we -- as we move into the design process -- so the
3 project has been peer reviewed, and now as we move
4 further into the design process we want to re-
5 establish, reconstitute the -- the independent peer
6 review panel to address the specific disciplines that
7 will be needed going forward. Thank you.

8 THE CHAIRPERSON: Thank you. Mr.
9 O'Reilly...?

10 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
11 Kevin O'Reilly, for Alternatives North. So just so I
12 understand this properly then, so the last time the
13 peer review panel met or did any work was probably back
14 about 2005.

15 Is -- is that correct? Thanks.

16 THE CHAIRPERSON: Thank you. I'll go
17 to the developer.

18 MR. MICHAEL NAHIR: Thank you, Mr.
19 Chair. Mike Nahir. To be clear, the peer review panel
20 reviewed the full remediation plan that was presented
21 here as part of the DAR, and as -- as -- and just to be
22 further clear, will be reconstituted as we move into
23 the design process. Thank you.

24 THE CHAIRPERSON: Thank you. Kevin
25 O'Reilly...?

1 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
2 Kevin O'Reilly, with Alternatives North. Sorry, I
3 guess I'm a little bit thick today. So can the
4 developer tell me, sort of, when was the late time they
5 -- this group actually met in person, or via
6 teleconference?

7 THE CHAIRPERSON: Thank you, Kevin
8 O'Reilly. To -- to the developer, to the question,
9 please.

10 MR. MICHAEL NAHIR: Thank you, Mr.
11 Chair. To be clear even further -- it's Mike Nahir --
12 the -- the peer review reviewed the remediation plan
13 that was submitted for water licensing for permit --
14 for application. I hope that helps clear up the
15 question. I -- I don't know the exact year. I -- I'd
16 love to know the year.

17 MR. KEVIN O'REILLY: 2007.

18 MR. MICHAEL NAHIR: 2007. Thank you.

19 THE CHAIRPERSON: Okay. Thank you.
20 Mr. O'Reilly...?

21 THE CHAIRPERSON: Thanks, Mr. Chair.
22 Kevin O'Reilly with Alternatives North. I think I
23 heard Mr. Nahir say that this group would be
24 reconstituted. Are you -- how -- do you plan to work
25 with the parties in looking at who might sit on it and

1 what kind of qualifications they might have? Thank
2 you.

3 THE CHAIRPERSON: Thank you. I'll go
4 to the developer.

5 MR. MIKE NAHIR: Thank -- thank you,
6 Mr. Chair. Yeah, consistent with the practice
7 previously, we would -- we can commit to that as well,
8 going forward. Thank you.

9 THE CHAIRPERSON: Thank you. Mr.
10 O'Reilly...?

11 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
12 Kevin O'Reilly, with Alternatives North. Thank you.
13 That was very helpful.

14 I just want to turn to slide 9, if I
15 might. Yeah, thank you. This -- if we look at the --
16 the title of the slide, it says "Environmental
17 Monitoring Advisory Committee." And when I think of
18 the word "monitoring", which is what's in the title
19 there, it sort of brings up visions of people going
20 out, taking samples, and doing analysis on them and so
21 on, people actually doing monitoring. So I think that
22 the real purpose of this, as I understand it, is -- is
23 oversight rather than actually going out and taking
24 samples, and so on.

25 So is the -- the developer open to

1 changing the name of this committee to work in the word
2 "oversight" somehow? Thanks.

3 THE CHAIRPERSON: Thank you. I'm going
4 to go to the developer, to the question.

5 MS. JOANNA ANKERSMIT: That is
6 something that we could certainly take forward in terms
7 of consideration. Maybe we could have a naming
8 contest, or something to raise further funds for the
9 project. I'm not sure. But, yeah, I mean, absolutely,
10 the -- we can consider the word "oversight". I think
11 the word is less important than actually working with
12 people to figure out what this group, whatever we call
13 it, would do to fulfil the desi -- the -- the needs of
14 the project and the community.

15 THE CHAIRPERSON: Thank you. I think
16 it's appropriate to name it after the chair. I'm going
17 to go to Mr. O'Reilly.

18 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
19 Kevin O'Reilly. I thought I might get an honourable
20 mention in there, too.

21 But that's helpful. And I -- I just
22 think it's really important that, if we're going to
23 name this thing, that people understand when they see
24 it and -- what the name is, that they understand right
25 away what it does. So I'll just leave it at that.

1 But I -- I did want to move to a point
2 at the bottom of this slide where I think the last line
3 there says -- they talk about a commitment. There's:

4 "Interested in having this in place
5 prior to starting the full
6 remediation phase."

7 So when -- when I went back and I looked
8 at the three (3) page letter that the developer
9 submitted on August 31st, where they said they were
10 interested in pursuing this, they said that they were
11 interested in having this committee in place prior to
12 2017. So I'm just wondering -- I hope that we don't
13 have to continue to talk and negotiate this for the
14 next five (5) years.

15 Can we get something in place before
16 2017? Thanks.

17 THE CHAIRPERSON: Thank you, Mr.
18 O'Reilly. I'm going to go to the developer.

19 MS. JOANNA ANKERSMIT: Thank you, Mr.
20 Chair. I -- I would share Alternatives North's desire
21 to -- to be able to come to agreement on something
22 before that, but I think it is important for the
23 community to know that -- that before remediation
24 activities would begin, there would be some level of
25 oversight.

1 It's a complicated matter and not
2 something that we take lightly, and -- and certainly
3 have -- have heard the community. And so there are a
4 number of voices that need to be heard in terms of what
5 the role of oversight will be, and -- and we want to
6 take the time to hear those and make sure that we work
7 with the parties and the public to constitute an
8 appropriate committee to -- to fulfil the right
9 functions.

10 THE CHAIRPERSON: Okay. Thank you.
11 Mr. O'Reilly...?

12 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
13 It's Kevin O'Reilly, with Alternatives North. I'm glad
14 to hear that there's perhaps some urgency around this.
15 And I'm just worried because the developer is moving
16 forward with a -- the -- the tendering for the project.
17 The -- the roaster demolition is supposed to start
18 perhaps as early as 20 -- January 2013, so I really
19 appreciate their commitment to work together, but --
20 and we'll talk more about this in our presentation.

21 But is it -- does the developer have a
22 position on how this kind of an arrangement should be
23 met? I know it's our view that this should be a
24 legally binding environmental agreement. Does the
25 developer have a position on how we actually implement

1 this and enforce it in some way? Is -- is a legally
2 binding agreement the way that we should go? Thank
3 you.

4 THE CHAIRPERSON: Okay. Thank you. I
5 want to go to the developer.

6 MR. JOANNA ANKERSMIT: Thank you, Mr.
7 Chair. We've been pursuing a terms of reference
8 approach. I don't think that that's actually the most
9 important question at this stage. I think what the
10 committee will do, how it would work, there's a number
11 of issues that need to be resolved. And there are also
12 a number of -- of examples across the country where
13 this type of a body has been able to be successful with
14 -- with different approaches, I think, to the
15 environmental agreements that people tend to be most
16 familiar with here.

17 If I could just take a moment to ask
18 perhaps Michael Van Aanhout to share a few of those
19 examples and ideas. They were shared as part of the
20 workshop that -- that Alternatives North hosted, but I
21 think it's important for the Board to also be aware of
22 them.

23 THE CHAIRPERSON: Please proceed.

24 MR. MICHAEL VAN AANHOUT: Thank you,
25 Mr. Chair. Michael Van Aanhout. The document and

1 presentation that Ms. Ankersmit is referring to were
2 the case studies on oversight selected Canadian public
3 sector examples and emerging private sector best
4 practices, which were presented by the developer at the
5 workshop organized by Alternatives North and the YKDFN.
6 I -- I could go through this in some detail, and would
7 pre -- will defer to you, Mr. Chair, on that.

8 What -- maybe to summarize, this looked
9 at existing bodies, including those for projects like
10 the Sydney Tar Ponds, the Britannia mine project in
11 British Columbia, as well as emerging best practice in
12 the private sector, both at the individual community
13 level and at broader levels, and I -- I think
14 contributed to the -- the discussion both at -- at that
15 meeting and has certainly informed the -- the current
16 thinking within the developer's team around different
17 approaches. And so it's around these ideas that, as I
18 understand it, is the intention of the -- the developer
19 to incorporate these best practices into the concepts
20 that have been put in front of you today.

21 I'll -- I'll leave it at that for now.
22 And as I said, Mr. Chair, we would happy to get into
23 more detail in that if you would and -- and the other
24 Board members would like to hear about it today.

25 THE CHAIRPERSON: Thank you. Mr.

1 O'Reilly...?

2 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
3 Kevin O'Reilly, with Alternatives North. I want to
4 thank the developer for that response. There's also a
5 report submitted by Dr. Natasha Affolder (phonetic)
6 that reviews a number of case studies and so on that is
7 on your public record, as well. And I -- I'll leave it
8 at that. I think there's some good ideas out there,
9 but we got to move this forward somehow.

10 On slide 24 there's -- if we could go to
11 that. I think it's the second line there talks about -
12 - well, in any event, I think the -- what I want to say
13 here, I guess, is that the developer has been here,
14 heard the -- the presentations from the public, both in
15 Yellowknife and Dettah, about consultation and
16 engagement over the last four and a half (4 1/2) days.
17 And I think they've done some good work. We -- those
18 models at the back of the room are a really good idea.

19 But I think it's pretty clear to me that
20 there's a lot more work that needs to be done on
21 consultation and engagement. And I'm just wondering
22 what sort of lessons learned can we take away from
23 this, in terms of how they're going to move forward
24 with this. Do they need more resources to do a good
25 job? I'm just trying to figure out what sort of

1 lessons learned would they take away from the hearing
2 in terms of how they've done things. Thank you.

3 THE CHAIRPERSON: Thank you, Mr.
4 O'Reilly. I'm going to go to the developer.

5

6 (BRIEF PAUSE)

7

8 MS. JOANNA ANKERSMIT: Thank you, Mr.
9 Chair. Sorry for -- for taking a few minutes. It's a
10 rather challenging question, as I think Mr. O'Reilly
11 may appreciate, and certainly isn't something that --
12 that I can answer in -- in, I think, the fulsomeness
13 that it may deserve in quick order, but I'll -- I'll
14 give you a few examples of lessons that we have
15 learned.

16 We have learned that there was a
17 tremendous amount of value in the knowledge gained for
18 the project team in the development of the plan to
19 date. While we may not all agree on the historical
20 record, there has been an -- an intensive effort at
21 times to try to get the perspectives as best we could
22 into -- into the remediation plan.

23 That said -- and I think I've mentioned
24 it before -- we are challenged as the developer, as the
25 -- as the proponent, and as the organization trying to

1 stabilize the site with the unfortunate situation that
2 we have a site that's not waiting for all of us to get
3 it together. That site is -- is doing it's own thing.
4 It's -- it has a way of -- of morphing and evolving and
5 changing. Our focus has been watching that while at
6 the same time doing our very best to engage with
7 communities, and incorporate the knowledge that exists
8 in this community and -- and with the Aboriginal
9 communities into that plan.

10 So there is somewhat of a limitation and
11 a challenge for the team, given -- given the sort of --
12 sort of circumstances that we're starting with. We
13 certainly want to ensure that, going forward, the
14 committees, the interfaces we have with various
15 organizations, that they are inputting to us and giving
16 us ideas as to what will work in the community for
17 information, how people will begin to understand our
18 project better, and certainly ensure that every time we
19 engage, there's a great deal of value for the proponent
20 in that, and I think overall for the project and the
21 community.

22 So I think you've heard this as a theme.
23 We're committed to doing it, but we're also committed
24 at the same time to ensuring that the -- the immediate
25 problem, the arsenic trioxide and the rest of that site

1 is stabilized and made safe, so that we have more time
2 to engage and get the input from stakeholders on
3 perpetual care on a number of issues that you've heard.

4 THE CHAIRPERSON: Thank you. Is there
5 -- Mr. Paradis, did you want to make a comment?

6 MR. ADRIAN PARADIS: Adrian Paradis, on
7 behalf of the team. I think one (1) of the -- Kevin's
8 one (1) question is -- and it goes back to our
9 discussions on EMS. It's not just an -- an external
10 thing. It is trying to learn by doing and reevaluating
11 it every time.

12 So we take the May public houses --
13 we've heard that they -- yeah, we -- short notice, and
14 there's a multitude of reasons that we could give for
15 that, but ultimately at the end of it is better notice
16 is required.

17 Our models, plain language: We've --
18 it's the intention of why we have the diffusers at the
19 back, and why we're trying to do new ones.

20 Plain language: During the course of
21 the hearings we've heard from just the translators in
22 the back that we need to take our language and work
23 with them -- work with the translators just to try and
24 take the concepts that -- to an easier standing.

25 We do tours, community sessions, open

1 houses. We try -- and we've heard -- we've asked from
2 the panel today to try and put the size in -- of what
3 we're dealing with in easily understandable context.
4 You know, make a reference to something in the
5 community. What is it? So that way someone can get a
6 visualization.

7 It's a fairly broad question and we can
8 try just on a day to day basis to -- to alter our
9 approach. We meet after the hearings just to try and
10 figure out how to convey a message. Are -- did we miss
11 the point? Did -- are we not quite capturing the
12 concern? And we have folks on our community (sic) who
13 are from the communities, so we ask: Are we conveying
14 correctly? Do we have the right language?

15 So it's an ever evolving thing. There
16 is some, but yeah, that's -- it's -- it's something
17 that we need to work on, and it's going to be
18 continued. Thank you.

19 THE CHAIRPERSON: Okay. Thank you.
20 Mr. O'Reilly...?

21 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
22 Kevin O'Reilly, with Alternatives North. I -- I think
23 there was some helpful feedback. It sounds like folks
24 are listening. We still have a lot of work to do, and
25 quite frankly I think they need a lot more resources to

1 -- to do that, because I think they want to try to do
2 the right thing.

3 But I -- I -- my last, sort of, line of
4 questioning here is -- and I think Mr. Slack with the
5 Yellowknives Dene First Nation was raising this issue -
6 - it's just not clear to us who this team and -- and
7 how -- how it all sort of fits together. So I just
8 want to know, sort of, how -- I -- I'll give you one
9 (1) -- or I'll ask one (1) specific question.

10 For the Aboriginal Affairs and Northern
11 Development Canada Giant Mine remediation office here
12 in Yellowknife, how many staff are left in that office?

13 THE CHAIRPERSON: Thank you, Mr.
14 O'Reilly. I'm going to go to the developer.

15 MR. ADRIAN PARADIS: Adrian Paradis, on
16 behalf of the project team. I'm the regional manager.
17 We have a community consultation officer. We have a
18 mine systems officer. We have a project manager for
19 onsite. We have a second community consultation
20 officer who works with us. So that's five (5). We
21 have an administrative support. We have a monitorings
22 project specialist. That's seven (7).

23 So we are growing. We have had a tough
24 time with some departures, but the team is going to
25 continuing to grow and it's -- will expand going

1 forward.

2 THE CHAIRPERSON: Thank you. Mr.

3 O'Reilly...?

4 MR. KEVIN O'REILLY: Thanks, Mr. Chair.

5 It's Kevin O'Reilly with Alternatives North. And I'd
6 like -- my next question is a little bit difficult, and
7 I -- I just want to make it clear that I don't mean to
8 -- I'm not trying to offend anybody, but it sounds to
9 me like then most of the engineering expertise for this
10 team is located outside of Yellowknife.

11 Is -- is that a correct -- and I
12 understand it's specialized knowledge and you -- you
13 have to probably contract some of that. And we've
14 heard from some of the consultants here. But it sounds
15 like there's no engineering expertise within Aboriginal
16 Affairs and Northern Development Canada in Yellowknife.
17 Maybe I'm wrong, but can you just tell me about that?
18 Thanks.

19 THE CHAIRPERSON: Thank you. I want to
20 go to -- to the developer, to the question.

21 MS. JOANNA ANKERSMIT: So -- Joanna
22 Ankersmit. There are a number, admittedly, experts in
23 engineering and from a variety of fields that come from
24 all over the country. I don't think that's anything
25 for the project to be ashamed of. And they have

1 brought, you know, a vast number of years of experience
2 working in -- in the North to this project. And -- and
3 we certainly, as -- as the government and as the
4 proponent, appreciate that such -- such highly
5 qualified and experienced people want to work on this
6 project and genuinely care about -- about how this
7 project goes.

8 We have a partner -- well, it's the
9 Government of Canada, and we do have Public Works and
10 government services here. They have a -- a very strong
11 team in engineering that's here locally. And we also
12 have resources within Aboriginal Affairs and Northern
13 Development, both in the project team, but also within
14 the contaminant -- it's called -- our -- our
15 Contaminated Sites Program, which is part of the
16 organization that Giant Mine works with.

17 So the benefit we have is a number of
18 experienced people within the organization that have
19 been managing contaminated sites in the north for a
20 number of years, and we're very fortunate to have that
21 experience and to be able to bring that expertise to
22 the Giant Mine project team.

23 MR. ADRIAN PARADIS: I'd like to
24 expand, and I -- it was a little remiss there. I spoke
25 briefly to who was just simply on the project team as

1 dedicated staff. As Joanna said, we also have the rest
2 of the Northern Contaminated Sites Program in an office
3 that we work with, who work on other projects, but are
4 available for input and their thoughts. We also have
5 the waters division, with a big building across the
6 way, with the rest of the folks of a -- within
7 Aboriginal Affairs.

8 We mentioned briefly -- mentioned Public
9 Works and Government Services, who work in the
10 Greenstone across the street. We have GNWT, who is
11 also is part of the project proponents who are here in
12 town. There is a multitude of folks here in the
13 community who are working on this project. Thank you.

14 THE CHAIRPERSON: Okay, thank you. Mr.
15 O'Reilly, any further questions?

16 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
17 It's Kevin O'Reilly with Alternatives North. Just one
18 (1) quick follow-up question then. It sounded to me
19 like it doesn't -- maybe I'm wrong, but that the
20 project engineering staff on -- on this don't live in
21 Yellowknife. If they don't live in Yellowknife, is it
22 safe to assume that they're all registered with NAPEG,
23 which is the professional associations for engineers,
24 geologists, and geophysicists? And it's -- it's a
25 professional association. And if you're going to

1 practice engineering here, you need -- you should be a
2 member and so on, and it's -- it's just to make sure
3 that everybody understands how we do things here and so
4 on.

5 So are all the -- the project folks, are
6 they members of NAPEG when they do their work here?
7 Thanks.

8 THE CHAIRPERSON: Okay. Thank you.
9 We'll go to the developer.

10 MR. MICHAEL NAHIR: Thank you, Mr.
11 Chair. It's Mike Nahir. The engineering -- both the
12 technical advisor team and the engineering design team
13 that -- previously mentioned -- are both -- both have
14 offices here in Yellowknife, are registered with NAPEG
15 and in -- amongst other jurisdictions, so I hope that
16 answers your question. Thank you.

17 THE CHAIRPERSON: Thank you. That was
18 your final question, Mr. O'Reilly?

19 MR. KEVIN O'REILLY: Sorry. Kevin
20 O'Reilly. I just want to make sure that even the --
21 the AANDC staff themselves, they're all registered to
22 do engineering work here as well? Is that the case?
23 Thanks.

24 MR. MICHAEL NAHIR: Thank you, Mr.
25 Chair. It -- it's Mike Nahir. The federal government

1 engineers don't seek registration. It's some weird
2 quirk of federal government policy that doesn't allow
3 for registration, and I'm not exactly sure why. But
4 the -- the key part is that the design work and the
5 engineering work and the technical advisor work comes
6 from registered engineers in the Northwest Territories.

7 THE CHAIRPERSON: Okay. Thank you.
8 Any further questions?

9 MR. KEVIN O'REILLY: Thanks, Mr. Chair,
10 with your patience. Kevin O'Reilly with Alternatives
11 North. No further questions.

12 THE CHAIRPERSON: Thank you. I want to
13 go to the North Slave Metis Alliance. Any questions
14 for the developer and their presentation this morning?

15 MS. SUSAN ENGE: Thank you, Mr. Chair.
16 Susan Enge, Metis Alliance. I noticed in your
17 presentation this morning, you mentioned some very
18 nice, warm, and fuzzy statements, and I hope they
19 translate into concrete actions.

20 Number 1. You state you would like to
21 increase public confidence, and then later on state
22 that you would like to maintain public confidence.
23 During your presentation, you did admit that NSMA
24 involvement has been intermittent since 1999 when this
25 whole thing began. My question is: Can you commit to

1 more concrete measures that you intend to take to bring
2 into consideration Metis involvement, and capacity
3 funding and involvement in your EMAC as proposed this
4 morning? Thank you.

5 THE CHAIRPERSON: We'll go back to the
6 developer.

7 MS. JOANNA ANKERSMIT: Thank you, Mr.
8 Chair. Sorry. My apologies. I just wasn't able to
9 catch the full question, and I don't want to give a
10 partial answer. So could I -- could I ask for --

11 THE CHAIRPERSON: Yeah.

12 MS. JOANNA ANKERSMIT: -- the question
13 to be repeated? My apologies.

14 THE CHAIRPERSON: Yeah. Thank you.
15 I'm going to go back to the North Slave Metis to repeat
16 your question. Thank you.

17 MS. SUSAN ENGE: Susan Enge, Metis
18 Alliance. During your presentation this morning, you
19 made some nice warm and fuzzy comments and statements.

20 Number 1. You stated you'd like to
21 increase public confidence, and later you stated you'd
22 like to maintain public confidence. And my question --
23 you did admit through your presentation there has been
24 intermittent involvement of the Metis on -- that of the
25 North Slave Metis Alliance since you've begun your

1 remediation work. My question is: Are there more
2 concrete measures that you intend to take to provide an
3 opportunity for the Metis to dialogue with your EMAC
4 and to provide us with some capacity funding?

5 I'm not being paid to participate today.
6 It's been a whole week of my own personal time, and I'm
7 sure the Metis Alliance would appreciate some financial
8 assistance. Thank you.

9 THE CHAIRPERSON: Thank you. I'm going
10 to go to the developer, to the question.

11

12 (BRIEF PAUSE)

13

14 MR. ADRIAN PARADIS: Adrian Paradis, on
15 behalf of the project team. We welcome any further
16 participation of the North Slave Metis Alliance, and
17 what that might look like and how that might occur and
18 -- we need to sit down and just discuss. So thank you.

19 THE CHAIRPERSON: Okay. Thank you.
20 North Slave Metis, any further questions?

21 MS. SUSAN ENGE: Thank you, Mr. Chair.
22 I welcome that invitation, Mr. Paradis. This is Susan
23 Enge, Metis Alliance.

24 I do have another question about the --
25 the objectives that you're trying to reach with this

1 whole process, and to ensure a safe environment for all
2 of Yellowknifers and Aboriginal people, so that we --
3 we can enjoy and sustain the life that we've been used
4 to having, and that means harvesting wildlife from the
5 land and using the water. But my question is: Would
6 you extend an invitation to the Honourable Stephen
7 Harper to visit the mine site to see what a good job
8 you're doing?

9 THE CHAIRPERSON: Thank you. To the
10 developer, to the question.

11 MS. JOANNA ANKERSMIT: Joanna
12 Ankersmit. That -- that's the hardest question I've
13 had all week. I'm not sure how I invite him, but of
14 course his ministers have been here. And I think that
15 that's really important to know, that his ministers
16 have been here, and I -- and I'm sure, if he has it
17 available, they'll be telling him what an interesting
18 place it is. And -- and it's such a significant
19 investment for the government that I'm quite confident
20 that he's aware.

21 But others -- you know, others are
22 always welcome to invite their prime minister to -- to
23 come visit their community, and -- and certainly no
24 reason why folks can't do that.

25 THE CHAIRPERSON: Okay. Thank you.

1 What I'll do -- I'm going to stop. Ms. Enge will come
2 back after lunch, 12:30.

3 But before I break for lunch -- we're
4 going to come back at 12:30 -- I just want to make
5 mention that, you know, sometimes being the Chair is
6 not the easiest job, and also sometimes we always try
7 and stick to the agenda and keep the -- the show on the
8 road here so we can get to the end. And on Day 1, you
9 know, I think we -- you know, we've been around long
10 enough to see what's happening here in the North and so
11 on, and I -- I want to -- for Joanna with the -- with
12 AANDC, you know, Monday morning when you first came in
13 here, you -- to me, you were very stern and -- in your
14 presentation, so I called you on that. And I'm really
15 impressed in the afternoon of this whole week, you
16 know. The team has really come along now.

17 And also with Ms. Sue Enge. You know, I
18 know I -- yesterday, I -- this is your first public
19 hearing, and -- and, you know, you learnt a lot, and I
20 want to thank you for your questions. And -- and even
21 though that I always seem to talk about the -- you
22 know, the political posturing and -- and that kind of
23 thing, but sometimes I've got to do those things.

24 And also this morning, you know, Mr.
25 Curran also made some comments and -- as well, you

1 know, as a Board, and as we get older, you know, we --
2 we'll definitely put him under our wing, you know.

3 And -- and -- so with that, I just want
4 -- on behalf of the -- the Review Board, I just want to
5 make a quick presentation, and then we'll do a quick
6 lunch, and come back at 12:30.

7

8 --- Upon recessing at 12:01 p.m.

9 --- Upon resuming at 12:45 p.m.

10

11 THE CHAIRPERSON: Okay. We'll go ahead
12 and start. I believe we have one (1) housekeeping
13 item. Mr. Donihee...?

14 MR. JOHN DONIHEE: Thank you, Mr.
15 Chairman. I believe counsel for the Developer has --
16 is ready to report to us on one (1) of the documents
17 that they said that they would provide, and perhaps
18 Ms. Potter would -- would address that for us.

19 MR. ADRIAN PARADIS: Adrian Paradis on
20 behalf of the project team. I believe the document
21 that we are talking about is the best available
22 practical technology memo. Is that correct?

23 Sorry, that is correct. My team is
24 telling me I'm -- yes. So I believe we have another
25 under -- undertaking for September 25th. Would that be

1 sufficient for the Board and Chair?

2 THE CHAIRPERSON: Any further --

3 anything else, Mr. Donihee?

4 MR. JOHN DONIHEE: John Donihee. Thank

5 you, Mr. Chairman. Yes, that would be Undertaking

6 number 3. And I apologize, Mr. Paradis, I -- I didn't

7 hear the title of that document but it's to be filed --

8 whatever it is it's to be filed on the -- on the 25th

9 of September along with the -- the other undertakings.

10 Perhaps you could just clarify -- just give us a title

11 of it so that we have it listed on the -- on the

12 record.

13

14 --- UNDERTAKING NO. 3: The Developer to provide

15 the document entitled Best

16 Available Practical

17 Technology For Water

18 Treatment For The Giant

19 Mine Remediation Project by

20 September 25, 2012

21

22 THE CHAIRPERSON: Thank you. I'll go

23 to --

24 MR. ADRIAN PARADIS: Best available --

25 THE CHAIRPERSON: -- the Developer.

1 MR. ADRIAN PARADIS: Sorry, Mr. Chair.
2 Best Available Practical Technology For Water Treatment
3 For The Giant Mine Remediation Project.

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

6 MR. JOHN DONIHEE: I believe that's all
7 for that, Mr. Chair. Thank you.

8 THE CHAIRPERSON: Thank you. Thank you
9 to the Developer.

10 I'm going to continue on with the
11 questioning to the developer. We -- we stopped at
12 lunchtime, so I'm going to go back to the North Slave
13 Metis Alliance.

14

15 QUESTION PERIOD CONTINUED:

16 MS. SUSAN ENGE: Thank you, Mr. Chair.
17 Susan Enge, Metis Alliance. During that short lunch I
18 was trying to write the prologue for the -- the
19 northern version of "Arsenic and Old Lace" with a Giant
20 Mine component, a theme attached to that, but...

21 I would like to -- I have a question
22 about engaging Yellowknifers in your public sessions.
23 You mentioned that there -- you will be trying to build
24 open and public forums for Yellowknife residents to
25 express or inquire about the remediation plan.

1 Where are your -- what do you have in
2 mind for those public sessions, and do you intend to
3 ensure Health Canada is there, and the GNWT, to provide
4 information on whether and how much Yellowknifers are
5 currently carrying arsenic, whether it's in their hair
6 or their fingernails?

7 And I understand, when you do breathe in
8 arsenic from the dust from tailings over the years,
9 that it does enter the body, the system, and it does go
10 directly to the brain.

11 So I think it's imperative -- my
12 question is: Is it your intent to include some arsenic
13 specialists in future public sessions and information
14 materials?

15 THE CHAIRPERSON: Thank you. I'm going
16 to go to the Developer to the question.

17 MR. ADRIAN PARADIS: Adrian Paradis on
18 behalf of the project team. I think the -- the initial
19 question was: What was our plans? And we -- as we've
20 heard today, Giant Mine has pretty extensive amount of
21 different topics that we want to talk and discuss and
22 engage on at different points in time.

23 This is a first for myself that I've
24 ever heard of holding something specific to arsenic on
25 a health effect, but, yeah, we could invite, and we

1 could ask our colleagues at Health Canada to -- we
2 could invite them to -- to speak. We can commit to
3 that.

4 THE CHAIRPERSON: Thank you. Any
5 further questions from North Slave Metis Alliance?

6 MS. SUSAN ENGE: Thank you, Mr. Chair.
7 Just a followup on that. Susan Enge, Metis Alliance.
8 I wonder if there could be an undertaking attached to
9 this request that Yellowknife residents who have lived
10 here beyond ten (10) years be assessed physiologically
11 to see what level of arsenic they carry, and that be
12 made public?

13 THE CHAIRPERSON: Okay. Thank you.
14 Maybe I'll go to the Developer.

15 MR. ADRIAN PARADIS: Adrian Paradis on
16 behalf of the project team. The remediation project
17 team doesn't have that authority within their
18 jurisdiction. I mean, that's outside of ours. I
19 cannot undertake to -- we cannot undertake to do that.
20 Thank you.

21 THE CHAIRPERSON: Sorry. I missed that
22 last part there. Can you -- I didn't hear you.

23 MR. ADRIAN PARADIS: I apol -- I
24 apologize. I'll bring the -- the mic closer. No, I'm
25 -- we cannot undertake to -- to fulfil the request as

1 requested. It's not within the mandate of the project
2 team. Thank you.

3 THE CHAIRPERSON: Thank you. North
4 Slave Metis Alliance...?

5 MS. SUSAN ENGE: No further questions,
6 Mr. Chair. Thank you.

7 THE CHAIRPERSON: Thank you. I want to
8 go to the Review -- Review Board -- oh, sorry,
9 Environment Canada. Do you have any questions for the
10 Developer on their presentation?

11 MS. AMY SPARKS: Amy Sparks,
12 Environment Canada. Sorry, my shoes are wet and I'm
13 struggling. Environment Canada has no questions at
14 this time, but I did just want to make a quick point.

15 Just in terms of monitoring, we are
16 involved in the EMS working group, and we're hoping
17 that this is the place where specific monitoring plans
18 are going to be developed, and that we'll have the
19 opportunity to share our recommendations and concerns
20 to that group.

21 I know that monitoring hasn't been
22 addressed that much today, but I did want to also say
23 that Environment Canada is also administering MMER and
24 the EEM programs, so we do plan to participate in the
25 aquatic effects monitoring program that will take place

1 as part of the program.

2 And just as a quick housekeeping item,
3 Environment Canada also houses the fix-up secretariat,
4 in conjunction with the Treasury Board secretariat, and
5 they're the ones providing the funding for the project.
6 Thank you.

7 THE CHAIRPERSON: Okay, thank you. I
8 want to go to the Department of Fisheries and Oceans.
9 Any questions for the Developer on their presentation?

10 MS. MORAG MCPHERSON: Good afternoon,
11 Chair. Morag McPherson with Fisheries and Oceans. It
12 may please you to know that we do have some questions
13 for the Developer. Three (3) que -- three (3)
14 questions. I have one (1), just a specific one (1),
15 and then my colleague Bev has two (2) follow-up
16 questions.

17 The question I have is on slide 10, in
18 relation to addressing concerns. You speak about the
19 comprehensive study, which I think you've referenced in
20 previous discussions as this baseline assessment. And
21 you spoke about the -- sorry, or slide 20. Sorry, my
22 apologies. You spoke about the water quality and
23 sediment studies that are going on.

24 Can the Giant Mine team confirm that
25 fish are being collected as part of this study for the

1 purposes of fish health and tissue analysis?

2 THE CHAIRPERSON: Thank you for your
3 question --

4 MR. ADRIAN PARADIS: Yes, it is.

5 THE CHAIRPERSON: -- but I didn't -- I
6 didn't expect your questions because it's -- now it
7 threw off my timing and my agenda.

8 MS. MORAG MCPHERSON: Oh, sorry. It's
9 -- I think this will be a quick yes and no. I know you
10 like these answers.

11 THE CHAIRPERSON: Thank you, I want to
12 go to the -- the --

13 MS. MORAG MCPHERSON: I just want -- I
14 just want confirmation, based on my understanding. So
15 thank you.

16 MR. ADRIAN PARADIS: Very quick, yes.

17 THE CHAIRPERSON: Thank you, I'll go
18 back to DFO.

19 MS. MORAG MCPHERSON: And -- and two
20 (2) other questions.

21 MS. BEV ROSS: Bev Ross, Fisheries and
22 Oceans Canada. And yeah, we thought the end of the
23 hearing was a good time to start asking. I had some
24 questions around the idea of the duplication when I was
25 listening in on and looking at the Proponent's

1 presentation. I wanted a little bit of clarification,
2 I think, on where some of these committees and working
3 groups fit in with each other.

4 And specifically, the relationship
5 between the Environmental Monitoring Advisory
6 Committee, or the -- what is it, Richard Edjericon
7 named after the chair committee -- and the EMS working
8 group on how -- would you see one (1) superseding the
9 other, the two (2) of them working together and -- and
10 what would be the expected hierarchy with those groups
11 and their relationship to each other?

12 THE CHAIRPERSON: Thank you, I'll go to
13 the Developer.

14 MS. JOANNA ANKERSMIT: Thank you, Mr.
15 Chair. We were going to have a committee study that.
16 No, I'm -- I'm kidding -- a committee to study the
17 committee structure.

18 Can I just ask Michael Van Aanhout,
19 please? We -- we put some thought -- quite a bit of
20 thought into this, so I'll ask Michael to -- to
21 respond, if that's okay?

22 MR. MICHAEL VAN AANHOUT: Thank you,
23 Mr. Chair. Michael Van Aanhout. The -- the current
24 thinking within the project team would -- it's the
25 intention to -- to

1 consult with -- with the parties and participants of
2 both the -- the EMS working group of the parties and --
3 and the oversight working group.

4 The -- the current thinking is that
5 those are both temporary structures that are in place
6 during this stage of the project. In the case of the
7 EMS working group of the parties, as it has been doing,
8 to -- to start to go through the mine component
9 matrices and seek input on thresholds, objectives and
10 targets for the -- the various components of the
11 project.

12 In parallel with that, it's hoped that
13 the oversight working group will continue the
14 conversation of what we've been talking about today and
15 come forward with -- with a recommendation for a
16 permanent body.

17 Again, this is the initial thinking.
18 Once that has been determined and -- and that body
19 becomes established, it would be the plan to wind down
20 the work of the EMS working group of the parties, and
21 that the form -- the permanent formal body would --
22 would pick up those responsibilities as well as the
23 ongoing oversight role that has been presented today.

24

25 (BRIEF PAUSE)

1 MR. MICHAEL VAN AANHOUT: So that
2 explains how those two (2) current bodies are intended
3 to function going forward and -- and what they'll turn
4 into, Mr. Chair. I'll turn the mic back over to -- to
5 Adrian Paradis.

6 MR. ADRIAN PARADIS: Adrian on behalf
7 of the project team. The EMS working group as Mike --
8 Michael just spoke to, eventually will probably wrap
9 itself up. A lot of the project matrixes and
10 everything that's being included in that come out of
11 the guidelines established by the Mackenzie Valley Land
12 and Water Board.

13 The assumption is that the Board will
14 take over some form of function about how that project
15 or that manages to go forward. In the past that has
16 been through working groups of the parties, technical
17 advisory panels. I'm not sure how the Land and Water
18 Board will choose to go forward, but I'm assuming in
19 some sort of form or function that would take over and
20 it would be run and chaired by a staff member at the
21 Land and Water Board on behalf of the Land and Water
22 Board to manage their water licence. Thank you.

23 THE CHAIRPERSON: Thank you. To
24 DFO...?

25 MS. BEV ROSS: Okay, and I had one (1)

1 other question around the Environmental Monitoring
2 Advisory Committee, and -- and there was, I think, a
3 slide 11 that spoke to the question of avoiding
4 duplication with regulatory processes.

5 And I just wanted to hear from the
6 proponent their thoughts on: Do you see the
7 considerations of a committee like the Environmental
8 Monitoring Advisory Committee informing the development
9 and implementation of regulatory instruments like a
10 Fisheries Act authorization, for example?

11 THE CHAIRPERSON: Thank you for your
12 final question. The Developer...?

13 MR. ADRIAN PARADIS: I think, on this
14 particular point, it's actually part of the ones that I
15 raised. It's -- oh, I'm Adrian Paradis on behalf of
16 the project team.

17 It was more on the licence -- not on the
18 licencing, but on the reporting of -- of things, maybe,
19 say, the annual report. If and where you could
20 coincide annual reports that they -- they -- they don't
21 overlap, they actually report on the same things.

22 If the Advisory Committee would like
23 additional reporting on top of what, say, what's in the
24 Mackenzie Valley Land and Water Board's annual report,
25 that could be a supplementary document or appended

1 somehow.

2 I hadn't actually given it much thought
3 on the -- specifically, on the Fisheries authorization.
4 It's an interesting thought if it's an appropriate
5 venue to seek that input, that could be incorporated.
6 But it's -- it's -- that's pretty off the cuff right
7 now and I wouldn't want to be held to that one, but, I
8 mean, it's definitely something we can talk about.

9 MS. BEV ROSS: Yeah, and I -- I would -
10 - thanks very much, Bev Ross, Fisheries and Oceans. I
11 -- I would follow up with a comment on that -- that DFO
12 does see information from the committee.

13 We see it as an opportunity for us to
14 build a better instrument, so, we would want to take
15 into consideration products that might come from the
16 committee that might fit well with the kind of
17 instrument that we're developing so. I think that is
18 all for my questions.

19 THE CHAIRPERSON: Okay, thank you for
20 your questions and, like I said, I'm a little bit off
21 my schedule here. It's a surprise, but, anyways, thank
22 you. We're going to move on.

23 I'm going to go to the Review Board
24 technical staff, legal counsel and experts. Any
25 questions?

1 MR. ALAN EHRLICH: Thank you, Mr.

2 Chair. Yes, we have a few and we'll do our best to get
3 through them efficiently as possible and, as always, we
4 certainly appreciate, you know, the Developer making
5 efforts to be concise in their response.

6 Yesterday we talked a little bit about
7 project costs. Today in your presentation you talked
8 about expenditures spent and projected. What you
9 propose now is a balance of costs and risks because you
10 have to think about this stuff. And you've also talked
11 about, you know, value for money in there.

12 The question that was made clear
13 yesterday was: What does this project cost? The
14 answer was: It's very complicated, we'll try to come
15 with it tomorrow. Now -- that would be now. What does
16 this project cost?

17 THE CHAIRPERSON: Thank you. And I'll
18 go to the Developer.

19

20 (BRIEF PAUSE)

21

22 MR. ALAN EHRLICH: And, specifically --
23 Alan Ehrlich for the Review Board again -- we're
24 wondering about the cost for the initial implementation
25 phase and the annual ongoing costs for maintenance and

1 monitoring.

2

3 (BRIEF PAUSE)

4

5 MS. JOANNA ANKERSMIT: Thank you, Mr.
6 Chair. The -- the implementation phase costs currently
7 are -- are still estimated at the number that's been
8 provided from 2010 which was \$449,615,993, and that is
9 provided in the estimate of total costs for the
10 implementation phase.

11 And the ongoing -- did you ask for the
12 ongoing costs?

13 MR. ALAN EHRLICH: Well, before we get
14 to the ongoing costs, so nothing you got out of the
15 freeze optimization study or any engineering to date
16 has changed the costs since 2010, if I understand you
17 correctly.

18 Is that fair to say?

19 MS. JOANNA ANKERSMIT: It's not fair to
20 say. You have to be -- like I mentioned yesterday,
21 we're -- we're very cautious with -- the numbers have
22 to be -- they have to be reviewed. There's a process
23 that they need to go through, and it's -- it's quite
24 inappropriate to be giving numbers that -- that haven't
25 gone through that rigorous process.

1 So I'm not trying to not answer your
2 question. These are the best available reviewed
3 numbers that would -- that would meet that cost
4 estimation requirement.

5 MR. ALAN EHRLICH: Okay. Thank you.
6 And "yes" or "no": Is it correct then that \$1.9
7 million per year is your ongoing maintenance and
8 monitoring cost still?

9 MS. JOANNA ANKERSMIT: Yes. Joanna
10 Ankersmit.

11 MR. ALAN EHRLICH: Thank you. That's
12 it for my questions on cost.

13 In terms of the commitment by the
14 Developer from the October 2011 technical sessions to
15 do another review for this project that looks at how it
16 has worked and is there anything better to -- any
17 technologies that have emerged that would be better,
18 should you keep on doing what you've been doing or go
19 ahead with something different, there's a commitment on
20 the record about that, but the commitment has much less
21 detail than the commitment that you made about the ten
22 (10) year reviews of emerging technologies.

23 So just quickly, "yes" or "no": Would
24 you agree that this review should be independent? In
25 other words, is the review you were speaking about

1 going to be an independent review?

2 MS. JOANNA ANKERSMIT: Sorry, I missed
3 the last little bit. Is the -- which review?

4 MR. ALAN EHRLICH: The review which you
5 committed to as a hundred (100) year review during the
6 technical session, which you spoke a bit about
7 yesterday too, what I'm trying to get at is, we're not
8 talking about a desktop study done internally by AANDC.
9 You know, does it have some of the qualities of a
10 review like this? And so that's what I'm -- I -- I'm
11 looking for some clarity on the record, because it's
12 not on our record yet.

13 So would a review like that be done by
14 an independent body?

15 MS. JOANNA ANKERSMIT: Thank you, Mr.
16 Chair. Yes.

17 MR. ALAN EHRLICH: Thank you. Would a
18 review like that involve stakeholders?

19 MS. JOANNA ANKERSMIT: Yes, I would
20 assume that they would want to participate.

21 MR. ALAN EHRLICH: And my question is:
22 For that review, is it correct to assume they would be
23 given opportunity to participate?

24 MS. JOANNA ANKERSMIT: Yes.

25 MR. ALAN EHRLICH: Thank you. Will

1 that review be public and trans -- and transparent like
2 the review we're having here now?

3 MS. JOANNA ANKERSMIT: Thank you, Mr.
4 Chair. You're throwing me off not saying anything.
5 Yes, that -- that's -- that's absolutely fair to say.

6 THE CHAIRPERSON: Well, I'm just trying
7 to save time.

8 MR. ALAN EHRLICH: Yeah. And I -- I --
9 it's Alan Ehrlich. I've been given instruction from
10 the Chair to do this as efficiently as possibly, so I -
11 - I -- you know, in full deference to the Chair --

12 MS. JOANNA ANKERSMIT: I just made up
13 some ground, and I didn't want to lose it --

14 MR. ALAN EHRLICH: -- I'm putting my
15 questions to you for now.

16 MS. JOANNA ANKERSMIT: -- with the
17 Chair.

18 MR. ALAN EHRLICH: Thank you. Alan
19 Ehrlich again. And, like this review, there have been
20 meaningful levels of participant funding available.

21 Will there be meaningful levels of
22 funding available for stakeholders involved in -- in
23 that review as well?

24 MS. JOANNA ANKERSMIT: Joanna
25 Ankersmit. Yes.

1 MR. ALAN EHRLICH: Thank you. That
2 sums up my line of questioning on that subject.

3 You've talked about a number of studies
4 that are still needed to get to final design. These
5 include studies to finish your diffuser design, to
6 finish your tailings design, to look at Baker Creek
7 sediments and assess what your remediation options are
8 for those, and, as well, whether you're wetting or not
9 wetting the arsenic chambers.

10 Can you give us a date by which you can
11 reasonably expect these -- by which we could reasonably
12 expect these studies to be completed?

13 MR. ADRIAN PARADIS: Adrian Paradis.
14 Sediment -- Alan, I just want to get the -- my notes a
15 little bit slow here.

16 MR. ALAN EHRLICH: Just -- if it helps
17 clarify, I'm talking about -- you know, there are a lot
18 of different things that need to go on at different
19 times. Some of these have a greater bearing on project
20 design than others. And so I tried to rattle off some
21 of the ones that have a greater bearing on project
22 design.

23 You've mentioned that completing design
24 of your tailings cover is yet to be done. Your
25 completed design of the diffuser is yet to be done.

1 Your assessment -- your evaluation of the assessment of
2 sediment in Baker Creek, which will let you look at the
3 options for this project, haven't been done yet. And -
4 - there's one (1) more that I just said -- oh, yeah.
5 Whether or not the blocks are frozen or dry is not a
6 done deal yet.

7 I'm curious if you can tell the Board
8 when you could reasonably be expected to have completed
9 that stuff. I know there are some other things that
10 will be ongoing. I'm not asking when you're going to
11 have finished absolutely everything, but for the big
12 things that inform project design, I'm trying to get a
13 sense of your projected timing.

14

15 (BRIEF PAUSE)

16

17 MR. ADRIAN PARADIS: Mr. Chair,
18 apologize for that. The -- the big part of what we're
19 trying to figure out is where we're at. We're on a --
20 we're in preliminary designs and we're moving towards
21 detailed designs.

22 A lot of this detail, I think, that
23 you're looking for, or the Board is hoping for, quite
24 frankly, is months if not years out. The sediment
25 study that we've spent a lot of -- a great deal of time

1 talking about, we've got a preliminary report that was
2 just submitted. It is months away from being reviewed,
3 and being able to be, you know, finalized.

4 So the best -- I think the best thing I
5 can do right now instead of trying to -- is to get a
6 specific list of what studies you're looking for, and
7 commit to providing them by September 25th.

8 MR. ALAN EHRLICH: Through you, Mr.
9 Chair. With respect to the project -- all -- all due
10 respect to the project team, this Board has a
11 responsibility to make a decision about this project,
12 and there are -- of -- of all the things that have not
13 been done to date, some are closer to minor details
14 than others. In other words, some of them are quite
15 relevant aspects of project design.

16 The Board needs to make its decisions
17 based on good information, so it's very helpful to the
18 Board to understand when at least the larger elements
19 that I just mentioned specifically, it's not an
20 inclusive list, it's not exhaustive, but of those
21 larger elements like are you freezing the arsenic
22 chambers, how is your tailings cover design -- you
23 know, what is your design for the tailings cover.
24 We've heard a lot of issues regarding the diffuser.
25 You know, when are you going to have a final design for

1 that thing. And -- and what is your plan for Baker
2 Creek within the project area.

3 I -- I'm trying to get at when that
4 might be available because these are perhaps not just
5 minute tweaks to be added at the end of the process,
6 but these are things that could be relevant to the
7 Board's decision about this project. The 'A' decision
8 which the Board is expected to make at the end of its
9 EA process. So that's the context for why I'm asking
10 this.

11 MR. MICHAEL NAHIR: Thank you, Mr.
12 Chair. Mike Nahir. I can -- we -- you know, I think
13 we went at great lengths to provide a whole bunch of
14 information on the level of design that we've done to
15 date.

16 We've indicated that design is an
17 ongoing process for which we want input from others on.
18 Design is a continuing process again, and we want
19 input. If you want specific dates regarding specific
20 studies, we'll have to take that as an undertaking but
21 -- but, in general, the comment I just said.

22 And so -- and -- and to summarize -- and
23 to summarize, we -- what we've brought to the table we
24 feel is adequate for assessment at this point. Thank
25 you.

1 MR. ALAN EHRLICH: In that case, Mr.
2 Chair, I'd like to request that that be a formal
3 undertaking.

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

6 MR. ALAN EHRLICH: And that would be --
7 request that that become Undertaking number 5, which is
8 -- sorry, 4 -- Undertaking number 4, and the request is
9 to get some details on when you expect to have made the
10 design decisions for at least the major project
11 components that I've described in my question.

12 THE CHAIRPERSON: To the Developer...?

13 MR. MICHAEL NAHIR: Yeah, just -- just
14 one (1) minute, please.

15

16 (BRIEF PAUSE)

17

18 THE CHAIRPERSON: While they're doing
19 that, I just wanted to also acknowledge the long time
20 official from the Department Indian Northern Affairs
21 and -- David Livingstone. He's in the back there and I
22 want to say thank you for being here. Also, Jackson --
23 Jackson -- Francis Jackson, sorry. I want to say hi to
24 Francis there and welcome to our meeting as well.

25

1 (BRIEF PAUSE)

2

3 THE CHAIRPERSON: You'll repeat your
4 question?

5

6 (BRIEF PAUSE)

7

8 MR. ALAN EHRLICH: To repeat the
9 request for the undertaking: It's for the Developer to
10 provide the dates that -- by which the Board can come -
11 - expect the design will be completed on the tailings
12 cover, on the diffuser, on the freezing versus wetting
13 alternatives, and the evaluation of the assessment of
14 the sediments in Baker Creek and the resulting options
15 for Baker Creek on the remediation site; that's on your
16 slide 13, first bullet.

17 So we're looking for the dates by which
18 you will have, at least, the design on those major
19 components, you know, largely complete.

20 THE CHAIRPERSON: Okay, thank you.
21 We'll go back to the Developer.

22 MR. MICHAEL NAHIR: Thank you, Mr.
23 Chair. It's Mike Nahir. Yeah, we're -- we're
24 struggling a bit. And I think why we took so long is
25 because we -- we just -- there's so many different

1 pieces to all that, that you can appreciate that
2 there's -- it's a simple question, complex answer.

3 Regardless, we can provide a broad
4 schedule. There -- there's studies to be done and then
5 there's design decisions. We need to consult with
6 parties and that's -- that's a process that -- that
7 needs to be taken seriously. And so we have a broad
8 schedule that we can provide, not at this moment. And
9 if you like we can take that as an undertaking, or we
10 can take as an undertaking spec -- specific studies --
11 to get back to you with specific studies. Thank you.

12 THE CHAIRPERSON: Mr. Donihee...?

13 MR. JOHN DONIHEE: Thank you, Mr.
14 Chairman. I think rather than change the question,
15 maybe just those four (4) specific items that Mr.
16 Ehrlich asked about. If you could just get back and
17 give us your best indication of when you think those
18 matters will be -- will be dealt with.

19 MR. MICHAEL NAHIR: Well, I -- I'll
20 tell -- it's Mike Nahir. Thank you, Mr. Chair. We are
21 going to get back to you today before the Hearing's out
22 on when we can meet that, if that helps. I -- I'm
23 trying to move things along a little bit here.

24 THE CHAIRPERSON: You're going to get
25 back to us on the four (4) points?

1 MR. MICHAEL NAHIR: We'll -- we'll get
2 back to you with a response. Thank you.

3 THE CHAIRPERSON: Okay. Mr.
4 Donihee...?

5 MR. JOHN DONIHEE: John Donihee. Yes,
6 thank you, Mr. Chairman. That's very helpful. And of
7 course if we can get the answer today, there's no need
8 for an undertaking.

9 THE CHAIRPERSON: Okay. We'll
10 continue on with questioning.

11 MR. ALAN EHRLICH: Thank you, Mr.
12 Chair. With respect to oversight, and I'm referring --
13 I'm going to talk about the Oversight Committee, but
14 this is referring to your Environmental Monitoring and
15 Advisory Committee; bearing in mind that it sounds like
16 it's, based on your answer, intended to achieve an
17 oversight purpose.

18 Your negotiations with parties since the
19 oversight workshop have clearly come a long way. I
20 mean, there's obviously been an honest effort on all
21 parts to try and make progress. And the Review Board
22 was encouraged to receive your letter of June 11th
23 describing the progress. That was the letter that was
24 signed by the Giant team and the City and Yellowknives
25 and Alternatives North all jointly, describing how far

1 they've come along, you know, working towards some kind
2 independent oversight body or some arm's length
3 oversight body.

4 A couple of weeks ago, I think it was on
5 August 31st, we received your letter with a commitment
6 to establish the Environmental Monitoring Advisory
7 Committee. I noticed it was signed only by the
8 Developer. And -- and you know, I don't want to read
9 too much or too little into that. From what I've heard
10 over the last few days in this process from the public
11 and from the parties and such, a lot of people strongly
12 support the idea of independent oversight and it looks
13 like your commitment is a good start and an important
14 start. I -- I spend a lot of time building anchors for
15 boats, or at least I used to, and I know that an anchor
16 line is only as strong as the weakest link.

17 So, on that note, I would like you to
18 outline for the Review Board what, in the Developers'
19 view, were the major remaining differences, or are the
20 major remaining differences, in terms of the issues
21 that still remain between you and the other parties on
22 this subject.

23 THE CHAIRPERSON: Thank you. I'm going
24 to go to the Developer.

25

1 (BRIEF PAUSE)

2

3 MS. JOANNA ANKERSMIT: Thank you, Mr.
4 Chair. In terms of the letter, please don't read too
5 much into it. The working group had the benefit of
6 having full and frank discussions, and -- and I think
7 that that -- that forum added a lot of value and it
8 allowed us to be able to be non-positional, to -- to be
9 able to throw out ideas and to be able to -- to
10 collaborate.

11 So, the letter that we sent in is -- was
12 important because we wanted people to know and we
13 wanted the Board to know that we were firmly committed
14 to continuing to work towards common ground in terms of
15 what this oversight would be.

16 I think I mentioned in areas of -- of
17 composition, who would be on the board -- on a
18 committee such as that, because right now we are
19 working with the parties. We felt that perhaps we
20 needed to be slightly more inclusive. So that was --
21 that's one (1) area.

22 We've talked fairly extensively this
23 week about varying perspectives on -- on research; that
24 -- that's another area that we need to continue to work
25 on together. So those are two (2) examples I -- I hope

1 you find helpful, but it's not to diminish the work of
2 the working group and it wasn't to -- it was because as
3 the Developer we think it's important to state that
4 we're committed to that and -- and to lay out our
5 thinking for the benefit of the Board.

6 THE CHAIRPERSON: Thank you. I'll go
7 to the Review Board staff.

8 MR. ALAN EHRLICH: Okay. I know that
9 there are other parties that have already put issues on
10 the -- on the public record about this and they'll have
11 an opportunity to ask questions later, so, I'm not
12 going to pursue this right now at this time.

13 The -- you know, there are a few things
14 I won't completely leave behind though. One of the
15 issues is for the diamond mines, an environmental
16 agreement has proven to be a useful legal basis for a
17 mechanism for an independent oversight. And the legal
18 basis, as we've seen from the Affolder Report
19 (phonetic), of an oversight mechanism has a lot to do
20 with how well it works.

21 Is there a reservation that the
22 Developer has about doing an environment agreement for
23 -- for this oversight agency?

24 THE CHAIRPERSON: Thank you.
25 Developer...?

1 MS. JOANNA ANKERSMIT: Thank you, Mr.
2 Chair. I think I mentioned in my presentation, we --
3 we consider that approach to be one (1) approach, but
4 there are other approaches that we think are also worth
5 looking at.

6 Those are the ones that -- that Michael
7 mentioned and -- and, so, while that -- that may be an
8 approach, we don't believe that that's the only
9 approach and we -- we feel that that needs -- that
10 needs some more time.

11 MR. ALAN EHRLICH: And what are your
12 concerns regarding the cons of that approach?

13 THE CHAIRPERSON: Sorry, we'll go back
14 to the Developer.

15 MS. JOANNA ANKERSMIT: Thank you, Mr.
16 Chair. Quite frankly, it has some pros and it has some
17 cons. I can -- I -- I can go to Michael to -- to talk
18 about some of the things that -- that have been in --
19 discussed amongst the teams in terms of what the cons
20 are with that, but it -- it's not saying that it's bad
21 or it's good.

22 It's saying that it's not right to just
23 be scrutinizing that one (1) piece of -- that one (1)
24 option without putting it in context of other options
25 that have worked. For instance, there are examples of

1 non-legally binding oversight type groups that have
2 been very effective.

3 So, you know, there's certain things
4 that will take more time. Legally binding generally --
5 something like that takes more time to develop. If we
6 have a good approach that is going to achieve the same
7 results, and it would have flexibility in it for not
8 the -- the -- just the Developer but for the parties to
9 adjust -- as the project evolves, this project will
10 evolve over time, the functions of a committee are not
11 going to stay static while the project changes.

12 So that's off the top of my head, some
13 of the things rattling around in here, but we -- we can
14 provide a -- you know, a more exhaustive list of --
15 from Michael, if you'd like.

16 THE CHAIRPERSON: Thank you. Before I
17 go back to my staff, how many more questions do we have
18 there, Mr. Ehrlich?

19 MR. ALAN EHRLICH: I can get it down to
20 one (1) other line of questioning once we get through
21 this one, and I think we're getting close to getting
22 through this one.

23 THE CHAIRPERSON: Okay. I'm just going
24 to be -- I just wanted to make sure that we continue to
25 be respectful. So I want to -- we'll proceed, please.

1 MR. ALAN EHRLICH: Thank you. So I
2 respectfully note that AANDC supported the use of
3 environmental agreements for independent monitoring
4 agency for, I can think of certain diamond mines, and
5 so I -- I just assumed that if you weren't taking that
6 approach in this case when you're the Developer, that
7 there were reservations you might want to get on the
8 record, and that was the intention of -- of my
9 question.

10 But I -- I -- I'm not going to pursue
11 that any further here because, like I said, we expect
12 that other parties are going to deal with it based on
13 what they've already put on the record.

14 I've a question regarding annual
15 appropriations. If you look at the Kuyek paper, and
16 the lessons learned from other perpetual care case
17 studies, there are many examples of where relying on
18 annual appropriations for a perpetual care study -- for
19 a perpetual care project that needs to work well
20 forever isn't the most effective funding mechanism.

21 The project team has assured me they've
22 looked at the case studies, and so I was wondering what
23 your reflections were on that.

24 THE CHAIRPERSON: Thank you. To the
25 Developer to the question.

1 MS. JOANNA ANKERSMIT: Thank you, Mr.
2 Chair. Alan's not really asking questions that lend
3 themselves to quick answers, but I'll do my best.

4 I mean, I think it's simply to say that
5 this project, this development that we're proposing
6 exists within a certain system right now, and so while
7 there is a lot of good ideas, and -- and I know Pembina
8 is going to present their report, I think that it's
9 good that -- that that thinking is going into informing
10 others that we'll have to make future funding decisions
11 around this.

12 And so within the Federal Contaminated
13 Sites Action Plan, that's our source of funding right
14 now, and the information that's being brought out
15 through this process, I think, will be beneficial to
16 decision-makers in the future.

17 THE CHAIRPERSON: Thank you. Review
18 Board...?

19 MR. ALAN EHRLICH: There are no more
20 questions from the staff. We have one (1) -- one (1)
21 question from one (1) of the Review Board's technical
22 advisors.

23

24 (BRIEF PAUSE)

25

1 MS. KATHERINE ENNS: Thank you.

2 Katherine Enns. I have reviewed the -- the DAR, and --
3 and I've searched for examples of cumulative effects
4 monitoring that would -- would be acceptable in your
5 own documentation, and given the concerns expressed by
6 the community your cumulative effects plan and your DAR
7 is to monitor fish and game, and medicinal plants. And
8 I gather that means that you will continue to use
9 models and standard predictions to assess effects and
10 not actually use human health effects monitoring.

11 However, in your document, round 2 of
12 the -- to the Review Board, the Information Request
13 Number 7, you refer to a number of different examples
14 of monitoring programs, reclamation programs around the
15 world, including the one at Trail, British Columbia,
16 that I'm familiar with, and -- and the Proponent is
17 familiar with, where there is a Trail led task force
18 that has been developed in a program to inform and
19 involve people that includes appropriate monitoring of
20 -- of levels in people and it has been incredibly
21 successful.

22 I think you have an amazing opportunity
23 ahead of you, in that you could use the traditional
24 knowledge of people here to help reconstruct the plant
25 community that was not available to the people in

1 Trail, because the state of the vegetation around the
2 smelter was taken down to bare mineral soil between
3 1898 and 1935, 1945. And after a point in time
4 recovery started to take place, but there was no clear
5 indication of what the vegetation even consisted of.

6 And yet you have this huge opportunity
7 here to -- to use traditional knowledge and
8 understanding of original vegetation; to use their
9 example of leadership.

10 And so my question to you is that:
11 Would you consider -- I realize that you must have the
12 participation of the appropriate health authorities,
13 but would you consider developing a program, as you
14 have cited in your Review Board IR Number 7 -- the
15 response to -- to Review Board Number 7, excuse me,
16 that includes appropriate monitoring of arsenic levels
17 in people here with their guidance? Thank you.

18 THE CHAIRPERSON: Thank you for your
19 question. I'm going to go to the Developer to the
20 question.

21

22 (BRIEF PAUSE)

23

24 MS. JOANNA ANKERSMIT: Thank you, Mr.
25 Chair. Those are all appreciated thoughts and very

1 good thoughts. And -- and obviously, the reference to
2 -- to Trail is -- is interesting and -- and important,
3 because we do value -- we know -- we know we're in --
4 in an area where we have the benefit of exceptional
5 traditional knowledge that goes -- goes back a very
6 long time.

7 And with that said, though, I -- I think
8 I've had to say it throughout the week, is that that
9 level of -- of study that you are referring to just
10 simply is not within the mandate of this remediation
11 project.

12 THE CHAIRPERSON: Thank you. I'll go
13 back to the Review Board expert.

14

15 (BRIEF PAUSE)

16

17 MR. JOHN DONIHEE: Mr. Chairman, it's
18 John Donihee. Just a follow up on that. I -- I'm not
19 clear what you mean by "the mandate." You know,
20 whether you have a mandate or not is, of course,
21 important to you. But whether or not you should do
22 something from the Board's standpoint depends on
23 whether there's a potential for significant impacts or
24 not.

25 And if there's a potential for

1 significant impacts, you know, the Board may very well
2 recommend that this work be done. And at that point, I
3 suppose, whether it's in your mandate or not isn't
4 going to matter, unless the Minister disagrees with
5 what the Board's recommendation is, because the
6 evidence doesn't support it. So, you know, I -- I'm
7 sorry, but I -- I'm moved to observe that telling us
8 that it's not in your mandate is kind of a bureaucratic
9 answer.

10 THE CHAIRPERSON: And that's exactly
11 where I'll go on Monday, I'll try and stay away from.

12 So anyways, I'll go back to the
13 Developer.

14 MS. JOANNA ANKERSMIT: Thank you, Mr.
15 Chair. It's not my intention to be overly
16 bureaucratic, you'll just have to trust me on that one.

17 But I -- but I think it's important --
18 I'm not -- I'm not saying that we don't appreciate what
19 people are bringing forward but our project -- the pro
20 -- the Giant Mine remediation project, we -- we remain
21 the same as -- as we did when we -- we came into this
22 assessment process, that it will have a positive --
23 we're starting with a bad situation and our project
24 will have a positive impact. We will improve the
25 environment as a result of implementing this project.

1 So I appreciate the comment and I do
2 appreciate the concern. But it's not something that
3 the project team, the Developer sitting here, can
4 commit to -- to do.

5 MR. JOHN DONIHEE: John Donihee for the
6 Board. Just to be clear then, what you're really
7 saying is that on your assessment of the science and
8 your prediction of the impacts that you don't believe
9 that this kind of monitoring is necessary. Is that
10 correct?

11 THE CHAIRPERSON: Thank you. I'm
12 going to go to the Developer.

13

14 (BRIEF PAUSE)

15

16 MS. JOANNA ANKERSMIT: Thank you, Mr.
17 Chair. And thanks for a few minutes. This is
18 obviously a very important issue and it's why I wanted
19 to take a minute.

20 We believe -- and I'll just -- I need to
21 restate that we believe that we have given enough
22 information for the Board to assess the effects of the
23 remediation project.

24 But I think I've mentioned again, a
25 couple of times this week that, of course, we respect

1 the ability of this Board to make whatever
2 recommendations they see fit coming out of -- of the
3 process that's -- that's before us and have no doubt
4 that -- that we understand that that's the Board's role
5 and we respect that.

6 THE CHAIRPERSON: Mr. Donihee...?

7 MR. JOHN DONIHEE: I -- I -- just one
8 (1) follow-up question then. Thank you. I understand
9 your point. I understand your position.

10 But the follow-up question, I guess, is
11 this: You know, we're going to hear presentations from
12 -- if -- if we ever stop asking questions that is,
13 we're going to hear presentations from -- from Mr.
14 O'Reilly and others about the many hats that AANDC and,
15 you know, your team are wearing.

16 And so what I'm wondering about is this:
17 Once the Board's report of EA goes -- is finished, of
18 course, it goes to your Minister.

19 What role will the Giant team play in
20 reviewing and commenting on that report of EA?

21 THE CHAIRPERSON: Thank you, and we'll
22 go to the Developer.

23 MS. JOANNA ANKERSMIT: Thank you, Mr.
24 Chair. The Giant Mine team won't be involved in -- in-
25 - in that process.

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

3 MR. JOHN DONIHEE: Thank you, Mr.
4 Chair. I think that's it for us.

5 THE CHAIRPERSON: Thank you. I'm going
6 to go to the Review Board members now. I'm going to go
7 to my far left, Mr. John Curran to the presentation.

8 MR. JOHN CURRAN: And just a few pages
9 -- no, I'm just kidding, Mr. Chairman. No questions at
10 this time.

11 THE CHAIRPERSON: Thank you. Mr. Percy
12 Hardisty...?

13 MR. PERCY HARDISTY: Masi, Mr. Chair.
14 I don't have any questions.

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

17 MR. JAMES WAH-SHEE: Thank you for your
18 presentation. I have no questions.

19 THE CHAIRPERSON: Mr. Richard
20 Mercredi...?

21 MR. RICHARD MERCREDI: Yeah, thank you
22 for your presentation. No questions.

23 THE CHAIRPERSON: Thank you. Ms.
24 Rachel Crapeau...?

25 MS. RACHEL CRAPEAU: Masi cho, Mr.

1 Chair. No questions at this moment. I don't like to
2 talk about money.

3 THE CHAIRPERSON: Thank you. Board
4 Member, Danny Bayha...?

5 MR. DANNY BAYHA: Yeah, thank -- thank
6 you, Mr. Chair. I just had a question for the
7 Proponent in this case. In the earlier -- Mr. Paradis,
8 you made some -- when you were doing your presentation,
9 made a passing reference to fiction.

10 I was curious about what your thoughts
11 are about fiction. So, I mean -- I don't know, can you
12 be a little more clear on when you talked about fiction
13 when you're talking about Giant Mine? Because, for me,
14 part of the issue again when I mentioned about
15 communicating facts, communicating issues about this
16 project to have an accurate portrayal of what's
17 actually happening is important.

18 And when you talk about fiction, the
19 Developer needs to be -- more explain what they think
20 fiction is happening at this or what kind of, if you
21 will, hearsay is happening from this site.

22 In the public, we need to be sort of
23 clear and -- and understand where the Developer's
24 coming from. Thank you.

25 THE CHAIRPERSON: Thank you. I'm going

1 to go to the Developer.

2 MR. ADRIAN PARADIS: Adrian Paradis on
3 behalf of the project team. I was trying to be overly
4 broad and I -- I didn't -- I meant absolutely no
5 disrespect to any of the community at -- at all by
6 that.

7 I think what I specifically said was
8 "some of the myths of what's in the community." And
9 Giant has a legacy that far encompasses what my narrow
10 thoughts are. And I -- I mean -- I -- I -- I'm trying
11 to -- I'm being -- want to be very careful on how I
12 chose and speak my words here in the next few moments.

13 Because of the legacy of Giant and
14 because of the concern of the community, we get all
15 sorts of different questions that, at different times,
16 I -- I -- it completely takes me aback about what's
17 thought and Dennis spoke yesterday about being a member
18 of the community and saying he goes to bed with his
19 Blackberry by his side so he wakes up first thing in
20 the morning and he checks and he's asked questions.

21 And that's the same here for us that
22 work and live on this project and live in this team.
23 We -- and to Joanna's -- Joanna's -- some of her
24 comments internally is Giant is not a job, it's a
25 lifestyle. It's -- it's -- it's an all encompassing

1 thing, so, questions that we get asked, it really --
2 the thoughts that actually, like, there's different
3 thoughts within the community that just -- people think
4 that the monster under the ground. The monster is
5 there and there's these thoughts out there that, just
6 by stepping on the site, that something's going to
7 happen to the -- to you and to happen to everyone.

8 And I think, when we finally get people
9 on site, we can start going around and saying, Yeah, it
10 -- it is -- you know, there -- there's something here,
11 but, you know, we've got thirty (30), forty (40) people
12 who work on site on a day-to-day basis who try and keep
13 it the best they can.

14 And myth specifically is -- I mean, it's
15 even mentioned in, I hope, soon to become probably best
16 seller, the bar -- the arsenic trioxide is all in the
17 barrels. So these mass chambers of barrels
18 underground, they're not, you know. That -- that is
19 out there in the community, that, you know, you could
20 start on one (1) side of the town and go down to seven
21 fifty (750) level on the mine, and you could walk
22 across and you could show up in Con the next -- next --
23 by end of shift, you know, punch in at one place and
24 punch out at the other -- on the other side, and get
25 paid from both sides.

1 It's there, so we try really hard as a
2 team to get people on site and -- and drive them around
3 and show what is actually there and what we're doing to
4 try and take care of the site, and what our plans are
5 going out forward into the future.

6 And it's just that communication, and
7 it's that constant stream. You've heard it. You've
8 heard it a little bit here, where it has taken time for
9 all of us to come together and -- and start coming to
10 the same thoughts. I -- I sit in a room with Kevin and
11 Todd a lot of times, and what we think we talk about --
12 and, you know, we like to think of ourselves as fairly
13 educated individuals, or at least myself; I think of
14 myself that way. Todd, I'm not. It's truly a myth,
15 strictly a myth.

16 I'm going to end. I'm going to try and
17 be very -- end -- end very quickly here. There is this
18 legacy and there is this -- thoughts of what's out
19 there, and we take it on personally to try and explain
20 what is happening. And it's hard, so -- yeah. Thanks.

21 THE CHAIRPERSON: Thank you. Mr.
22 Bayha...?

23 MR. DANNY BAYHA: Thank you. It's
24 helpful, I mean, where you guys are coming from, and it
25 really helps us as Board members to understand where

1 everybody's coming from and how committed people are,
2 trying to get some answers and trying to make solutions
3 to -- to move forward with this, and so that everybody
4 at the end of the day can live together.

5 And -- and anyhow, if I may, I'd like to
6 ask again -- you know, Rachel didn't want to talk about
7 funding, but I think it's sort of always in everybody's
8 minds, because for this type of thing to work, I mean,
9 funding is going -- always going to have to be
10 questioned, in a sense, a sense of guarantees of -- of
11 how that's going to work.

12 Just from my understanding, I realize,
13 you know, you're all within your mandates and within
14 your policies and departments, but I just want to get
15 an understanding based on the issue of Public Works
16 Canada.

17 And when you do this work, propose to do
18 the work, how do they fit in? Do they fit into that,
19 or are they -- once they get into their area for
20 tendering and all that, do you guys totally leave the
21 picture and they have to start to do their own thing
22 again all over?

23 So I -- I wanted to be sure that -- how
24 that's going to work -- unfold. Thank you.

25 THE CHAIRPERSON: Thank you, Mr. Bayha.

1 I'm going to go to the Developer.

2 MS. JOANNA ANKERSMIT: Thank you, Mr.
3 Chair, and thank you for the question, because I think
4 it is an important clarification.

5 So Aboriginal Affairs and Northern
6 Development Canada is ultimately the -- the department
7 and the minister accountable for this remediation
8 project. And so Public Works, their role in the
9 project is to support -- they're a department which is
10 supporting us.

11 And they are, on behalf of the federal
12 government, responsible for ensuring that the work that
13 we determine that -- that needs to be done within a
14 specific period of time, it is the role of government -
15 - Public Works and Government Services Canada to,
16 essentially, execute the -- the procurement of that
17 work that is within the plan.

18 And in absolutely no way do we remove
19 ourselves from that, but they do have that mandate
20 within the -- the government, and the expertise, quite
21 frankly, to -- to execute that piece of work.

22 And they also -- once they let those
23 contracts are responsible for ensuring things like
24 deliverables, and ensuring that -- that what the
25 contract said the contractor would do is -- is actually

1 being done. So they -- they manage those contracts
2 once they've been let.

3 I hope that's -- it's a lot more
4 complicated in a sense but, in a nutshell, I hope that
5 helps explain it.

6 THE CHAIRPERSON: Thank you. Danny
7 Bayha...?

8 MR. DANNY BAYHA: Yeah, thank -- thank
9 you. Just for me and for my own personal, or -- or as
10 a Board member, I'd like to know a bit about it.

11 Is that how it's going to work at ground
12 level? Like is -- you know, for -- for actually the
13 water licensing would say, not Public Works Canada but
14 rather AANDC would be the proponent in this case, I
15 guess. So I just wanted to be clear how that's going
16 to work in terms of some of the commitments. If that's
17 going to happen, that's going to be undertaken. So I
18 appreciate the answer.

19 The other -- more question. I think --
20 as you're aware, there's lots of, you know, time of
21 fiscal restraint is happening. The department is
22 cutting back, and other departments are cutting back,
23 as well. I'm wondering about maybe this is -- maybe
24 more of a question for DFO or Environment Canada, but
25 in the departments they certainly have rules, too, for

1 -- for maintenance of -- and assuring the public, and
2 they have their own mandate as well.

3 But in the very -- this specific project
4 because it's really not an every day thing, not -- not
5 another company or -- that's going to be operating in
6 an area, it's very unique, and it's very long term, and
7 it's -- it's massive, I guess if you will, the
8 undertaking.

9 And -- and so I'm wondering if there was
10 extra funding that they got, or -- or are getting, or
11 you know of, that will help them -- enable them to be
12 more active, to have more meaningful participation in
13 having this program go, and -- and to give assurance to
14 the public that this is going to be monitored well, and
15 -- thank you.

16 THE CHAIRPERSON: Thank you. I'll go
17 to the Developer.

18 MS. JOANNA ANKERSMIT: Thank you, Mr.
19 Chair. If I may, I think it's most appropriately, and
20 -- and the best information will come from those
21 departments themselves, so if I indulge the Board, I
22 think that would be the best approach for Mr. Bayha's
23 question.

24 THE CHAIRPERSON: Sure. Can we -- they
25 are going to come up and speak?

1 (BRIEF PAUSE)

2

3 MS. AMY SPARKS: Amy Sparks,
4 Environment Canada. The funding provided for DFO,
5 Health Canada, and Environment Canada to participate in
6 this process is through the Federal Contaminated Sites
7 Action Plan, so through FCSA we're giving funding to
8 participate in all of the contaminated sites.

9 So it's within the department to decide
10 the priorities, but we do have specific roles that are
11 mandatory, and then places where we have the ability to
12 get involved based on what we have the time for, and
13 what's coming up in the project.

14 So there's not specific funding for us
15 allocated just to this project, but to projects in the
16 Northwest Territories in general.

17 THE CHAIRPERSON: Okay, thank you.
18 DFO...?

19 MS. MORAG MCPHERSON: Morag McPherson,
20 Fisheries and Oceans. Apologies, if you don't mind,
21 Alan, if you could repeat that question? We were
22 caucusing on the discussion around our presentation
23 this afternoon and the question you had asked us, so we
24 were -- we were talking about our options there. So if
25 you could just repeat quickly, that would be

1 appreciated. Thank you.

2 THE CHAIRPERSON: I think the -- that
3 question came from Board member Danny Bayha.

4 MS. MORAG MCPHERSON: Oh, sorry.
5 Danny...?

6 MR. DANNY BAYHA: No worries. I was
7 just asking if there was extra funding or provisions in
8 your department in light of the fact that things have
9 been cutting back in departments of Environment Canada,
10 Fisheries, public services overall in the country.
11 They seem to be cutting back.

12 So I'm just curious if there was some
13 special provisions that the department -- your
14 department has -- has allocated to look at specifically
15 to monitor and -- and be part of the -- the ongoing
16 maintenance of -- of this cleanup that's happening in
17 Yellowknife here. Thank you.

18 THE CHAIRPERSON: Thank you.

19 MS. MORAG MCPHERSON: Thank you. Morag
20 with Fisheries and Oceans. The same as -- as Amy with
21 Environment Canada had explained.

22 Through the Federal Contaminated Sites
23 Action Plan money was allocated to specific science-
24 based departments that can provide support to custodial
25 departments, and so we provide input on all of the

1 contaminated sites that the federal government owns.

2 And, obviously, Aboriginal Affairs has the large ones,

3 and obviously Giant is the biggest one.

4 So that funding is through a separate

5 Treasury Board submission through FCSA, which got a

6 five (5) year renewal in 2010. And that funding is

7 guaranteed for our positions to provide expert support,

8 and obviously Giant takes up a large amount of our

9 time.

10 Last fall, the Minister of Aboriginal

11 Affairs sent a letter to the Minister of Fisheries and

12 Oceans reinforcing that Giant is a priority and that

13 they expect DFO to continue to provide that support and

14 input. So I think between a letter that was sent to

15 our Minister req -- requesting continued support by our

16 department, and the FCSA funding that we have in place,

17 that we will be involved in Giant Mine in the -- in the

18 foreseeable future.

19 THE CHAIRPERSON: Thank you. Any

20 further questions, Danny Bayha?

21 MR. DANNY BAYHA: Thank you, Mr. Chair.

22 I just had one (1) final question, and then I will

23 listen. Thank you. If I may, Mr. Chair, I wanted to -

24 - I'd like to know -- and -- and earlier the question

25 was asked on the total funding expected to be spent on

1 this remediation project as presented.

2 Now the -- I know the GNWT has a role in
3 this, their stake in this, as well. I guess, first of
4 all, is the -- the number quoted that you stand by the
5 amount, is that including the -- what the GNWT is going
6 to be putting into this? Is that over and above, or --
7 or aside?

8 And the next question would be -- I
9 would like to know about the -- the -- how GNWT is
10 approaching this whole oversight issue that has been
11 brought up again and again over the -- throughout the
12 past few days? Thank you.

13 THE CHAIRPERSON: Thank you, Danny, for
14 your final question. To the Developer...?

15 MS. JOANNA ANKERSMIT: The GNWT
16 liability for the site is incorporated -- because the
17 plan is integrated surface and subsurface, it's
18 integrated into the overall project cost.

19 MR. DANNY BAYHA: Thank you. And --
20 and just about the oversight issue of -- of monitoring,
21 different independent agencies. I'm wondering if GNWT
22 had a -- has any thoughts on that? Thank you.

23 THE CHAIRPERSON: Thank you, I'll go
24 back to the Developer.

25 MR. ADRIAN PARADIS: Point of

1 clarification. GNWT and INAC, as Co-Proponents, have
2 been both -- Ray Case, unfortunately, is not here --
3 Dr. Ray Case. But he -- he is one (1) of the working
4 group members and has been working extensively within -
5 - with us and with the working group to discuss
6 oversight. So -- I -- I guess the question is on
7 behalf of Lisa who is doing back -- clean up right now.
8 What was the specific question, I guess? So ...

9 MR. DANNY BAYHA: Just a note on -- on
10 the issue over the past -- past few days. Without --
11 if she wasn't around, I guess I know Ray was quite a
12 bit on some of the concerns of the community about
13 independent oversight committees being created and --
14 and trying to be funded long term as well. And most of
15 the people and -- and members of the community wanted,
16 or are seeking that -- that type of a an arrangement
17 for the long-term monitoring of -- of this frozen block
18 method.

19 So I was interested if the GNWT
20 themselves had, you know, and because since they're, in
21 a way, closer to home, might have ideas that -- that
22 would be helpful in trying to move this forward or have
23 any -- any other things to add to the discussion that's
24 already happening? Thank you.

25

1 (BRIEF PAUSE)

2

3 MS. LISA DYER: Lisa Dyer, Environment
4 and Natural Resources with the GNWT. We've been
5 working very closely as Co-Proponents with AANDC on the
6 issue of oversight on the project. And so we share the
7 vision that has been presented and we co-signed the
8 letter that was submitted to the Board on August 31st.

9 THE CHAIRPERSON: Thank you. That
10 concludes your questions? Thank you. We've got a --
11 we're going to go into a presentation now. YKDFN and
12 Alternatives North. I think YKDFN s going to do the
13 opening comments in this, and I believe they were
14 allocated ten (10) minutes for this, so we'll pursue
15 that. Thank you.

16

17 POSITION PRESENTATION BY YKDFN - OVERSIGHT,
18 CONSULTATION AND LONG-TERM FUNNING:

19 MR. TODD SLACK: Thanks, Mr. Chair. My
20 name is Todd Slack, and we have Ms. Natasha Affolder on
21 the phone. She's a professor of law at UBC with an
22 extensive history in regulatory matters, and evaluation
23 of processes. I'll --

24 THE CHAIRPERSON: Can you stop there
25 for a second. Is she on the phone? We -- we don't

1 hear her.

2 MR. TODD SLACK: Yeah, please go ahead,
3 Natasha.

4 MS. NATASHA AFFOLDER: Okay, thanks
5 very much. And I understand that my comments will be
6 much brief than originally intended. I'm sorry I
7 couldn't be there in the room with you, but I am
8 encouraged to see how much the issue of independent
9 oversight has captured the hearings to date. So, I
10 think some of the initial comments I would otherwise
11 make don't need to be made. There already is a robust
12 understanding of the need for oversight, it seems to
13 me, shared among many there today.

14 What I hope to add to the discussion in
15 a couple of a minutes was a focus on some of the legal
16 and conceptual ideas that animate a discussion of
17 oversight because those can sort of take us back to the
18 very question of why we bother with such an
19 institution, and also help with thinking about what
20 sort of institution should emerge.

21 The study that we did, and that's been
22 submitted to the Review Board looked at sixteen (16)
23 individual case studies, and tried to glean lessons of
24 what worked and what hasn't worked, but also tried to
25 grapple with these very concepts. And I think it's

1 necessary to spend a little more time on terminology
2 than we normally would when we talk about independent
3 oversight because people have very different ideas of
4 what these terms mean.

5 The very words "environmental monitoring
6 advisory committee," each mean every different things
7 probably to most of the people in the room, so what we
8 envisage by such an institution might not be a single
9 product. And so I think engaging with some of the
10 basic concepts helps move discussions forward.

11 And the first critical concept here, of
12 course, is the idea of oversight. Why bother.
13 Oversight involves some sort of monitoring of a
14 decision-maker. It involves adding an additional set -
15 - set of eyes and ears. It doesn't necessarily mean
16 the power to effect decisions, and absolutely key to
17 the idea of oversight is the notion of transparency.
18 Gaining information as a way of balancing power and
19 ensuring public confidence.

20 A second critical concept is
21 independence, and I think the idea of independence is
22 best expressed along a spectrum. We see many examples
23 of monitoring agencies emerge that are called
24 independent, but they're clearly not. A number of key
25 characteristics of independence go to whether a body

1 has some security of legal tenure, whether it is
2 guaranteed in existence, or needs to spend time
3 fighting for its existence.

4 Whether it has guaranteed funding, or
5 needs to preoccupy itself primarily with the task of
6 gaining funding. And independence also goes to
7 procedures for appointing and removing members.

8 That said, independence isn't something
9 that -- well, we try to move along to the spectrum
10 necessarily to absolute interdependence. There are a
11 lot of very good reasons for not having complete
12 independence, and particularly this is the case where
13 we want an advisory -- independent advisory committee
14 to spend more time on focussing on communication,
15 building relationships, community notification
16 functions than we do on independent robust
17 environmental monitoring.

18 If we look at some of the situations
19 where oversight agencies haven't worked, I think I want
20 to emphasize four (4) factors that I see in play.

21 The first is a confusion and
22 multiplication of roles. It's easy when you're
23 creating an institution, such as an institution of
24 environmental oversight, to say, we want this
25 institution to respond to all the gaps in project

1 governance that we imagine.

2 In other words, we want it both to be a
3 body that delivers independent, robust, technically
4 informed scientific monitoring, and at the same time we
5 want it to respond to community needs, involve
6 community members, include community liaisons and take
7 on a role of restoring public trust that might be
8 missing. And there are a whole plethora of other
9 tasks that are put on these bodies.

10 I think there often has to be some hard
11 questioning of what the primary purpose of a body is
12 before too many potentially conflicting roles are added
13 to its scope. And I think particularly when there is a
14 body that needs to answer complex situations and
15 situations of scientific uncertainty, it's tempting to
16 put everything that's left over on to that body. But I
17 think, you know, stepping back and thinking about the
18 primary role of a body is necessary before we move
19 along to talking about the design and scope of the
20 body.

21 Three (3) more reasons why we see these
22 bodies fail, the ne -- the next reason is around issues
23 of security of legal tenure. We have a number of
24 bodies set up to operate as independent environmental
25 monitoring bodies that essentially are set up on an ad

1 hoc basis. It's seen as a good idea, a commitment is
2 made, a body is formed, but there is no security that
3 that body will continue to exist.

4 In those situations, we see the body not
5 preoccupied with independent environmental monitoring.
6 We see, rather, the body preoccupied with trying to
7 prove that it should still exist, that it can still
8 exist. And so securing its existence in that sort of
9 uphill battle for self-preservation becomes the primary
10 function rather than the function set by the parties at
11 the outset. And this also we see through funding
12 challenges.

13 The second most common situation that
14 hampers these bodies being effective is, again, for
15 them to have to spend their time trying to get and
16 guarantee funding, rather than, again, doing the jobs
17 that have been assigned to them.

18 A final point of challenge, the surest
19 way to hamper an organization like this from being
20 effective is to restrict access to information. Again,
21 if time is focussed on trying to pull teeth, get
22 documents, get access to stories, get access to
23 accounts and public records, that time consuming and
24 frustrating task, again, deprives an independent
25 environmental monitoring agency from being able to

1 focus its own energy on the very important tasks it's
2 been assigned.

3 So I'm conscious that time is very much
4 an issue and people in the room have spent a long day
5 there already. So I will conclude my sort of overview
6 remarks both right there, adding that there is a very
7 in-depth report on record if people want to pursue in
8 more detail any of these assertions.

9 THE CHAIRPERSON: Thank you, I'll go
10 back to YKDFN.

11 MR. TODD SLACK: Thanks, Mr. Chair.
12 I'd just like to thank Natasha and I know she has to
13 run to a class. So I will finish with the -- the more
14 in-depth introduction.

15 MS. NATASHA AFFOLDER: Thanks very
16 much, Todd, and I'm going to sign out at that point.

17 MR. TODD SLACK: The history of her
18 involvement in the Giant Mine project dates back to a -
19 - a proposal that the Yellowknives Dene, the City, and
20 Alternatives North put together and we collabora --
21 collaborated to facilitate her research.

22 As I said, Ms. Affolder has a -- is a
23 professor with an extensive history in regulatory
24 matters. And her CV is on the record. And it's --
25 it's a mighty impressive document, very -- I have a

1 resume and it doesn't match that.

2 We were lucky to have her participate in
3 this and I think her report is a -- is an incredible
4 bit of evidence in front of the Board. It sets forth
5 best practices and prerequisites for the development of
6 an effective oversight. That report was filed in
7 February 2011, and was also cross-filed in the Fortune
8 case just recently. It's similar to the PowerPoint
9 presentation referenced by Mr. Van Aanhout, but it's
10 much deeper in terms of its case studies and the level
11 of depth.

12 We -- as my last point here, we asked
13 her to present today because the parties felt that it
14 was very important. At the March 2012 workshop she
15 gave a twenty-five (25) minute presentation in the
16 middle of the day, and it was incredibly powerful in
17 terms of turning the -- the attitude in the room. And
18 I can't speak for the -- the Developer, but that was
19 the point in which I think things started moving
20 together, or that we started working together.

21 And while we talked about the -- the
22 letter just recently, we've seen good steps towards a
23 better solution, and I think that was the moment in
24 which the -- the worm sort of turned and, instead of
25 working at cross ends, we started pulling the --

1 pulling together.

2 And so I think that'll conclude the --
3 the presentation from Ms. Affolder. I'm not sure. On
4 the agenda, the Yellowknives had twenty (20) minutes.
5 Did you want me to go right into it?

6 THE CHAIRPERSON: No.

7 MR. TODD SLACK: Okay.

8 THE CHAIRPERSON: We're going to take a
9 ten (10) minute break.

10

11 --- Upon recessing at 2:14 p.m.

12 --- Upon resuming at 2:28 p.m.

13

14 THE CHAIRPERSON: We're still going to
15 go back to YKDFN for their presentation.

16 Okay, Todd, can you proceed with your
17 presentation, please.

18 MR. TODD SLACK: Sure, Mr. Chair. I
19 will do everything I can to move along here. So we're
20 going to talk about two (2) topics, and the first is
21 oversight.

22 And I just want to make a small point
23 here -- and during the -- the pre-hearing conference
24 the Yellowknives fought to have this particular issue
25 earlier in the week because we were worried about the -

1 - the amount of time versus the at -- or, that it might
2 convey the issue adequately. But these social issues
3 are one (1) of the primary concerns from the First
4 Nation to -- to build that social licence.

5 So moving beyond that -- and I think
6 that we have been clear in stating that the
7 Yellowknives want to work with the Proponent and that
8 this plan could work if appropriate steps and
9 mitigations are in place. And some of those
10 mitigations relate to things in the near term: socio-
11 economic benefits, contracting, improving the
12 environmental standards, increased clarity on
13 objectives.

14 The other aspect of that is creating a
15 flexible management approach to move into the future.
16 And I think that, clearly, we would all agree that
17 there's a significant number of issues that are going
18 to be remaining -- or, that are unresolved and may
19 remain unresolved into their future.

20 And what we're hoping to see out of the
21 measures is something that allows any potential
22 stabilization and frozen block method to proceed with
23 sufficient checks and balances because the frozen block
24 is not the only dimension that we're talking about
25 here.

1 If those measures and mitigations are in
2 place, then the Yellowknives' concerns may be
3 addressed. However, if they're not then we're forced
4 to look at other regulatory options. And it's best
5 that we don't go down that road because I'm hoping we
6 can arrive at a -- at a good result here with the
7 Board's help.

8 To just do something is not going to be
9 adequate. To do something weak and ineffective doesn't
10 really get us any further down the road.

11 So the solution that we're propo -- or
12 that we'd like to see is to provide for an enforceable
13 management review that provides comfort for the short-
14 term operations and allowing them to be undertaken
15 while those matters of larger unresolved issue can be
16 completed alongside the frozen block; to see those
17 accommodations move on one (1) track and the engineers
18 and the -- the stabilization effort, that may be the
19 best option today, see that move on a different track.

20 And oversight is an important part of
21 this project that the Yellowknives have steadfastly
22 fought for since day one. It was in the scoping
23 presentation, it has occurred at every environmental
24 assessment step. And this is an essential part of that
25 second track.

1 And I just want to recall something from
2 the scoping session. And the -- at that point in time,
3 the project was very confident in terms of the ability
4 -- or their ability to do a good job. And Bill
5 Mitchell (phonetic) said, and I'm quoting:

6 "And I think various options for
7 independent audit and monitoring
8 would only be due diligence on the
9 effectiveness of the remediation
10 plan. It talks to our comfort level
11 in believing this remediation plan
12 will achieve its objective, and that
13 we would -- would be willing to
14 entertain this independent arm's
15 length over -- independe --
16 independent oversight for the project
17 in the future."

18 That second independent was Mr.
19 Mitchell's, not my mistake there. And what I took away
20 from this, and what the Yellowknives took away from
21 this is that there was a commitment on the table to pro
22 -- proceed and pursue this issue.

23 Now, the -- and this comes back to some
24 of the other discussions that we've had here this week.
25 Because it didn't take long for that commitment to

1 disappear, or to sort of disappear. And this is the
2 reason that we're consistently moving towards measures,
3 not just commitments. And that's a terminology issue,
4 and I'll come back to that in one second.

5 Now during the -- the hearing the
6 Proponent also said that -- that we were going to
7 entertain proposals on how to move forward. And the
8 parties rather quickly submitted something to look at
9 best practices and lessons learned. And eventually
10 this became the Natasha Affolder report. However, this
11 was without the -- any support from AANDC.

12 The project dithered on this and
13 provided no indication or no reply to repeated
14 inquiries over months and months. And eventually in
15 2009 -- November, 2009, we received the response from
16 the RDG that we brought up yesterday. This was the
17 first time that we sort of saw the Proponent's approach
18 that they were going to use, which I'm just going to
19 call it the, Hey we got this one. And I'll give you a
20 couple of highlights from the letter:

21 "Regulatory, technical, independent
22 oversight, stakeholder, aboriginal
23 and community involvement will be
24 included in the framework. The
25 proposed independent monitoring will

1 be incorporated into the overall
2 monitoring framework for the project,
3 and will be fully described in the
4 Developer's assessment report. The
5 proposal, as presented, would be an
6 unwarranted duplication of this
7 effort, and INAC is, therefore,
8 choosing not to fund your proposal."

9 We -- we recognize that they saw it as a
10 duplication, but it wasn't. It would have been if
11 there would have been real results coming out of their
12 -- from their project.

13 We -- we're asking you to just remember
14 this commitment and consider what you heard this week,
15 go to the DAR, and you won't see that they're addressed
16 in there. Whatever framework there is or there will
17 be, it didn't adequately address independent oversight
18 or monitoring and it sure wasn't fully described.

19 And to come back to the -- Mr. Curran's
20 questions from earlier, for the YKDFN, the key is that
21 these commitments become enshrined as measures. I
22 don't think that we actually have divergent views on a
23 lot of things, it's just that we're having issues with
24 language and terminology.

25 Simply including the language of a

1 commitment as text or in the transcript, or a -- a note
2 in the environmental decision of environmental
3 assessment isn't strong enough to make it enforceable.
4 Again, the -- from the YKDFN's point of view, that com
5 -- this is just one (1) example of a commitment being
6 refused to be honoured.

7 In January, 2010, there's a letter from
8 Minister Strohl to Bob Bromley. This is Item 128 on
9 the registry. It restates the assertion that INAC and
10 its consultants were already well advanced on a
11 framework for all possible monitoring programs.

12 And my response, both then and now is,
13 all right. Well, let's see it. This is not just the -
14 - the mistakes of the past. This is two (2), three (3)
15 years ago that these commitments weren't fulfilled.

16 And now, I like to speak from
17 experience, to learn from these mistakes, and that --
18 that's where we're coming from. The Yellowknives'
19 experience with independent oversight has been
20 generally positive, and I would like to think that it's
21 been positive for the developers who have those
22 oversight bodies.

23 The ECATI Mine, it wins awards for
24 environmental stewardship. Now, I'm going to throw
25 this out there as a question, but do you think that BHP

1 has a world class environmental mine to win awards
2 simply because they chose to? No, they have it because
3 they are being pushed to excel by the Water Board who
4 is being -- who is receiving interventions from the
5 independent oversight body that raises the bar.

6 When these environmental concerns are
7 addressed, it lowers the impact on the lands and lowers
8 the impact on the -- on the animals and it breeds an
9 amount of trust with the project.

10 So if YKDFN have security in knowing
11 that the environment is being respected, maybe not
12 always in the way that they want to see it, but that
13 it's being taken care of in an appropriate way, the
14 company will have additional freedom to do their job
15 because they have the trust, there's an environmental
16 agreement and they have a -- a record of good past
17 performance.

18 This is a project that's adjacent to
19 N'Dilo and Dettah, therefore, significant potential
20 environmental impacts are readily -- readily apparent.
21 Failure and a low bar of success isn't an option.

22 We've laid out technical repea --
23 reasons in our report, but as the Chief explicitly
24 stated on Monday, in -- independent oversight along the
25 principles already identified on the registry and

1 conveyed to the Proponent, this is not a negotiable
2 part of the -- the YKDFN forward. This is one (1) of
3 the accommodations that's required to concern -- to the
4 Yellowknives' concerns.

5 Following the -- the Board directions
6 and the IRs and I have it written down to -- this was
7 IR Number 3 in July and perhaps I have the date -- date
8 incorrect.

9 Now, in the end, we had submitted a -- a
10 joint letter before that that said we were working
11 together, but what -- what's important to -- to
12 recognize is what the actual end product was. And that
13 was a -- a unilateral letter written by the
14 Proponents. This letter doesn't go far enough and
15 provides a fair amount of wiggle room for the
16 Proponent. It says the right things and we support
17 those things, but the Yellowknives want to see more,
18 and we've also heard this commitment before and it
19 wasn't followed up.

20 YKDFN has made it clear to the propo --
21 or made it clear to the Proponent that a letter
22 indicating the commitment, it would not be sufficient
23 and would carry little, if any, value.

24 For the record, there was a second
25 question on an environmental agreement, and this is

1 most certainly the way the Yellowknives would like to
2 proceed. A binding agreement in the same way that has
3 worked for the other mines is definitely the
4 preference.

5 Adrian and Ray, they're nice guys.
6 They're the guys who signed this letter, but if we
7 can't count on the commitment from the former project
8 boss, if the Minister's letter wasn't correct, if the
9 RDG left a lot to be desired, then I'm not sure what
10 sort of value we can place on this commitment from an
11 ENR Director and I'm -- I think he's the ADM now and
12 the AANDC's technical officer for the file.

13 So, I just want to take a second right
14 here and explain the terminology issue and Natasha's
15 presentation was actually really good in explaining why
16 terminology is so important.

17 And I'm going to tell you how the YKDFN
18 are viewing this and, you know, perhaps we can arrive
19 at common -- commonality here. And this is certainly
20 what was the first step of the EMS. We were using the
21 same words in different ways.

22 We are asking for a measure to be
23 enacted. In YKDFN view this requires action, otherwise
24 significant impacts have occurred. The Proponent has
25 reason -- repeatedly said that no measures are required

1 because they don't see significant concerns or the
2 potential for significant environmental impacts.

3 The Board has also made many suggestions
4 in the past in previous reports of environmental
5 assessment. These are generally good ideas that make a
6 lot of sense and would provide further assurance, but
7 aren't required to avoid significant impacts or
8 concern.

9 The problem here and this from the
10 Yellowknives' experience again, when we look at the --
11 the Drybone's file, for instance, is that of the twenty
12 (20) some suggestions that were made not one (1) of
13 them has been implemented.

14 So that leads to the question, What is a
15 commitment then? And this is an open question, but to
16 us this is something that the Developer may or may not
17 fulfill. There is no regulatory mechanism to force
18 that to happen, and if this is where part of the -- the
19 terminology issue -- or conflict is coming from, you
20 know, that is our perspective.

21 It's for this reason that the YKDFN have
22 developed a contractual-base system for consultation
23 and exp -- exploration. To date, we've never had to
24 resort to action from the -- for companies failing to
25 live up to their promises, but at least now there's an

1 agreement there and it's enforceable.

2 So, Mr. Chair, the background research
3 is on the registry. The best practices are recognized.
4 The parties have more or less all but established the
5 terms on how to move forward. And there's a single
6 uncertainty, and that's the Proponent's intentions and
7 getting the deal done moving forward.

8 And YKDFN want to focus on solutions,
9 but I -- I just want to return to the question from Mr.
10 Bayha earlier, and an environmental impact review is
11 not the preferred route of the Yellowknives, but if
12 appropriate accommodations and mitigations can't be put
13 into place, there's little comfort for the First Nation
14 and thus an impact review would be warranted. In the
15 absence of these things, we would recommend to the
16 Board that that be the option they -- they pursue.

17 Now, on this topic the best solution is
18 clear. We're asking the Board to make a measure
19 requiring the establishment of an independent oversight
20 panel. This should be developed by agreement amongst
21 the parties, recognizing the work that's already done
22 and submitted to the registry.

23 It would ensure the panel's
24 independence, local representation and, most
25 importantly, effectiveness. And as Chief -- or Chief

1 Sangris said on Monday, This is -- this measurement is
2 a requirement for the Yellowknives in moving forward
3 through an EA process.

4 So my second topic is going to revolve
5 around the mixed mandate of the Proponents. And since
6 the -- the start of the -- the EA process, just like
7 many of the other concerns that we've brought up, we've
8 been seeking additional clarification on roles,
9 responsibilities, mandates of the different divisions.

10 We had hoped to understand how these
11 nominally separate groups with their directly opposed
12 responsibilities, environmental protection, that's the
13 inspectors, economic issues, responsibility to the
14 taxpayer, these things are --rapidly arrive in
15 conflict. And as we've seen with almost every other
16 concern raised by the -- the YKDFN, the -- the
17 Proponent did not provide enough information for anyone
18 to understand how the sufficient distinction existed.
19 There were no new policies. There was no procedural
20 statements.

21 And the problem here, and it shouldn't
22 be a surprise, is that the inspectors on the project
23 came into conflict relatively quickly. During the
24 arsenic spill at the freeze optimization study,
25 Alternatives North had submitted evidence to the record

1 that shows senior INAC management overruled the
2 inspectors, and it seems that it's primarily because of
3 financial concerns.

4 The Project's assertion that they had
5 sufficient firewalls between the divisions didn't hold
6 water. And this is a continuation and a trend of the
7 behaviour that we've seen with respect to the -- the
8 regulatory system from the Proponent. And I want to
9 come back to that same freeze optimization study. When
10 they started this, it was exempted from this proce --
11 from the EA process, but it was not exempt from the
12 Land and Water Board phase.

13 There is clear language in the MVRMA
14 that this should have been require -- this should have
15 required a land use permit; however, there was a
16 particular loophole in the MVRMA, a lack of a
17 declaration, and this is a declaration that would have
18 been jointly issued by one of the co-proponents.

19 They used this hole to implement and
20 complete their freeze optimization study. The intent -
21 - this issue was brought to the attention of inspectors
22 who chose not to intervene. Now, as it's -- as it's
23 the Proponent who helped author the MVRMA, and the
24 Proponent who's the -- one (1) of the people who issue
25 the declaration, the Yellowknives Dene would have

1 expected better.

2 They knew what the context was, and I
3 think that if this is private industry, BHP or Rio
4 Tinto, there's just no way that AANDC would have
5 allowed this to proceed without -- without the
6 determination being in place first.

7 This is an untenable situation, and so
8 far we've been lucky. The incidents have had small
9 impacts, and the concern is, next time, we might not be
10 so lucky. What if it's a significant environmental
11 issue, and the inspectors are for -- pushed not to
12 enforce something? Well, that's a matter of community
13 concern, and it's significant. Whether it's real,
14 whether that bias is there or is just a perceptual
15 issue, that must be addressed.

16 YKDFN require a measure that ensures
17 appropriate policy enshrining the independence of
18 different divisions of INAC, isolation of Justice
19 Canada lawyers, separation of the reporting chains, and
20 independent communication support. This should include
21 minimum quarterly inspections with -- with all
22 inspections made public within thirty (30) days if any
23 no -- any issues are noted.

24 And that's concludes my presentation.
25 Thank you.

1 THE CHAIRPERSON: Thank you, Todd from
2 YKDFN, for your presentation. I'm going to -- I'm
3 going to hold off on the questions. I'm going to go to
4 Alternatives North, and I believe they've got their
5 presentation fifteen (15) minutes.

6

7 POSITION PRESENTATION BY ALTERNATIVES NORTH -
8 OVERSIGHT, CONSULTATION AND LONG-TERM FUNNING:

9 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
10 It's Kevin O'Reilly with Alternatives North.

11 This is the presentation I would like to
12 give on monitoring and independent oversight. This is
13 what I'd hoped to talk about was environmental
14 management plans, independent oversight, and
15 environmental agreement, and draw some conclusions for
16 you. You'll be pleased to know I think I'm going to
17 skip ahead to slide 9, because I think we've gone over
18 this other material already.

19 So I want to talk a little bit about
20 independent oversight here, and from the material
21 that's on the public registry, even right in the
22 Developer's assessment report itself, the -- the --
23 AANDC, Aboriginal Affairs and Northern Development
24 Canada, they acknowledge that they've got a number of
25 conflicting roles with regard to this particular

1 development.

2 And, as Todd mentioned, we did file some
3 evidence showing that an inspector had been overridden
4 on the freeze optimization study, and the Developer
5 itself has said that there's no clear, written
6 guidelines for its employees to avoid issues around
7 conflicting roles and responsibilities. That's not us
8 saying it; it's the Developer itself, and that was in
9 an IR.

10 Todd said that the Developer did not
11 obtain a land-use permit for the freeze optimization
12 study. The Developer also didn't obtain a development
13 permit from the City for the demolition of the
14 conveyor. Maybe it's a small thing, but I think
15 intentions early on in the project show where this
16 might be headed perhaps. I don't know, but I guess
17 we'd hoped that they would obey all the rules and laws
18 and so on.

19 I think other folks have mentioned this,
20 too that, I guess, it's our experience that we've seen
21 a dramatic -- maybe I'll just preface this a little
22 bit. You know, this environmental assessment has been
23 going on for four (4) years now, four and a half (4
24 1/2), and it's had its ebbs and flows and whatever.

25 I think one (1) of the high points was

1 the week-long technical session that we had back in
2 October. I know certainly we went away from that
3 session thinking, Gee, we've actually made progress on
4 a bunch of issues, and we're going to get some work
5 done, but I -- I just don't know what happened after
6 that.

7 The sort of relationships we had started
8 to build and so on just seemed to evaporate, and there
9 was periods of time where nothing really was happening.
10 I know there was big things going on at the site in
11 terms of the -- there was a -- the Jojo Lake tailings
12 issue, sink holes, you name it. There was issues at
13 the site but we just weren't working together and I
14 can't figure out really why.

15 But -- and I think -- but I think part
16 of the issue was that we started to experience what we
17 thought was a dramatic shift in the project management
18 away from Yellowknife and -- to Ottawa and Edmonton.
19 Several key long-time staff members left. When we
20 finally got the organizational chart about how this
21 stuff is -- how they organize themselves, we're still
22 not very clear on all the roles and responsibilities.

23 And we're worried that with this, what
24 we perceive to be a shift of authority away from
25 Yellowknife, that it could lead to an even less

1 responsive approach from the team.

2 So we -- we actually made a suggestion
3 to you that they try to find ways to put some authority
4 and technical support located right here in
5 Yellowknife, people that live here that we can interact
6 with and so on. And I do want to commend Adrian.
7 Adrian has been great. Any time I've asked him for
8 things, any time I want to go to the site, go
9 underground, he's been very, very helpful. I just
10 think he probably needs some more help.

11 So we've made this suggestion about
12 getting some more people here, and authority here, to
13 basically increase accountability, transparency,
14 responsiveness, and build some more public confidence.
15 The response from the Developer was, well, we've got a
16 multifaceted team, and they're located in various
17 centres. It didn't really answer the question. But we
18 still stand by that -- that suggestion. We know you
19 can't tell them how to run the project, but you might
20 find a way to make some suggestions in this area.

21 So on this issue of oversight, we
22 recommended -- sorry. On the issue of oversight, we
23 recommended -- sorry. I'm -- I think I've lost my
24 place here. There, that's the slide I should be on.

25 So I think other folks have said that

1 the AANDC has supported and signed agreements for the
2 northern diamond mines. That's the model that people
3 here are most familiar with, and I think there is
4 evidence on your record that people are generally
5 satisfied with these sorts of arrangements, and they
6 seem to work.

7 So coming out of that workshop that we
8 had in March of this year, we set up this oversight
9 working group. It's been meeting now for six (6)
10 months. We've actually had twelve (12) meetings. We
11 went through six (6) drafts of a discussion paper,
12 which I believe is an exhibit now with you, and we
13 actually went through eight (8) drafts of an
14 environmental agreement.

15 So we've done the work, but -- and the
16 red lines on there say that at the time that we
17 prepared this and submitted it on August the 22nd, the
18 governments had not committed to independent oversight.
19 I think we've made some progress. There's a commitment
20 to do something, but perhaps it hasn't gone as far as
21 we -- we'd like.

22 And I think it's clear that there is
23 significant public concern with a lack of independent
24 oversight for this project which gives you folks, as
25 the Review Board, a legal basis to propose a binding

1 measure.

2 And that's what we've -- we suggest is
3 there should be a binding measure for a mutually
4 agreeable public oversight body for the Giant Mine and
5 that we want this in place before the project proceeds.

6 The Developer's committed to ongoing
7 discussions; that's helpful, but I don't think at this
8 point it's good enough to get a commitment. We would
9 like the Review Board to make this a binding measure
10 for the project going forward.

11 So I want to talk about an environmental
12 agreement, because I think that's the way to bring
13 together a number of loose threads here that you've
14 heard over the last several days. We -- we can't ask
15 for financial security for this project, because it's
16 done by the government and the government doesn't post
17 security. But -- and I think we need to think of the
18 environmental agreement as a form of security. It's a
19 backstop to the kind of commitments that we've heard
20 here.

21 We know that the government's already
22 signed environmental agreements for the diamond mines.
23 I've mentioned the good track record of implementation,
24 I think, it's success. It's on your public registry.
25 And I think it's also fair to say that there's little

1 duplication or overlap. At least, it hasn't proven to
2 be a problem that that's on your public registry.

3 So we -- we think a legally binding
4 agreement needs to be negotiated and signed to firm up
5 these commitments that the Developer has made and to
6 reduce the significant public concern around this
7 project.

8 We think that an agreement is the way to
9 formalize a number of commitments. Maybe the Developer
10 hasn't gone as far as we would like on some of them,
11 but this is the way to formalize a new working
12 relationship, a partnership, moving forward on this
13 project.

14 And in an environmental agreement we can
15 do things like build this independent oversight, ensure
16 some ongoing research and development, spell out the
17 environmental management and monitoring requirements,
18 set out perpetual care planning and management.

19 We've got a promise for them to do it.
20 Well, let's put it in a -- in a legally binding
21 agreement. And I think this will be the basis to start
22 to build better public confidence and trust in the
23 project as we move forward.

24 This is a rather long slide, but an --
25 an environmental agreement can contain provisions and -

1 - and spell out roles and responsibilities, what the
2 oversight body, what kind of mandate it would have, the
3 composition, what kind of reporting, funding, that it's
4 advi -- advisory in nature. It can spell out project
5 reporting requirements, how we make sure that everybody
6 can get access to the information they need, the agreed
7 upon commitments for environmental management plans and
8 monitoring programs, the on -- an ongoing research and
9 development for a permanent solution for the
10 underground arsenic.

11 It also needs to contain some provisions
12 around dispute resolution. And that's not try -- to
13 try to overturn decisions that they make, but it's
14 really about compliance with the agreement. If -- if
15 these sort of things are not done, what's the mechanism
16 for enforcing that or making sure that it does happen?

17 And, of course, an agreement really
18 needs to be for the life of the project. But it also
19 has to be regularly reviewed and it can be -- it should
20 be able to be amended. And the pattern for this is
21 already set with the -- the kind of environmental
22 agreements that are already in place for the diamond
23 mines. And one (1) of those agreements is on your
24 public registry.

25 So we -- we think of an environmental

1 agreement as sort of a package of mutually reinforcing
2 commitments and measures, that these will help build
3 confidence, accountability, transparency and perhaps,
4 even most importantly, trust.

5 And we think of an environmental
6 agreement as a social contract. The Developer is going
7 to issue a lot of contracts for the physical work that
8 is going to be carried out as part of this project.
9 What we're suggesting is on the social side, there
10 needs to be a contract as well for us to move forward
11 with. And that's what an environmental agreement can
12 do. It's -- it's a social contract that can allow us
13 to move forward on this project.

14 So I've already said we had a lot of
15 meetings of the -- the working group. We made some
16 progress. We've said that we would -- we were prepared
17 to sign off on a -- an agreement months ago, on one (1)
18 of those earlier drafts. And we understand that there
19 would be a need to go back and revisit the text to find
20 out what the Review Board thinks about all of this
21 stuff, and try to incorporate whatever recommendations
22 and direction that you would provide. But I think
23 there -- there was an opportunity for us to actually
24 reach an agreement in principle and move this forward
25 before we got to the hearing, at least from our

1 perspective.

2 So I just want to outline for a couple
3 of minutes here our position on an environmental
4 agreement, because we think it's very clear. We think
5 that an environmental agreement needs to be legally
6 binding. If it's not legally binding, is it just
7 optional for people to follow? It's not enforceable?
8 We don't think something like this should be optional.

9 If it's not legally binding, it's then
10 subject to change -- changing personnel and priorities.
11 And I think, as Todd said, we -- we trust Ray and
12 Adrian, but who's going to come after them? A letter
13 or an indication of support from a Deputy Minister, I'm
14 not -- I just don't think it's going to cut it at this
15 point.

16 We think that an agreement has to be for
17 the duration of the project, which has been defined by
18 the Developer as forever. But we -- but it also needs
19 to be open to being reviewed and changed as move on.
20 And when -- if the project proceeds, we get into the
21 perpetual care phase, and people are more comfortable,
22 maybe there doesn't need to be as much work done, less
23 funding for an oversight body, or whatever. And -- and
24 we're okay with that. But it -- and it can be built
25 into an agreement.

1 Our position, again, is very clear on
2 dispute resolution. It's not about overturning
3 decisions that they make; it's about compliance with
4 the agreement itself, the reporting requirements and so
5 on, funding for an agent's monitoring body. It's about
6 non-compliance with the agreement itself. It's not
7 about overturning decisions.

8 We think that there has to be a
9 proactive approach on long-term research and
10 development, and I guess I would take issue a little
11 bit with what I heard the Developer talking about this
12 as throwing around bits of money on research.

13 That's not what we're advocating. We're
14 advocating that there be a -- a state-of-the-art review
15 to find out what we know, what we don't know about
16 arsenic and how to work with it, and where there are
17 specific knowledge gaps, make a strategic investment.
18 It's not about throwing around money; it's about a
19 strategic investment. And you can even have it as a
20 competitive process to try to move things along in some
21 cases, but it's not about throwing around bits of
22 money; it's about investing in our future.

23 Unfortunately, we're at the hearing. We
24 didn't get an agreement in principle. We know that you
25 folks have put some pressure on us. I think we worked

1 very, very hard to try to get there; we just weren't
2 able to do it.

3 So we think it's really a requirement,
4 for this to move forward, that we -- we do get an
5 agreement on this, and we recommended that, if we
6 couldn't reach an agreement before the hearing, that
7 the parties might even think about entering into
8 mediation, perhaps even binding arbitration, if
9 necessary, to try to reach an agreement before this
10 thing goes forward. I'd like to think that we can try
11 to work together and sort this out, but I'm just not
12 sure where this is going to go.

13 Sorry, I just have a -- a few more
14 comments, if I may. We do stand by this
15 recommendation. It needs to be a binding measure that
16 an environmental agreement is put in place. I talked
17 earlier about this plan being -- about stabilization.
18 It's not really about remediation; it's about managing
19 risks. But I still think there's an opportunity for us
20 to work together, to get a real partnership based on an
21 agreement that I've outlined here.

22 And if we can reach that kind of
23 agreement, and I -- I said earlier, I think, how the --
24 the Developer, the -- the people that are working on
25 this, and they're good people, they've sort of boxed

1 themselves in, because we've got a plan that's a
2 stabilization plan, it's not a remediation plan.

3 But this kind of an environmental
4 agreement, if we can all agree on it, we can go forward
5 perhaps to the people in Ottawa that are decision-
6 makers together to convince them that we need to get
7 off on a better foot, a different kind of partnership
8 arrangement, and work together to try to get this
9 project going in the way that it should.

10 So where do you folks go from here as a
11 -- a Review Board? Yeah, I think you've got a few
12 different options. One (1) option is you just adjourn
13 the proceedings. Sorry, this is not on this slide.
14 It's me a little bit on the fly at this point, but you
15 could call a -- an adjournment to proceeding and say,
16 You know what? Let -- let the parties have a little
17 bit more time, but we want them to focus on these
18 issues, and then we're going to come back and see where
19 things are at.

20 You could refer it to an environmental
21 impact review. I think you have more than enough
22 evidence on the record that there's a significant
23 public concern around various aspects of this project
24 to recommend binding measures.

25 So you've got a few options before you.

1 We've suggested, I guess, that we think that the
2 binding measures route might be the preferred one, but
3 I'm conscious of the -- the position of the other
4 parties. I'm also a little bit worried about the
5 consult-to-modify process and where that might take us,
6 and I'm also worried that the Developer is starting to
7 contract or tender the work.

8 So I'm sorry, it's a bit of a mess for
9 you folks as the Review Board, but I -- I'm not quite
10 sure what the best way out is.

11 That's my remarks on the presentation.
12 While I'm here, I just want to take a minute to thank
13 you very much. And the Review Board staff, they've
14 been great. And I want to thank all the parties that
15 participated because I think this'll be the last
16 chance you get to hear from me, you may be relieved to
17 know.

18 But I do want to thank you and your
19 staff; the interpreters, the Developer, because I think
20 they've come here with good intentions; the sound man,
21 Trevor, he did a great job in making sure that Natasha
22 could be here; and all the public that participated in
23 the proceeding, and I wish you all the best.

24 I think you've got a very difficult
25 decision ahead. Thank you.

1 QUESTION PERIOD:

2 THE CHAIRPERSON: Thank you, Mr.
3 O'Reilly, thank you for your presentation. I'm going
4 to go into questions now from the list I have in
5 regards to the presentation made by the Yellowknives
6 Dene First Nation or Alternatives North.

7 First I'm going to go to the Developer.
8 Do you have any questions for the Yellowknives Dene
9 First Nation and also Alternatives North on their
10 presentation?

11

12 (BRIEF PAUSE)

13

14 THE CHAIRPERSON: Thank you. I'm going
15 back to the Developer.

16 MS. JOANNA ANKERSMIT: Thank you, Mr.
17 Chair. No questions at this time.

18 THE CHAIRPERSON: Okay, thank you. I'm
19 going to go to the City of Yellowknife.

20

21 (BRIEF PAUSE)

22

23 THE CHAIRPERSON: No, nobody here. I'm
24 going to go to the Yellowknives Dene First Nation for
25 questions or Alternatives North on their presentation.

1 MR. TODD SLACK: No. Thank you, Mr.
2 Chair.

3 THE CHAIRPERSON: Okay, thank you.
4 Alternatives North, any questions for YKDFN on their
5 presentation?

6 MR. KEVIN O'REILLY: Mr. Chair, Kevin
7 O'Reilly with Alternatives North. No, thanks.

8 THE CHAIRPERSON: Thank you. North
9 Slave Metis Alliance, any questions for both
10 Yellowknives Dene First Nation and Alternatives North
11 on their presentation?

12 MR. ERIC BINION: No, thank you, Mr.
13 Chair.

14 THE CHAIRPERSON: Okay, thank you.
15 Environment Canada...?

16 MS. AMY SPARKS: Amy Sparks,
17 Environment Canada. I just have a quick question for
18 Alternatives North.

19 When you envision an independent
20 oversight body, do you see that being external to the
21 government of Canada, in general, or just to the GNWT
22 and AANDC?

23 THE CHAIRPERSON: Thank you. Mr.
24 O'Reilly...?

25 MR. KEVIN O'REILLY: Thanks, Mr. Chair.

1 Kevin O'Reilly with Alternatives North.

2 I think if an -- an oversight body is to
3 be truly independent it really needs to be independent
4 of everyone, including perhaps the parties that appoint
5 people to sit on it. So, it would certainly be outside
6 of the Government of Canada. I'm not -- is that the
7 kind of answer that I -- I think Ms. Sparks was looking
8 for?

9 THE CHAIRPERSON: Okay, thank you.
10 Environment Canada...?

11 MS. AMY SPARKS: Amy Sparks,
12 Environment Canada. Yeah, that's perfect. Thank you.

13 THE CHAIRPERSON: Okay, thank you. I'm
14 going to go to Department of Fisheries and Oceans, any
15 questions for YKDFN or Alternatives North?

16 MS. BEV ROSS: Bev Ross, Fisheries and
17 Oceans Canada. Thanks for your presentation, and we
18 have no questions for either party.

19 THE CHAIRPERSON: Okay, thank you. I'm
20 going to go to the Review Board technical advisors,
21 staff, or legal counsel.

22 MR. ALAN EHRLICH: Thank you, Mr.
23 Chair. There's a few questions from the Review Board
24 staff. The -- I'm asking the -- pretty much the same
25 question I asked the Developer when they were talking

1 about this subject. I guess we'll start with the
2 Yellowknives.

3 Could -- both you and the City and
4 Alternatives North and the Developer have been in these
5 -- working hard at negotiations towards some kind of
6 oversight body. I described it in my last question,
7 how it's gone.

8 A question that I asked for the
9 Developer was: Could you just outline the main areas of
10 difference, in your view, that are still on the table.
11 You said they're on draft 7 of an environmental
12 agreement and it hasn't been signed off yet, and it
13 will help the Board to understand where the differences
14 lie. So that's to the YKDFN. If you could briefly
15 outline that it might help. Thanks.

16 THE CHAIRPERSON: Thank you. I'll go
17 to YKDFN, Todd Slack.

18 MR. TODD SLACK: Thanks, Mr. Chair.
19 It's a difficult question because I don't know the
20 answer. I want to respect the -- the pro -- like the
21 process in the room there, but it's easy for me not to
22 hide anything because I don't know what the issues
23 were.

24 Conceptually, the Yellowknives were
25 supportive of where we were. It hadn't gone back for

1 political approval with the bosses -- or, sorry, with
2 the Chiefs, pardon me. But, yeah, I don't know what the
3 -- what the deal breaker was.

4 THE CHAIRPERSON: Thank you. Review
5 Board staff...?

6 MR. ALAN EHRLICH: Thank you, Mr.
7 Chair. I'll ask the same question to Alternatives
8 North.

9 THE CHAIRPERSON: Okay, Kevin
10 O'Reilly...?

11 MR. KEVIN O'REILLY: Thanks, Mr. Chair.
12 Kevin O'Reilly with Alternatives North. I just wanted
13 to take one (1) very short moment to thank David
14 Livingstone. He was the facilitator of this group, and
15 David worked very, very hard to try to get us to talk
16 and work things through. I think he did an
17 extraordinary job.

18 But I think like what Mr. Slack said, a
19 couple of things, I guess, I want to say. The -- I --
20 I sort of talked about this as being negotiations, but
21 I think it's probably fair to say that it was
22 discussions.

23 But -- and I -- I -- I'm not sure what
24 the major differences were. I think that there were
25 issues around whether this should be a legally binding

1 arrangement, what kind of dispute resolution there
2 should be, what sort of term there might be for an
3 agreement and for an oversight body and what kind of
4 funding were -- were some of the issues that we were
5 trying to work our way through.

6 But it was very, very, very difficult to
7 get much concrete feedback from the Government parties.
8 And the most that we really got was the -- the letter
9 dated August 31st.

10 And I -- you know, I -- I think that the
11 -- the -- the people that were there for the Government
12 were trying very, very hard within perhaps a difficult
13 decision-making system to participate and work with us,
14 but it just didn't seem to work very well.

15 And I -- I think if you need to get to
16 the bottom of anything else, you -- those sort of
17 questions need to be asked of the -- the Government
18 parties. Thanks.

19 THE CHAIRPERSON: Thank you. Alan
20 Ehrlich...?

21 MR. ALAN EHRLICH: Thank you, Mr.
22 Chair. And I mean, I -- you know, I do recognize all
23 the evidence and the record points to everyone who was
24 involved in that negotiation putting forth truly their
25 best effort to try and solve this thing, the Developer,

1 the parties, I mean, they put in a lot of time and
2 effort.

3 I do notice that Mr. Livingstone is --
4 is present here in the public. I'd like to ask him a
5 couple of questions that pertain to environmental
6 agreements in general, not specific stuff about the
7 negotiations for this one, unless the Developer has an
8 objection to that.

9 THE CHAIRPERSON: Thank you. Mr.
10 O'Reilly -- oh, sorry, Developer?

11

12 (BRIEF PAUSE)

13

14 THE CHAIRPERSON: I'm sorry, before --
15 Alan, sorry, I was interrupted there for a second.
16 Could you repeat your question?

17 MR. ALAN EHRLICH: With the Developer's
18 permission, I have a couple of questions for David
19 Livingstone that are about environmental agreements and
20 independent oversight agencies which he has extensive
21 experience in, in general, not about the negotiations
22 for the Giant Mine one, which he is a facilitator of,
23 but as an ex-director of AANDC who was quite involved
24 in the implementation of other environmental agreements
25 and independent agencies.

1 I just thought it would be quite helpful
2 at this point to get a third-party view. We've heard
3 from some parties that they're effective. We've heard
4 hesitation from others, and we have someone who's
5 neutral, but well informed, to ask a couple of very
6 general questions to that are not specific to any of
7 the confidential negotiations that have happened here.

8 THE CHAIRPERSON: Okay, thank you.

9 Well, I'm looking at the agenda here and I'm looking at
10 the agenda here, and I'm looking at the parties that --
11 that are -- made application to this Board to become a
12 party. And then, in here, I don't see Mr. David
13 Livingstone, but, however, I will -- you know, we do
14 have on the agenda public comments, and it's up to the
15 people here to come up to speak about what the issues
16 are in regards to this project.

17 So, you know, as Chair, I'm -- I'm a
18 little concerned about that as well. So I'm going to
19 let that go and I'm going to say, Look, let's just --
20 is there further questions from staff? Thank you.

21 MR. ALAN EHRLICH: No, Mr. Chair, there
22 are no further questions. Thank you.

23 THE CHAIRPERSON: Thank you. Is -- is
24 there no further questions for -- for legal counsel and
25 the expert as well?

1 MR. JOHN DONIHEE: John Donihee, Mr.

2 Chair. No, no questions from counsel.

3 THE CHAIRPERSON: Thank you. All
4 right. Then I'm going to go to Board members. Board
5 member Danny Bayha...?

6 MR. DANNY BAYHA: Thank you, Mr. Chair.
7 I just had a question, again, on this issue of
8 environmental agreement or oversight, in general, and
9 that'll be for the parties that just had the
10 presentations.

11 How do you foresee this -- this agency
12 or this body that -- arm's length? Would it be for the
13 whole project in its entirety, or would it be a -- a
14 very focussed body that you project being part of the -
15 - this program? I would just -- if you had any
16 thoughts on that. Anybody can answer. Thank you.

17 THE CHAIRPERSON: Thank you. I'm going
18 to go to Todd Slack, YKDFN.

19 MR. TODD SLACK: Thanks, Mr. Chair.
20 And, yeah, we -- all the parties had discussed the
21 matter, and I don't think that we're talking out of
22 turn here. And I think that there was common
23 acceptance of the -- the term was going to be for the
24 life of the project. However, the term -- or the level
25 of activity was going to help dictate what the -- what

1 the body did.

2 So during the first twenty-five (25)
3 years or fifty (50) years -- sorry, fifteen (15) years,
4 the level was going -- the level of work associated
5 with this oversight group would have been much higher.
6 As the sort of -- the site was stabilized, that we move
7 beyond the immediate risks, that level of work would
8 have probably declined. And this was all going to be
9 built into the -- the sort of review and flexibility of
10 the -- any potential agreement.

11 THE CHAIRPERSON: Thank you. Board
12 member Danny Bayha...?

13 MR. DANNY BAYHA: Yeah, thank you, Mr.
14 Chair. That's all I had.

15 THE CHAIRPERSON: Thank you. Board
16 member Rachel Crapeau...?

17 MS. RACHEL CRAPEAU: Masi for the
18 presentations. I've got no -- no questions at the
19 moment. Thank you.

20 THE CHAIRPERSON: Thank you. Board
21 member Richard Mercredi...?

22 MR. RICHARD MERCREDI: Thank you for
23 your presentations. No questions at this time.

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

1 MR. JAMES WAH-SHEE: Thank you. Thank
2 you. I have no question. I would just like to thank
3 the people that made the presentation. Masi.

4 THE CHAIRPERSON: Thank you. Board
5 member Percy Hardisty...?

6 MR. PERCY HARDISTY: Masi, Mr. Chair.
7 I have no questions.

8 THE CHAIRPERSON: Thank you. Board
9 member John Curran...?

10 MR. JOHN CURRAN: Thank you, Mr.
11 Chairman. I just want to say I'm certainly sensitive
12 to the struggles of NGOs in the north, having run one
13 in the past and been a volunteer with others as well.
14 So no questions at this time, Mr. Chair.

15 THE CHAIRPERSON: Okay. Thank you.
16 I'm going to go on to the next part of the agenda now.
17 Before I do that, I just want to again thank YKDFN and
18 Alternatives North for their presentation on that part.

19 The next part is -- again, it's a joint
20 presentation on oversight consultation and long-term
21 fund -- funding. We have down ten (10) minutes here,
22 so YKDFN, Alternatives North...?

23 MS. JOANNA ANKERSMIT: Mr. Chair,
24 Joanna Ankersmit. Could -- could I just ask for one
25 (1) -- one (1) comment?

1 THE CHAIRPERSON: Sure. To -- to what
2 item? The one we just finished? Yeah. Please
3 proceed.

4 MS. JOANNA ANKERSMIT: Thank you, Mr.
5 Chair. I just wanted to reinforce Kevin's Alternatives
6 North's clarification. It's important to note that --
7 that the group, the working group, was exactly that.
8 They -- they were able to sit down together between the
9 parties and with -- with the Developer and have frank
10 and -- and open discussions. I think that was a really
11 useful forum to use.

12 But they were discussions, as Mr.
13 O'Reilly has said. They weren't negotiation towards an
14 agreement. And so I think it's really important to
15 note what the spirit of that working group was, and to
16 not mix it up with -- with some kind of legal con --
17 connotation. Not being a lawyer as Mr. Donihee is
18 clearly aware of in my comments and the caveats I've
19 put out this week, but I do think it is an important
20 clarification for the Board to understand.

21 THE CHAIRPERSON: Thank you for your
22 comment. Much appreciated. I'm going to move on to
23 YKDFN and Alternatives North to do their presentation.
24 And this is the last presentation of the evening, and
25 then we're going to go into public comments.

1 POSITION PRESENTATION BY ALTERNATIVES NORTH AND YKDFN -
2 OVERSIGHT, CONSULTATION AND LONG-TERM FUNNING:

3 MR. KEVIN O'REILLY: Mr. Chair, it's
4 Kevin O'Reilly with Alternatives North. I just want to
5 take a moment to introduce Duncan Cameron -- Duncan
6 Kenyon. He's with the Pembina Institute in Edmonton,
7 Alberta.

8 And he prepared a report that was
9 jointly funded by Alternatives North and the
10 Yellowknives Dene First Nation to look at this issue of
11 how do we put in place funding for a project that
12 really goes on forever within the federal system when,
13 of course, we know that money is subject to
14 parliamentary approval, and is often sort of only set
15 aside on an annual basis, or whatever.

16 So we asked the Pembina Institute to
17 take a look at what sort of examples and situations
18 where gov -- governments and others have set aside
19 money over a long -- much longer period of time, in
20 some cases for perpetual care projects, to give us some
21 ideas of where we might start to go with this in terms
22 of the Giant Mine.

23 So Duncan's curriculum vitae has -- has
24 been filed with the Board, so if you need to see any
25 further information or background on Duncan he's --

1 it's available on your public registry, but I -- I just
2 wanted to introduce Duncan and let him go to it. Thank
3 you.

4 MR. DUNCAN KENYON: Thank you for the
5 introduction, Kevin. Thank you very much for the
6 opportunity to present here today. As I've been
7 informed, we are trying to save time, appreciate that,
8 so we will do our best to really kind of get through
9 the meat of this piece.

10 I want to start here just giving you a
11 very brief background. The essence of --

12 THE CHAIRPERSON: Can you put the mic
13 closer so we can hear?

14 MR. DUNCAN KINNEY: Yeah.

15 THE CHAIRPERSON: Thank you.

16

17 (BRIEF PAUSE)

18

19 MR. DUNCAN KENYON: So what we wanted
20 to try to do with this report was to take a very simple
21 approach, and to review and develop an understanding of
22 what's going on out there in terms of funding for
23 perpetual care projects, both from within Canada and
24 other countries. And then based upon that review,
25 really develop some recommendations in the Giant Mine

1 context.

2 I'm going to skip these two (2) slides
3 here. They're sort of the meat of the background of
4 the report. We can get right to one of the parts that
5 we evaluated was really where were things at in terms
6 of what's going on in Canada -- or in terms of the
7 Giant Mine.

8 I think there's been a lot of discussion
9 about this over the last few days, so one thing I just
10 want to point out here, and it's important for later in
11 the discussion, was that there were several Treasury
12 Board policies put in place that really created the
13 motivation for the Government of Canada to take action,
14 and those policies really created an accounting
15 liability within the Government -- Government of
16 Canada's books that put all of the liability, for
17 example from Giant Mine, in the government's accounts.

18 With those policies, I think that that's
19 an important starting point to understand, that there's
20 -- there's a -- there's a financial instrument and a
21 financial -- financial tools for the Government of
22 Canada to take action.

23 I'm going to skip another slide here,
24 and get to our case studies. So comprehensive -- not
25 very comp -- actually not comprehensive, sorry. It was

1 a few -- six (6) or five (5) examples from Canada
2 including one (1) particular funding mechanism, the
3 upfront multi year funding, and then seven (7) examples
4 from international projects.

5 What we found from looking from these --
6 these case studies was that there are examples -- and
7 I'll go to the next slide -- where there are four (4)
8 main funding mechanisms, and the first one (1) was
9 obviously what we're more familiar here with the Giant
10 Mine, which is annual appro -- appropriations, or
11 annual funding. There's many examples of that,
12 including one (1) close to here, which is the DEW line
13 cleanup. The Hanford plutonium site cleanup was
14 actually an annual funding mechanism of the -- had
15 about \$2.5 billion a year. That's billion, not
16 million.

17 A second main funding mechanism was the
18 levies on existing operations. Obviously, that's not
19 necessarily an -- an option for us here in the Giant
20 Mine situation. But it is important to note that
21 several very prominent case studies, including the
22 Nuclear Waste Management Organization, were -- are
23 being funded that way, as well as the US Superfund.
24 And either one (1) of -- both of them -- in the -- the
25 Nuclear Waste Management oper -- Organization example,

1 that was actually their setting up a trust fund to
2 perpetually care for the radioactive waste.

3 The third example is a public/private
4 partnership. These are relatively new to the -- the
5 world of funding for perpetual care sites. And,
6 really, one of the only examples is in BC at the
7 Britannia Mine.

8 And finally, the fourth example is -- or
9 fourth mechanism is the trust funds. And you see that
10 as, as I mentioned earlier in the Nuclear Waste
11 Management Organization, as well as the -- the Zortman
12 Landusky (phonetic) Mine in the United States, which
13 has an asterisk on that, because that has been a highly
14 ineffective trust fund, largely because as they went to
15 start dealing with the problems from that mine, the
16 problems continued to grow and grow and grow.

17 And we -- I think it's been mentioned
18 before in the legal discussion, about how annual --
19 when organizations are forced to continue to find
20 annual funds, how that can be very ineffective at them
21 -- for them to be able to actually address the
22 problems. And I think that's the case with Zortman
23 Landusky.

24 So based -- after we did our scan of the
25 examples, international and Canadian examples, we were

1 asked to create some evaluation criteria and be able to
2 look at what are -- what are the -- what are some of
3 the -- the -- from the four (4) main funding
4 mechanisms, what are some of the things that we would
5 like to see in -- in a Giant Mine -- in the Giant Mine
6 context.

7 As you can see here, I'm going to flip
8 actually over to the next slide. This is sort of a
9 table -- or, it's not sort of, it is a table that
10 allows us to look at -- to look at the four (4) main --
11 four (4) main options. I guess, in this case we've had
12 -- yes, right. So we've done -- we've split up the
13 user pay into two (2) separate options, largely because
14 one can go to an endowment and one can be spent on an
15 annual basis.

16 I don't really want to get into dep --
17 depth in this. I'd rather skip to the recommendations.
18 And -- because from that it was pretty clear that there
19 were some pretty obvious needs that were -- needs --
20 needs for the Giant Mine that only a few of the
21 potential fund -- potential funding mechanisms could
22 meet.

23 And what we saw, and what we would
24 recommend is obviously, first of all, to have a trust
25 fund. A trust fund set up that would be all -- would

1 allow for the perpetual care and it would allow to have
2 fin -- and money flowing from that trust fund that
3 could cover annual costs.

4 That being said, there were several key
5 provisions that we thought were important for that.
6 And the first one was to have the contingency funds or
7 poten -- poten -- plans for contingency plans. In
8 other words, something happens that requires more
9 funding, what is the mechanism for that additional
10 finance to come in?

11 When you're in -- initially setting up
12 the trust fund, you actually -- you -- you're hoping
13 for 'X' amount of dollars having to leave the fund, or
14 -- or being paid through annuities or annual payment --
15 or annual -- annual interest. And if something
16 happens, how is that covered?

17 Another key provision was to have
18 regular reporting. And it could be in the form,
19 obviously, of annual reports, but I think that there
20 would be a higher standard for that. Online reports,
21 regular meetings, engagement with the community, those
22 are some of the rec -- the provisions that are included
23 in there.

24 Another key provision that we thought
25 was in -- interesting and -- and actually not really

1 found in the context of perpetual care. But as we've
2 just finished talking about in terms of independent
3 panel, or independent board to look at things, was to
4 have some kind of a function of a third-party
5 verification or a third-party oversight. It allows for
6 a better interaction and perhaps better trust within
7 those parties affected by the mine.

8 It also plays to the fourth provision,
9 which was to have lak -- local stakeholder involvement
10 in the decisions and through a oversight board or a
11 third-party oversight -- it's a very effective way to
12 have local engagement.

13 Another provision was to have
14 independent expert participation. And -- and from --
15 and what we mean by that is to be able to bring in
16 either financial experts to assist with the trust fund
17 or to also have independent experts to come in to
18 advise the independent board or to advise stakeholders
19 on some very technical issues that can sometimes arise
20 from -- from these particular projects.

21 Leading back to -- very much tied to the
22 regular reporting provision was the idea of having
23 annual public meetings and reporting. And as I said, I
24 think you can even go beyond annual and ask them to
25 require more than just a once-a-year requirement.

1 Now, this is very important. This is
2 actually probably the crux of one of the
3 recommendations here is, there are a couple of
4 mechanisms for these particular -- for a trust fund to
5 be set up, and one that actually has been used and does
6 exist within the federal government, which is something
7 called the upfront multi-year funding mechanism.

8 These -- these -- these funding
9 mechanisms are actually authorized through the treasury
10 board, and they can be given to outside organizations
11 from the federal government. Many cases -- almost all
12 -- in all cases by law it must be a not-for-profit
13 organization. And they can be funded in multiple ways,
14 including annual appropriations, which doesn't really
15 get us ahead very much, but it also can be funded
16 through endowment funds.

17 And as my time is about to run out, I
18 think it's good timing that I get to talk about one of
19 the things that was not within our ability to scope
20 this out and would be -- is probably necessary for
21 future work is to really have the full assessment of
22 how the trust fund would work in the context of Giant
23 Mine. And I believe that that would obviously have to
24 take place within the Government of Canada
25 participating with other key stakeholders in that

1 discussion.

2 And that is my time as well as the end
3 of my presentation. Thank you.

4

5 QUESTION PERIOD:

6 THE CHAIRPERSON: Thank you. Thank you
7 for your presentation. I'm going to go back to the
8 list of order for questions to your presentation.

9 To the Developer, is there any questions
10 for YKDFN and Alternatives North on their presentation?

11 MS. JOANNA ANKERSMIT: No question,
12 just a thank you to Duncan for the -- the paper.

13 THE CHAIRPERSON: Thank you. I'm going
14 to go to the North Slave Metis Alliance.

15 MR. BILL ENGE: Thank you. No
16 questions.

17 THE CHAIRPERSON: Environment
18 Canada...?

19 MS. AMY SPARKS: Thank you. No
20 questions.

21 THE CHAIRPERSON: Thank you.
22 Department of Fisheries and Oceans...?

23 MS. BEV ROSS: Bev Ross, Fisheries and
24 Oceans Canada. No questions, Mr. Chair.

25 THE CHAIRPERSON: Thank you. Review

1 Board, technical advisors, staff or counsel...?

2 MR. ALAN EHRLICH: Thank you, Mr.

3 Chair. There's one (1) question from Review Board

4 staff and one (2) question from review board council.

5 It's Alan Ehrlich, Review Board staff.

6 We, first of all, very much appreciate

7 your flexibility in reducing a half-an-hour talk to ten

8 (10) minutes. It's a lot to boil down. This might

9 have been in your original talk, but we -- I didn't

10 have time to see the whole thing.

11 I am wondering -- you know, you've

12 talked about the -- the approach you recommend. You

13 didn't really talk about why you think it's an

14 improvement over what's already been proposed. So the

15 Developer's proposed using annual appropriation as a

16 mechanism and here I was just wondering if you could,

17 you know, provide some contrast. Thank you.

18 THE CHAIRPERSON: Thank you. Before I

19 go to the YKDFN and Alternatives North on the joint

20 presentation, again, I want to say that, you know, I

21 want to thank the -- the parties that, you know,

22 restricted their time. However, we do have all their

23 documents in our binders as well, so I appreciate that.

24 Thank you. I'll go back to -- to response of the

25 question.

1 MR. DUNCAN KENYON: Thank you, Mr.
2 Chair.

3 Really, when we look at this trust fund
4 setup, there's a mechanism there, as I said, the
5 upfront multi-year funding mechanism, and it can
6 actually be set aside. It can be -- yeah, take it
7 closer. It can actually be set aside from government's
8 annual funding process.

9 It can be set up -- you know, many of us
10 might be familiar with -- I mean, most of our pensions
11 are managed that way as a -- as a sort of an endowment
12 fund, in essence, so it's managed separately. The
13 annual interest from that can be used to pay for your
14 annual expenses, including monitoring, including the
15 maintenance at the site, including any oversight
16 bodies, whatever you want to include within that --
17 within the -- the scope of the funding.

18 The -- the Treasury Board and the
19 responsible department are actually part of the
20 negotiation with -- with whatever entity is going to be
21 responsible for managing that endowment fund, and, as I
22 said, typically, that entity is set up as a not-for-
23 profit entity and has annual reporting requirements to
24 the government, as well as any requirements that are
25 built into this up-front funding agreement.

1 THE CHAIRPERSON: Thank you. I think
2 that was your final -- that was the only question you
3 had, Mr. Donihee?

4 MR. JOHN DONIHEE: Thank you, Mr.
5 Chairman. John Donihee. Just a somewhat superficial
6 question, I guess, but I -- when you -- I looked at the
7 list of your case studies, I guess I was a little
8 surprised not to see the Faro Mine in there. It seems
9 like a -- sort of a parallel kind of situation in our
10 sister territory.

11 I'm just wondering whether you
12 considered it and rejected it because it didn't fit --
13 it didn't provide any -- anything new for your model,
14 or why, I guess, it didn't show up in the presentation.

15 THE CHAIRPERSON: Thank you. I'll go
16 back to YKDFN.

17 MR. DUNCAN KENYON: Thank you, Mr.
18 Chair. Largely, we -- we did reject it from the model,
19 largely because there wasn't much to look at yet for a
20 perpetual care approach. It -- and also rejected it
21 largely because I think it was -- it's probably almost
22 too familiar to the Giant Mine at this point, and I
23 think we wanted to be able to provide some outside
24 perspective on one of the -- on the methodology. And
25 that was Duncan Kenyon with Pembina speaking.

1 Apologies for the...

2 THE CHAIRPERSON: Thank you. Mr.

3 Donihee, any further questions?

4 MR. JOHN DONIHEE: Thank you, Mr.

5 Chair. That was my only question.

6 THE CHAIRPERSON: Okay. Thank you.

7 I'm going to go to the Review Board -- sorry, technical

8 advisors.

9

10 (BRIEF PAUSE)

11

12 THE CHAIRPERSON: No? Okay. Thank
13 you. To my far left, John Curran. Any questions to
14 the -- to YKDFN on their presentation?

15 MR. JOHN CURRAN: No, thank you, Mr.

16 Chairman. No questions at this time.

17 THE CHAIRPERSON: Thank you. Mr. Percy
18 Hardisty...?

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

20 (NATIVE LANGUAGE SPOKEN)

21 THE CHAIRPERSON: Thank you. James
22 Wah-Shee...?

23 MR. JAMES WAH-SHEE: Mr. Chair, no
24 questions. Thank you.

25 THE CHAIRPERSON: Thank you. Richard

1 Mercredi...?

2 MR. RICHARD MERCREDI: Yeah, thank you
3 for their -- thank you for the presentation. No
4 questions.

5 THE CHAIRPERSON: Rachel Crapeau...?

6 MS. RACHEL CRAPEAU: Thank you for the
7 presentation. No questions, thank you.

8 THE CHAIRPERSON: Danny Bayha...?

9 MR. DANNY BAYHA: Thank you, Mr. Chair.
10 I just had one (1) quick question, hopefully.

11 You mentioned some of the
12 recommendations and the case studies and stuff, but I'm
13 more interested in perpetual funding arrangements that
14 the Government of Canada has entered into in the past.

15 Any -- any other examples that you could
16 provide or shed light on that there is a basis for
17 perpetual commitments and funding? So if you have any
18 other ideas that the government has done in the past,
19 that would be helpful. Thank you.

20 THE CHAIRPERSON: Thank you, Danny, for
21 your quick question. I'm going to go to YKDFN.

22 MR. DUNCAN KENYON: Thank you, Mr.
23 Chair. It's Duncan Kenyon, Pembina. That's actually a
24 great question, and it's really sadly or -- or
25 reflective of the fact we're only really getting to the

1 stage of addressing some of the liabilities from some
2 of these projects that have perpetual care needs.

3 It doesn't really exist. There is --
4 the -- the one -- the one relatively good example could
5 be the -- the Sydney tar ponds in Nova Scotia, and the
6 reason why I don't think it's a fantastic example is
7 because they are still at -- they haven't officially
8 put together really their long-term or perpetual care
9 plan.

10 It is built into the environmental
11 agreement that was signed between the Government of
12 Nova Scotia and the Federal government, that -- and
13 that agreement was what kicked off the process in terms
14 of funding it, what would be the rules for that
15 particular remediation and -- and long-term care for
16 it.

17 It -- it isn't a very ro -- isn't very
18 ro -- I'm sorry, I'll back up for a second. That --
19 the -- the long-term plan and the perpetual care side
20 of things isn't really robust, but it is something that
21 is -- they're at the stage now where they are trying to
22 plan out the long-term monitoring and -- and the care
23 needed for that site, and that's probably the best
24 Canadian example.

25 THE CHAIRPERSON: Thank you. Mr.

1 Bayha, you got any further questions?

2 MR. DANNY BAYHA: No, thank you. Thank
3 you again.

4 THE CHAIRPERSON: Thank you, Mr. Bayha.

5 I want to thank the YKDFN and
6 Alternatives North for that presentation, and I know it
7 was brief, but at the same time we have -- have your
8 documents on -- on our record, so I'll just let you
9 know. So I want to say thank you very much to -- to
10 you, and all the presenters.

11 Next, we have -- before I go to public
12 comments I got Mr. John Donihee and a housekeeping
13 item, but before I go there, we also have an
14 outstanding question from Mr. -- Board member James
15 Wah-shee in regards to Ray Case, and I don't know if
16 he's planning to be here, or is he here?

17 Okay, maybe -- I -- I'm hoping that you
18 are brief in regards to your question to Mr. Wah-shee.

19 DR. RAY CASE: Thank you, Mr. Chair. I
20 was just being briefed on -- on the question, and I --
21 someone was just going to deliver the -- the question
22 to me. But I am -- so I -- I don't have the -- the
23 details of -- of the question. Oh, here it is.

24

25 (BRIEF PAUSE)

1 DR. RAY CASE: Thank you, Mr. Chair. I
2 -- I understand the question was with respect to
3 whether or not the Government of Northwest Territories
4 had any plans to do any health work with respect to the
5 -- the project.

6 I'm not aware of any -- any plans to do
7 health work, but perhaps if the -- the question was --
8 if I could get the question stated again, I could come
9 up -- come up with a more succinct anser.

10 THE CHAIRPERSON: Thank you. Mr. James
11 Wah-shee...?

12 MR. JAMES WAH-SHEE: I think my -- my
13 question is just straightforward, and I'll try to be
14 very -- extremely brief about it, and straightforward.

15 Since the GNWT is looking after health
16 programs and delivery for the residents of the NWT, the
17 question was that concerning the Giant Mine whether
18 there will be any studies or -- or monitoring of the
19 health conditions of the residents of the City of
20 Yellowknife, for instance, regarding the impact on
21 their health regarding the arsenic. That was my
22 question. Thank you.

23 THE CHAIRPERSON: Thank you. I'll go
24 back to the Developer, Ray Case.

25 DR. RAY CASE: Thank you, Mr. Chair.

1 And first of all allow me to apologize to the Board and
2 to the proponents for -- for not being here this
3 afternoon -- or this morning.

4 And the -- I guess it's a symptom of the
5 commitment that the Government of Northwest Territories
6 has to this project that they've had a member of senior
7 management participate as part of the -- the team.
8 Unfortunately, that also results in conflicts with the
9 schedule of the Legislative Assembly.

10 To the -- to the question, the -- the
11 Department of Health and -- and Social Services does
12 not undertake human health risk assessments, or general
13 population health evaluations.

14 The -- the Department has -- if the
15 Department is made aware of a -- and is demonstrated to
16 the -- the Department that there is a vector, such as a
17 -- such as contaminates in fish that may have an impact
18 on human health, they will then go to the depart -- to
19 Health Canada for that assessment.

20 And subsequent to that if there is
21 identification that there is a risk from that vector,
22 the Department of Health and Population Health Group
23 will then work with communities, individuals, and such
24 to find ways to mitigate and -- and address the -- the
25 vector.

1 Currently within the -- the Northwest
2 Territories and in the population of Yellowknife, there
3 are a lot of -- of impacts on -- on health that are
4 known, including lifestyle, diet, cigarettes, alcohol.
5 At this point in time, there's been no -- nothing put
6 forward to indicate that the -- the arsenic in the
7 surrounding environment is one (1) of those major
8 contributors to health.

9 THE CHAIRPERSON: Thank you, Ray Case,
10 for that question (sic). Was there any further
11 questions from Mr. Wah-Shee on that?

12 MR. JAMES WAH-SHEE: Mr. Chair. I'd
13 just like to thank you very much for taking the time to
14 answer my question. Thank you very much.

15 THE CHAIRPERSON: Thank you. Next on
16 the agenda, I have public -- oh, sorry, point of order
17 for a housekeeping item. John Donihee...?

18 MR. JOHN DONIHEE: Yes, thank you,
19 Mr. Chairman. Two (2) house -- housekeeping points.
20 First one is that the Developer provided a technical
21 memorandum in response to Mr. Curran's question about
22 the comparison between the diffusers and mixing zones
23 at various locations, different mine sites, and I'd
24 like to file that on the record as Exhibit Number 10.
25 So that -- that's the first point.

1 --- EXHIBIT NO. 10: Technical memorandum from
2 the Developer in response
3 to Mr. Curran's question
4 about the comparison
5 between diffusers and
6 mixing zones at various
7 locations
8

9 MR. JOHN DONIHEE: And the second point
10 was, Ms. Potter indicated that, with respect to the
11 question that was asked about the timing of certain
12 reports not being completed and to be filed, that there
13 was a need for some clarification. And, you know, if
14 the Developer's team would like to speak to that, sir,
15 that would probably -- probably be of assistance to the
16 Board.

17 THE CHAIRPERSON: Thank you. I'll go
18 to the Developer to the question.

19 MR. MIKE NAHIR: Thank you, Mr. Chair.
20 It's Mike Nahir. I'm just -- just a -- a little short
21 preamble, and then I'll get to the actual response of
22 the -- with regards to the undertaking.

23 I want to point out that we -- we
24 presented our plans in -- in the remediation plan, and
25 again in more expanded form in the DAR, along with

1 fifty-seven (57) supporting documents. We further
2 clarified these plans in Information Requests and
3 technical sessions one (1) year ago. We believe that
4 we presented enough information to allow the Board to
5 find, as we have, that the net effects of our
6 remediation projects will be a significant reduction in
7 risks.

8 We want to get on with resolving the
9 real issues at the site, and we have indicated all week
10 that there are still design issues to work with on --
11 with parties, and it makes us nervous that the Board
12 staff seem to want yet another round of reports, design
13 reports.

14 Nevertheless, we undertake to provide a
15 broad schedule of our planning, engagement with the
16 parties, and design steps, including the four (4) items
17 that the Board staff have asked for, and we can make
18 that commitment for September 28th. Thank you.

19 THE CHAIRPERSON: 28th or 25th?

20 MR. MIKE NAHIR: 25 --

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

23 MR. MIKE NAHIR: -- of 2012. It's --
24 it's a long project, right?

25 MR. JOHN DONIHEE: Last chance to

1 change it. Thank you, Mr. Chairman. Thank you, sir.

2 I believe that's Undertaking Number -- I was looking at

3 the reporter -- 6? Five.

4

5 --- UNDERTAKING NO. 4: Developer to provide a
6 broad schedule of planning,
7 engagement with the
8 parties, and design steps,
9 including tailings cover,
10 on the diffuser, on the
11 freezing versus wetting
12 alternatives, and the
13 evaluation of the
14 assessment of the sediments
15 in Baker Creek and the
16 resulting options for Baker
17 Creek on the remediation
18 site, by September 25, 2012

19

20 MR. JOHN DONIHEE: Thank you, Mr.
21 Chairman. That's the last of the housekeeping.

22 THE CHAIRPERSON: Thank you, Mr.
23 Donihee.

24 I have a sign-up sheet here as people
25 came in for public presentations, sign-up sheet, and

1 it's in relationship to -- again, to the Giant Mine
2 remediation project EA 0809-001. And I only have two
3 (2) people that signed up.

4 First one's Natasha Stephenson. If she
5 can come up to the podium.

6

7 (BRIEF PAUSE)

8

9 PUBLIC COMMENTS:

10 MS. NATASHA STEPHENSON: Thank you, Mr.
11 Chairman, Board.

12 I'm a member of the public, a resident
13 of Yellowknife. I, too, have concerns, many of which
14 have been eloquently expressed by other fellow
15 citizens, so I won't try to redo them. Mainly concerns
16 with -- with the water, with this whole concept of
17 perpetual, with the fox watching the chicken coop. And
18 around the -- the avoidance that I see on the long-term
19 implications of -- on this project, specifically of
20 global warming that we know we're heading for -- we are
21 in.

22 I've listened to intelligent comments
23 from both sides. I hear the Developer saying, with all
24 honesty, look, we're making things better. And I hear
25 the other side saying, yes, but that's not good enough.

1 We want to continue to make it better than what you're
2 proposing. And I also see defensiveness and
3 frustration that builds through this process. I

4 I worked for a while in -- in
5 environmental assessment, so I'm sort of familiar with
6 the Act, as it was anyway. And -- and also with the
7 fact that -- that the process has a dual purpose.
8 There's the -- the opportunity to critique and to
9 question and to challenge conclusions. And there's
10 also the opportunity to work together to make a better
11 project. And I trust that some of the people who
12 cobbled together the original Act really, truly
13 believed that that would be a positive outcome of going
14 through the process.

15 So if we're going to spend this much
16 energy and time and money and resources, I really hope
17 that that's what will come for -- for Yellowknife and
18 the Giant Mine project. It's not going to go away.
19 We're going to have to keep working on it.

20 And it seems to me that this is a golden
21 opportunity - pun not intended - but it's a beneficial
22 opportunity, a really wonderful opportunity to -- to
23 use this to prove that the Environmental Assessment Act
24 and the process that it -- that it dictates can be
25 positive if people can stop being defensive and say,

1 yeah, we can do better and we can work together. And,
2 man, you know, there have been some really great
3 experts contracted by the other side who have some
4 really good ideas. So, you know, why don't we actually
5 look at them and make intelligent, rational decisions?

6 So -- and one (1) of the things that I
7 found in my years working in environmental assessment
8 was, besides this whole concept of what is significant,
9 is a terminology that proponents often use to talk
10 about how they're going to deal with problems that they
11 don't actually know the solutions to. And they call it
12 'adaptive management'.

13 I generally hate that term, because it's
14 a real weasel term. But if you just look at the actual
15 meaning of 'adaptive management', that's what we're
16 going to have to do. We're going to have to adapt and
17 we're going to be managing this darn thing for a while
18 to come.

19 And so we have to use all the
20 information that we've got, the best science we've got,
21 the engineering brains that we've got, and work
22 together. And we can use this process that's just
23 taken, oh, only a week for those of us here in
24 Yellowknife, but years for others, not squander that
25 opportunity, and make this a better project. Thank you

1 for your time.

2 THE CHAIRPERSON: Thank you, Natasha.

3 I'm going to go to David Livingstone.

4 MR. DAVID LIVINGSTONE: Thank you, Mr.

5 Chair. I'm David Livingstone and I am here as Joe

6 Private Citizen, who happens to live downstream and --

7 and downwind of the Giant Mine.

8 And I -- I've been in and out of the --

9 the hearing for the past week. And -- and, really,

10 based on my experience with other projects and other

11 reviews in a -- in a past life, I can only say that I

12 think the Board is faced with its most challenging

13 project to date. It's very complicated, very difficult

14 to wrap one's head around, and there are all kinds of

15 issues related to it, and not least of which this

16 notion of leaving over 200,000 tonnes of arsenic

17 underground for an indefinite period. So I would say

18 the best of luck in -- in your deliberations.

19 The issue of independent monitoring

20 agencies and environmental agreements came up a little

21 earlier, so I just thought I'd -- I'd touch on that.

22 And I -- I'd endorse the comments that Kevin and -- and

23 Todd have made about the general effectiveness of

24 environmental agreements and the -- the general

25 effectiveness of independent monitoring agencies.

1 We have three (3); one (1) for each of
2 the operating diamond mines. They each follow a
3 slightly different approach. They each have different
4 strengths and weaknesses, but they -- they are the same
5 basic model. And I think by and large they've been
6 well received by all the parties.

7 Industry, I think, has seen the benefit
8 in having third-party oversight, third-party comments,
9 expert comments. Certainly the communities by and
10 large have been reassured by the presence of these
11 monitoring agencies as a voice that they can go to and
12 -- and hear from a neutral perspective whether the --
13 the operators of the -- the mines are -- are doing
14 their job as -- as had been anticipated.

15 And I think government has generally
16 been satisfied with the performance of those monitoring
17 agencies as well. And I'd point out that government
18 has been a signatory to each of those agreements. Each
19 of those agreements is a legally binding agreement, and
20 it's enabled the parties to -- to move ahead with the
21 implementation of the projects, with some degree of a
22 social licence.

23 So I think it's a useful model. I think
24 that northerners, residents of the NWT, are -- are
25 familiar with those -- those models, or that model, are

1 comforted by the notion that somebody is -- is looking
2 out for their interest in addition to the -- the normal
3 cast of regulators and -- and government agencies, and
4 I think it's -- frankly, it's a small price to pay for
5 that kind of reassurance.

6 So I'd -- I'd encourage the -- the Board
7 to take a careful look at that. I'd encourage the
8 Board to think carefully about making it a measure that
9 addresses a significant public concern. I'd encourage
10 the Board to think about the ongoing need for arsenic
11 trioxide research.

12 That there is a -- an opportunity for
13 strategic carefully planned not onerous but certainly
14 not nickle-and-dime research that could solve this
15 problem that we all face, and as I said, living
16 downwind and downstream, and -- and planning to be here
17 for a while, I -- I would be interested in -- in a
18 longer term solution, and I think everybody in this
19 room would be as well.

20 So I -- I'll leave it at that. I -- I
21 hope the comments are helpful, and as I used to say in
22 a previous life, my name is David Livingstone. I'm
23 from a particular agency, and I'm here to help. So
24 thank you very much.

25 THE CHAIRPERSON: Yeah, thank you, Mr.

1 Livingstone. And I believe your words will hopefully
2 carry over across the table. Anyways.

3 MS. JOANNA ANKERSMIT: There you go
4 taking my lines away.

5 THE CHAIRPERSON: Thank you. I want to
6 -- Mr. Donihee, we've got one (1) more housekeeping
7 item?

8 MR. JOHN DONIHEE: Sorry, sir,
9 housework is never done. There's just one (1) --
10 there's a document actually that was referred to me by
11 Mr. Case yesterday called -- it's a discussion paper
12 entitled, Considerations Regarding Establishment of
13 Environmental Monitoring Committee for the Giant Mine
14 Remediation Project.

15 It came to me from the Developer, and I
16 canvassed the other parties to see if, in fact, they
17 had any objections to it being filed. Now, I'm -- I'm
18 only prepared to do so if everyone agrees because it's
19 -- it's labelled, Confidential, and 'Without Prejudice'
20 so -- you know, it's -- it's not something I'd put onto
21 the record unless everybody agreed to it.

22 So I -- I guess I -- I would like to ask
23 the Developer's group whether, in fact, they still
24 would like this on the record, or not.

25 THE CHAIRPERSON: Thank you. I'll go

1 to the Developer.

2

3 (BRIEF PAUSE)

4

5 DR. RAY CASE: Thank you, Mr. Chair.

6 We're prepared to leave that document on the record.

7 And we had discussed prior to that with the parties

8 involved in the working group about that document. In

9 fact, it was Mr. O'Reilly who approached me with

10 respect to tabling that -- or submitting that document.

11 THE CHAIRPERSON: Thank you. Mr.

12 Donihee...?

13 MR. JOHN DONIHEE: Thank you, Mr.

14 Chairman. On the basis of consent then from the

15 parties, we'll file that on the record as Exhibit

16 number 11. And that's it, sir.

17

18 --- EXHIBIT NO. 11: Considerations Regarding

19 Establishment of

20 Environmental Monitoring

21 Committee for the Giant

22 Mine Remediation Project

23

24 THE CHAIRPERSON: Thank you, Mr.

25 Donihee. That concludes our agenda. It's actually

1 4:00, we're a half hour early.

2

3 CLOSING COMMENTS BY THE CHAIRPERSON:

4 THE CHAIRPERSON: I -- I'm going to do
5 my closing comments here, and then I'm going to ask
6 Alfred Bailargeon, an Elder from Dettah, to come up to
7 do closing prayer.

8 First, I would like to thank -- thank
9 all of yous for your assistance this week to give the
10 Review Board a better understanding on what -- what was
11 before the Review Board here on the Giant Mine
12 remediation project. And actually it's been a long
13 week. I think it's been really good. And I think we -
14 - we learnt a lot from everybody in the room, and I
15 think now we're going to move forward.

16 It goes without saying that the Board
17 has a very important decision to make. I think it's
18 been restated here over and over again, and -- and it's
19 really a -- probably one (1) of the toughest decisions
20 we probably have to make. The Board is going to work
21 hard, and give careful consideration to everything that
22 we have heard this week.

23 This environmental assessment is unique.
24 We must consider some highly technical questions. At
25 the same time, the Board has heard the -- our concerns,

1 and the concerns of the Yellowknives, North Salve
2 Metis, and the citizens of Yellowknife. So there are
3 some tough social issues that of concern.

4 I remind you that the Review Board made
5 a scoping decision in October 2008. We'll make our
6 decision on this EA within the next -- within the
7 scope.

8 The process to completing the EA. In
9 terms of the process going forward, please note the
10 following: Again the transcripts for the hearing will
11 be made available -- sorry, will be on the Board
12 website by the middle of next week. Under --
13 undertakings will be filed by September 24th, 2008
14 (sic).

15 The agenda did not call for closing
16 comments. The Board intends to allow the parties to
17 make their final submissions in writing. We'll give
18 you enough time to get some rest, like we all do,
19 review transcripts and under -- undertakings before
20 making these submissions.

21 The parties which want to make written
22 submissions summarizing their positions and
23 recommendations can do so. Please make sure that the
24 Board receives these submissions by the end of the
25 business day on October 5th, 2012.

1 The Developer can file a written reply,
2 and should do so by the end of the business day on
3 October 11, 2012. Once these submissions are reviewed,
4 the Board in this matter will be closed.

5 The Board will then begin its
6 deliberation. We'll prepare a report of our
7 environmental assessment in a timely way, and will be
8 forwarding the -- the -- sorry, forwarding the decision
9 to the Federal and the responsible Ministers --
10 Ministers in due course.

11 In closing, I want to say thank you on
12 behalf of the Review Board, the Interveners, the
13 Developers, their team, Board staff, experts and
14 counsel, the Yellowknives Dene First Nation, North
15 Slave Metis, the leaders, and Elders. Again, you know,
16 our reporters -- our court reporters and soundman
17 technician.

18 I'm -- I'm just going to read that out,
19 now. On be -- this week here we, as you know, we're
20 meeting in the -- the City of Yellowknife. And I want
21 to thank the Mayor Gordon Van Tighem for -- for hosting
22 this event in -- in Yellowknife.

23 Also, I want to thank Chief Edward
24 Sangris and the Yellowknives Dene First Nation for
25 hosting this event in the -- in the traditional

1 territory, Drygeese territory. And all the Elders from
2 Dettah and -- and the communities that came out to --
3 to listen to us this week.

4 Also Aboriginal Affairs and Northern
5 Development Canada, and the Government of the Northwest
6 Territories as -- as the Developer. The parties, the
7 City of Yellowknife, Yellowknives Dene First Nation,
8 Alternatives North, North Slave Metis Alliance,
9 Environment Canada, the Department of Fisheries and
10 Oceans, I want to say thank you on behalf of the Review
11 Board, even though that I had a tough job to manage the
12 time, despite that we have your presentation on -- on
13 record and in front of us, so we will carefully look at
14 that as well.

15 As you know, our Board members come from
16 a long ways in the Mackenzie Valley. From the Fort
17 Smith region, we have Richard Mercredi, Rachel Crapeau
18 from Dettah, Danny Baya from Deline, James Wah-Shee
19 from the Tlicho region, John Curran from Yellowknife,
20 Percy Hardisty from the Deh Cho region.

21 Also, you know, we always want to thank
22 our support team. So, you know, especially our legal
23 counsel, Mr. Donihee. And also I want to thank the
24 Board technical advisers: Dr. Lukas Arenson, Dr.
25 Franco Oboni, Ms. Katherine Enns, and Mr. Dave Tyson.

1 We want to say thank you on behalf of the Review Board
2 and -- and the residents of the Mackenzie Valley as
3 well.

4 Also, and in the back here I believe
5 I've seen my Executive Director Vern Christensen, Alan
6 Ehrlich, Chuck Hubert, Shannon Hayden, Paul Mercredi,
7 Simon Toogood, Carol Luttmer, Caitlin Makin, and Stacey
8 Menzies. I -- and especially I would like to thank
9 Stacey and Simon and Shannon. These are some of the
10 people that were working furiously between here and
11 Dettah and -- and so on -- and -- and -- to make things
12 happen.

13 And, again, some of the people that are
14 behind the scenes that you don't really see. Again is
15 Travis Shandel (phonetic), Trace Charlo (phonetic),
16 J.C. Firthhagen (phonetic) and Roxanne Landry
17 (phonetic). Again, these are the people behind the
18 scenes, just like you saw from your departments and all
19 the presenters here today. You know, we rely on them
20 heavily. So I want to say thank you to them.

21 And our contractors, I want to say thank
22 you to the Tree of Peace, especially Joe -- Vern
23 Richards (phonetic), Joel Noell (phonetic), Evelyn
24 Noell (phonetic), for allowing us to rent the -- this
25 beautiful facility named after Tom Eagle, Tom Eagle

1 Memorial Hall. And the lady that comes in at lunchtime
2 when you're not here and cleans up is Elsie Bettina
3 (phonetic) and Sharon Evesnick (phonetic). They --
4 they kept this place fairly clean and -- and running
5 smoothly.

6 Our lady up here, I want to thank her,
7 Lorraine Douglas, Digi-Tran from transcripts. So,
8 again, that will be made available next week, the
9 middle of next week.

10 But most importantly, it's really always
11 good to recognize our interpreters. If -- if we don't,
12 it makes everybody's job difficult. So I want you to
13 say -- say thank you to Berna Martin, Selene Football
14 (phonetic), and Peter Huskey in the back.

15 And for the sound equipment, Pido
16 Production, Trevor Burt. Webcast provided by Telus and
17 the food that we had all week was done by Chef Pierre
18 (phonetic). And the shuttle service by Cardinal Coach
19 and water provided by Clear Arctic Springs and -- and I
20 also want to thank the NWT Power Corporation for
21 providing the power for us.

22 This concludes the public hearing for
23 the Giant Mine. And personally, as the Chair for the
24 Impact Review Board, I want to say thank you very much.
25 It's been a long week and I know we heard what you had

1 to say. And it's not going to be an easy decision, but
2 we're really going to get together and look at
3 everything carefully, and we're hoping to come out of
4 here with the best decision we can.

5 So I'm going to ask Elder Alfred
6 Baillangeon to come up to do closing prayer.

7

8 (CLOSING PRAYER)

9

10 --- Upon adjourning at 4:10 p.m.

11

12

13

14 Certified Correct

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17 _____

18 Lorraine Douglas

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<u>\$</u>	182:20	106 8:4	42:2,21	202:6
\$1.9 70:4	184:20,21	11 7:6 9:18	49:5,8	219:7
167:6	190:8	113:24	51:7 55:5	2011 167:14
\$2 125:22	194:20	126:25	56:23	212:7
\$2.5 257:15	202:22	163:3	58:19,22	2012 1:24
\$262,000	204:3	284:16,18	67:23	10:7,18
60:25	214:3	287:3	86:16	112:7,17
\$449,615,993	215:17	11th 177:22	105:5	118:20
166:8	219:5	12 9:5 14:19	106:24	153:20
<u>0</u>	221:2	114:22	158:15	212:14
05 19:19	223:12	232:10	159:20	275:23
0809-001 1:7	226:24	12:01 152:8	160:9	276:18
277:2	229:25	12:30	162:2	286:25
<u>1</u>	235:23	151:2,4	185:11	287:3
1 13:19	236:17	152:6	213:20	2013 64:10
17:25	240:12	12:45 152:9	219:14	134:18
23:11,18	246:13	127 8:5	256:2	2017
27:3 38:2	252:25	128 219:8	259:13	133:12,16
39:12	257:2,8,12	13 175:16	264:4	205 8:8
45:16	,24 264:3	14 1:24	273:19	228 8:11
46:8,20	268:10	1401 53:1	277:3	22nd 18:13
52:20	273:7	15 9:12	2:14 213:11	232:17
57:12,13	275:3	111:22	2:28 213:12	24 97:23
58:8,23	279:6	228:5	20 11:20	137:10
65:10	281:1	251:3	19:12	242 8:13
73:22	283:6,9	153 10:7	32:23	24th 286:13
82:22	285:19	16 206:22	40:12	25 10:7,18
83:23	1,000 56:14	160 125:1	59:16 65:5	35:21
88:21 95:8	1/2 137:16	17 7:10	96:3	123:16
100:14,15	229:24	1898 186:3	116:24,25	153:20
104:11	10 7:4 9:13	1920 124:3	134:18	212:15
106:17	11:21	1935 186:3	158:21	251:2
108:9	15:10,20	1945 186:3	213:4	275:20
109:20	32:24	1985 95:18	223:12	276:18
140:7,8	59:15	1999 147:24	200,000	254 8:16
142:9	67:19	19th 9:3	280:16	25th 152:25
145:18	101:25	12:20,25	2003 19:19	153:8
147:20	113:12	1st 118:20	2005 60:22	172:7
148:20	156:10	<u>2</u>	129:14	275:19
151:8	158:17	2 12:10,23	2007	26 95:16
152:12,16	167:22	14:2 15:10	130:17,18	123:17
158:14	205:14	27:3	2008 39:25	263 8:18
160:8	213:9		286:5,13	274 9:17
162:25	252:21		2009 217:15	276 10:18
171:4	264:8		2010 9:3	277 8:20
174:14	273:24		12:20,25	
179:21	274:1		118:18	
181:3,23	10:08 102:1		166:8,16	
	10:48 102:2			
	100 168:5			

285 8:21 9:21 28th 275:18,19 291 8:23 <hr/> 3 <hr/>	4:10 291:10 40 7:15 35:15 106:4 194:11 <hr/> 5 <hr/> 5 1:25 33:22 43:7 69:3 111:23 133:14 142:20 174:7 202:6 257:1 50 251:3 500 71:20 57 275:1 59 7:19 5th 286:25 <hr/> 6 <hr/> 6 14:16 121:4 128:10 232:9,11 257:1 276:3 65 7:20 68 7:23 <hr/> 7 <hr/> 7 84:24 110:18 142:22 185:13 186:14,15 245:11 257:3 70s 41:13 73 7:25 75 59:1,3 750 194:21 <hr/> 8 <hr/> 8 9:3	12:17,20,2 5 15:16 20:5 91:18 121:4 232:13 8:00 11:5 8:03 11:1 80 36:10 80s 41:13 <hr/> 9 <hr/> 9 7:3 9:6 15:7,16,18 95:21 105:17 112:24 131:14 228:17 <hr/> A <hr/> a.m 11:1 102:1,2 AANDC 2:17 13:15 57:12,15 62:16 146:21 151:12 168:8 183:2 190:14 198:14 205:5 217:11 227:4 228:23 232:1 243:22 248:23 AANDC's 222:12 Aanhout 3:14 106:20 135:18,24, 25 160:18,22, 23 162:1 212:9 ab 88:3	aback 193:16 Abernathy 3:18 abide 66:15,20 ability 70:22 98:19 99:13 103:11 123:1 190:1 200:11 216:3,4 262:19 able 16:20 37:7 101:9 102:13 123:23 124:5,18 133:21 135:13 144:21 148:8 172:3 179:8,9 210:25 235:20 239:2 253:8 258:21 259:1 261:15 266:23 aboriginal 71:9 95:17 108:17 109:1 110:23 116:3 118:17 123:11,19 139:8 142:10 143:15 144:12 145:7 150:2 197:5 202:2,10 217:22	228:23 288:4 absence 224:15 absent 88:3 absolute 208:10 absolutely 65:12 100:5 132:9 169:5 171:11 193:4 197:18 207:16 acceptability y 43:15 acceptable 49:1 51:12 185:4 acceptance 250:23 accepted 63:24 113:1 126:5 access 57:6 101:9 119:17 210:20,22 235:6 accessing 69:15 accommodation ns 79:13 80:9,11 215:17 221:3 224:12 accompanied 37:14 accordance 61:5 69:16 accountability 50:21 69:22
---	--	--	--	--

107:15	108:10	164:2	69:24	adjournment
108:20	123:23	185:10	108:1	240:15
110:19	184:13	192:17	282:2	adjust 182:9
114:3	200:7	194:2	additional	ADM 222:11
231:13	201:23	195:3	26:16	administerin
236:3	222:23	197:25	50:18 69:5	g 157:23
accountable	223:24	198:12	163:23	administrati
197:7	256:13,22	218:22	207:14	on 62:14
accounting	actions	222:15	220:14	administrati
256:14	70:19	230:3	225:8	ve 62:15
accounts	147:19	231:2	260:9	69:13
210:23	active	232:10,13	address	142:21
256:17	19:3,17	236:23	47:15	admit 147:23
accumulation	26:10	256:25	53:24	148:23
72:2	29:13,18	257:14	101:21	admittedly
accurate	125:17	258:1,21	102:23	120:15
192:16	199:12	259:8	115:22	143:22
achieve 37:7	actively	260:12,25	119:12	adopted 20:2
54:13	120:25	262:2,5,9	128:4	Adrian 2:18
123:11	122:10	265:6,7,19	129:6	14:6 73:6
177:16	activities	268:23	152:18	106:18
182:6	19:2 76:10	279:4,11	218:17	116:2,4
216:12	82:1	283:10	258:21	119:7
achieved	133:24	284:25	272:24	140:6
52:22	activity	ad 209:25	addressed	142:15
achievement	250:25	adapt 279:16	102:13	144:23
54:13	actual 16:14	adaptive	126:14	149:14
acknowledge	221:12	7:10,15,18	157:22	152:19
48:10	274:21	,23 18:6	215:3	153:24
52:21	279:14	40:17,23	218:15	154:1
174:19	actually	46:13,16	220:7	155:17
228:24	17:15	59:24	227:15	156:15,23
acronym	22:21	67:18	addresses	159:4,16
85:11	26:23 28:8	68:11	282:9	162:5,6
across 27:5	29:4,17	85:18,22	addressing	163:13,15
119:22	30:3,13	113:16	158:18	170:13
135:12	34:25 35:5	114:8	269:1	171:17
145:5,10	36:5 37:23	279:12,15	adequate	193:2
194:22	66:12	add	173:24	203:25
283:2	92:15	106:21,22	215:9	222:5
act 54:7	101:12	204:23	adequately	231:6,7
57:6 63:25	116:24	206:14	214:2	237:12
109:23	121:14	added 173:5	218:17	Adrienne 4:6
163:10	125:7	179:7	adjacent	advanced
278:6,12,2	128:14	209:12	220:18	219:10
3	130:5	adding	adjourn	advances
action 50:9	131:21,23	207:14	240:12	124:23
70:20,22	132:11	211:6	adjourning	advantage
	134:25	addition	291:10	
	135:8	62:13		
	163:14,21			

41:3	142:10	47:23 60:1	228:15	168:4,17,2
adverse	143:16	67:23 68:1	232:14	1,25
54:14	144:12	103:11	233:12,18	169:8,9,14
advi 235:4	145:7	151:7	234:4,8,14	,18
advice 108:3	174:20	159:7	,21,25	170:1,14,1
113:14,16	197:5	213:4	235:14,17	6 172:8
114:5,8	202:2,11	249:9,10,1	236:1,6,11	174:1,6
advise	228:23	4 252:16	,17,24	175:8
112:10	288:4	273:16	237:4,5,16	177:11
113:22	affect 36:6	284:25	,25	180:8
261:18	affected	286:15	238:4,6,24	181:11
advisers	35:17 71:9	agent's	239:5,6,9,	182:19
288:24	103:11	238:5	16,21,23	183:1
advisor	113:4	aggressive	240:4	184:19
2:11,12,13	115:21	103:13	245:12	200:21
,14 38:10	261:7	ago 35:21	247:3	244:22
77:23	Affolder	42:21	250:8	246:6
120:20	5:13 137:5	54:16 59:1	251:10	247:19,21
146:12	180:18	61:16	253:14	248:15,17
147:5	205:20	105:5	265:25	249:21
advisors	206:4	178:4	269:11,13	264:2,5
78:6 108:4	211:15,22	219:15	281:19	289:5
184:22	213:3	236:17	agreements	Alan's 184:2
244:20	217:10	275:3	61:21 63:4	Alberta
264:1	afternoon	agreeable	66:21	254:7
267:8	74:1	79:17	135:15	alcohol
advisory	89:8,13	233:4	183:3	273:4
29:11 54:1	104:10	agreed 32:22	232:1	Alex 2:23
113:3	151:15	40:11	233:22	Alfred 5:4
115:4	158:10	57:15	235:22,23	285:6
119:10,11,	200:23	66:15,20	248:6,19,2	291:5
14 120:16	272:3	67:13	4	alleviate
122:19,20	against 61:7	106:5	280:20,24	110:5
131:17	64:3 70:20	115:11	281:18,19	Alliance 4:9
160:5	agencies	235:6	ahead 113:6	68:16 71:2
162:17	203:21	283:21	119:8	74:24 75:7
163:2,8,22	207:23	agreement	152:11	76:4,6
177:15	208:19	32:6 54:9	167:19	77:9,17
178:6	248:20,25	61:17,19,2	185:23	78:2,12
207:6	280:20,25	0 73:24	206:2	99:8,25
208:13	281:11,17	74:4,15	228:17	101:3,17
235:4	282:3	83:5 99:12	241:25	102:20
advocating	agency 69:10	115:17	262:15	104:13,20
238:13,14	70:17	133:21	281:20	120:8,12
AECOM 3:21	180:23	134:24	air 34:21	147:13,16
Affairs	183:4	135:2	Alan 2:7	148:18,25
108:17	210:25	180:16,22	38:5 39:7	149:7,16,2
109:1	250:11	220:16	78:4	3
123:19	282:23	221:25	106:13	154:13,17
	agenda 40:20	222:2	165:1,22,2	156:5,7
		224:1,20	3 166:13	157:4
			167:5,11	

243:9	264:14	254:1,4,9	263:19	253:4
263:14	alter 141:8	263:10	analogies	263:11
288:8	alternative	264:19	44:7	283:3
allocated	72:3 96:4	270:6	analogy 44:6	Anne 5:18
65:5	alternatives	276:12	analysis	annual
200:15	4:13 7:8	am 35:13	28:3 82:13	109:6,9
201:14,23	8:10,15	41:17	131:20	111:18
205:14	9:7 10:13	72:11	159:1	114:12
allow 61:6	15:9,20	87:23	anchor	125:15
99:9	18:5,8	99:11	178:15	163:19,20,
118:25	19:19	120:25	anchors	24 165:25
125:2	73:2,12,17	122:2	178:14	183:14,18
147:2	,21 75:1	206:7	animals	254:15
236:12	77:8,17	264:11	220:8	257:10,11,
260:1	78:2,11	270:22	animate	14
272:1	90:3,21,25	280:5	206:16	258:18,20
275:4	92:14	amazing	Ankersmit	259:15
286:16	93:11	185:22	2:16 66:3	260:3,14,1
allowed 44:2	94:15	ambulance	87:15	5,19
124:12	95:14,22,2	61:25 62:9	89:10	261:23,24
179:8	5 97:2,3,8	amended	103:22	262:14
227:5	102:19	235:20	106:11	264:15
allowing	103:3	among 206:13	123:15	265:8,13,1
215:14	105:15	amongst	132:5	4,23
289:24	112:7,19,2	146:15	133:19	annually
allows	2 128:7,9	181:19	135:6	125:22
214:21	129:11	224:20	136:1	annuities
259:10	130:2,22	amount 24:23	138:8	260:14
261:5	131:12	25:2 36:9	143:21,22	anser 271:9
alongside	133:20	64:13	148:7,12	answer 9:7
215:16	134:13	125:22	150:11,12	13:24 14:9
already	135:20	138:17	160:14	15:8,19
48:7,8	136:5	155:20	166:5,19	16:7 17:13
50:1 57:20	137:3	202:8	167:9,10	34:11 49:6
66:20,21,2	141:22	203:5	168:2,15,1	56:4 66:13
5 85:20	143:5	214:1	9,24	80:15 84:8
99:3	145:17	220:9	169:3,12,1	86:11 89:6
100:17	147:10	221:15	6,24,25	91:3 96:21
180:9	175:13	260:13	179:3	138:12
183:13	177:25	amounts	181:1,15	148:10
204:24	205:12	35:25	184:1	165:14
206:11	211:20	Amy 5:15	186:24	167:1
211:5	225:25	77:10,11	188:14	176:2
219:10	228:4,7,10	157:11	189:16	177:7,16
220:25	242:6,9,25	200:3	190:23	188:9
224:21	243:4,7,10	201:20	197:2	198:18
228:18	,18	243:16	199:18	209:14
233:21	244:1,15	244:11	203:15	231:17
235:21,22	245:4		242:16	244:7
236:14	246:7,12		252:23,24	245:20
	252:18,22			250:16
	253:5,23			

273:14	272:1	141:9	approval	113:13
answers	apology	181:3,8,9,	31:19	arm's 114:5
55:19	105:16	12 182:6	246:1	178:2
146:16	apparent	183:6	254:14	216:14
159:10	220:20	199:22	approved	250:12
184:3	appeals	214:15	56:8 58:1	arrangement
196:2	57:15	217:17	aquatic	62:3
anti 96:3	APPEARANCES	231:1	85:13	134:22
anticipate	2:1 3:1	238:9	157:25	204:16
87:17	4:1 5:1	255:21	arbitration	240:8
101:19	6:1	264:12	239:8	247:1
125:21	appended	266:20	archives	arrangements
anticipated	163:25	approached	26:22	232:5
281:14	application	284:9	27:4,10,11	268:13
anybody	130:14	approaches	Arctic	arrive 215:6
143:8	249:11	48:5	290:19	222:18
250:16	apply 85:12	135:14	area 38:22	225:14
anyhow 196:5	appoint	136:17	47:12	arrived
anyone	244:4	181:4	63:9,17	52:24
57:2,8	appointing	approaching	64:16	79:17
225:17	208:7	203:10	66:20	arsenated
anything	appreciate	appropriate	76:22	35:24
72:13	88:8 103:5	40:3	82:1,5,6,1	arsenic
110:8	104:20,24	61:19,24	0 111:9	12:13
143:24	134:19	62:5,14	114:23	18:25 21:5
153:3	138:11	64:6,13	117:18	23:6 34:14
167:16	144:4	80:6 88:1	125:12	35:1,7,14,
169:4	149:7	92:20 93:2	173:2	18,20,23
245:22	165:4	114:12,17	179:21,24	36:5,6,9,2
247:16	176:1	115:10	187:4	4,25 38:16
266:13	188:18	117:21	196:19	68:22 69:6
anyway 11:17	189:1,2	132:16	199:6	70:14 71:7
278:6	198:18	134:8	231:20	72:2 90:16
anyways 94:8	255:7	164:4	areas 26:15	139:25
164:21	264:6,23	185:19	69:3 96:6	154:19
188:12	appreciated	186:12,16	112:15	155:5,8,12
283:2	105:25	214:8	115:18	,24 156:11
apol 156:23	186:25	220:13	128:15	170:9
apologies	201:1	224:12	179:16	172:21
148:8,13	253:22	227:17	245:9	186:16
158:22	appro 257:10	appropriatel	Arenson 2:12	194:16
200:20	approach	y 199:19	288:24	225:24
267:1	46:10	appropriatio	aren't 53:14	235:10
apologize	56:19	n 264:15	58:17	238:16
103:15	103:9	appropriatio	85:17	271:21
153:6	107:8	ns	223:7	273:6
156:24	124:12	183:15,18	arise 93:24	280:16
171:18	135:8	257:10	261:19	282:10
		262:14	arms 112:9	ashamed
				143:25

aside 70:1 203:7 254:15,18 265:6,7	188:22 189:7 215:24 218:4 219:3 223:5 228:22 229:22 262:21 272:19 276:14 278:5,23 279:7 285:23 287:7	199:13 223:6 assure 103:4 assured 117:13 183:21 assuring 111:8 199:1 asterisk 258:13 ATIP 57:8 attached 9:5 13:2 154:20 156:8 attempt 13:12 20:21 104:7 attended 38:7 52:19 attention 226:21 attitude 212:17 audience 33:6 audit 216:7 Auditor 107:18 audits 107:25 108:1 109:7 111:16 August 18:13 113:1 118:20 133:9 178:5 205:8 232:17 247:9 author 226:23	authorities 36:3 186:12 authority 52:6 70:18 94:10 98:14 156:17 230:24 231:3,12 authorizatio n 163:10 164:3 authorized 262:9 available 10:4 14:24 15:15 26:23 28:4 55:21,22,2 5 56:21,22,2 5 63:13 109:10 117:19 145:4 150:17 152:21 153:16,24 154:2 167:2 169:20,22 173:4 185:25 255:1 286:11 290:8 averages 37:3 avoid 114:21 223:7 229:6 avoidance 277:18 avoiding 52:10 163:3 awards 219:23	220:1 aware 35:7 107:24 109:15 124:22 135:21 150:20 198:20 253:18 271:6 272:15 away 22:11,13 49:22 50:1,2 87:16 92:3 132:25 137:22 138:1 172:2 188:11 216:19,20 230:2,18,2 4 278:18 283:4 <hr/> B <hr/> backdrop 98:23 backed 49:22 50:1,2 backfill 22:21 23:18 background 23:14 39:17 60:6 95:24 224:2 254:25 255:11 256:3 backstop 233:19 bad 51:8 181:20 188:23 Bailargeon 285:6
aspect 42:25 46:20 81:25 214:14 aspects 37:20 75:24 109:23 112:11 114:7 115:13 123:1 172:15 240:23 Assembly 272:9 assertion 219:9 226:4 assertions 211:8 assess 72:1 75:8 170:7 185:9 189:22 assessed 62:18 64:2 65:20 156:10 assessing 64:5,10 assessment 1:6 10:14 18:24 20:6 30:8,14 43:2 48:1 55:14 61:1 62:17 91:20 107:1 110:17 128:23 158:20 171:1 173:24 175:13	assessments 83:16 272:12 assigned 71:18 210:17 211:2 assist 261:16 assistance 13:13,15 40:4 149:8 274:15 285:9 assisting 69:19 associated 251:4 association 35:16 145:25 associations 145:23 assume 59:4 145:22 168:20,22 assumed 183:5 assuming 162:18 assumption 162:13 assurance			

Baillangeon 5:4 291:6	281:5	177:15	53:17,21 71:15	76:15
Baker 10:15,16 22:6,15 84:21,25 98:11 99:15 170:6 171:2 173:1 175:14,15 276:15,16	basically 18:25 21:6 22:17 23:16 24:1 64:14 231:13	beautiful 289:25	81:20 104:2,10 112:19,21, 22 115:20 118:10 119:8,12,1 9 124:4 125:20 152:12,15, 20,24 154:6 181:8 189:8,20,2 1 205:13 228:4 232:12 262:23 275:3 276:2 283:1 289:4	berm 22:18 berms 22:20 Berna 290:13 Bernard 3:3 beside 106:18 besides 279:8 best 10:4 11:10 14:24 18:19 20:2 23:23 26:15 31:6 36:3 51:18 91:3 96:8 105:19 111:9 113:16 114:8 119:17 136:3,11,1 9 138:21 139:6 152:21 153:15,24 154:2 165:2 167:2 172:4 176:17 184:3 194:13,15 199:20,22 207:22 212:5 215:4,19 217:9 224:3,17 241:10,23 247:25 255:8 269:23 279:20 280:18 291:4
balance 165:9	basis 141:8 180:16,18 194:12 210:1 232:25 234:21 254:15 259:15 268:16 284:14	became 35:25 217:10 become 174:7 194:15 218:21 249:11 becomes 161:19 210:9 bed 193:18	152:12,15, 20,24 154:6 181:8 189:8,20,2 1 205:13 228:4 232:12 262:23 275:3 276:2 283:1 289:4	
balances 214:23	battle 210:9	begin 106:16 133:24 139:17 287:5	believed 278:13	
balancing 207:18	Bay 23:2,13 72:14,17 82:1,10 83:21 117:3,4	beginning 115:23	believer 105:6	
Bangladesh 36:3	Bayha 1:12 11:6,8 78:9,13,24 ,25 79:5 80:2,13,14 82:17,18 88:6 192:4,5 195:22,23 196:25 198:7,8 201:3,6 202:20,21 203:19 204:9 224:10 250:5,6 251:12,13 268:8,9 270:1,2,4	begins 49:15 begun 148:25	believes 75:25	
bank 101:8	Baya 288:18	behalf 14:7 73:7 140:7 142:16 149:15 152:4,20 155:18 156:16 162:6,21 163:15 193:3 197:11 204:7 287:12 288:10 289:1	believing 216:11	
bar 194:16 220:5,21	Bayha's 199:22	behaviour 50:11 226:7	bell 37:2	
bare 186:2	BC 258:6	Behchoko 42:21 105:4	belongs 56:2 59:6	
barrels 194:17	bearing 170:19,21	behind 121:22 180:14 289:14,17	Benat 4:16	
barrier 22:18		believe 18:19 38:2	beneficial 184:15 278:21	
based 47:23 55:1 85:19 97:22 112:7 113:10 159:14 172:17 177:16 183:12 196:15 200:12 201:24 239:20 255:24 258:24 280:10			benefit 54:21 123:22 144:17 179:5 180:5 187:4 281:7	
baseline 158:20			benefits 214:11	
basic 207:10			Berg 73:14	better 21:14,22 22:21

23:12	263:15	204:12	86:9,20,23	233:9
35:11	billion 63:8	212:4	87:4,8	236:20
52:16	257:15	228:19	89:21	240:11
118:25	binders	229:22	92:16	241:9,13
121:25	264:23	238:11	94:11,16	244:20,23
139:18	binding	240:14,17	97:19	245:13
140:15	32:13,17	241:4,8	98:19	246:5
164:14	69:13	bits	99:4,18	249:11
167:16,17	134:24	238:12,21	100:1	250:4
212:23	135:2	biweekly	102:12,15	251:11,15,
227:1	182:1,4	121:5	103:6	20,24
234:22	222:2	Blackberry	108:5,8,15	252:4,8
240:7	232:25	193:19	,23 111:6	253:20
261:6	233:3,9	block 23:8	135:21	254:24
277:24	234:3,20	43:22,25	136:24	256:12
278:1,10	237:6,9	44:19	152:1,4	261:3,10,1
279:1,25	239:8,15	49:16	153:1	8 262:10
285:10	240:24	68:21	157:8	264:1,3,4,
Bettina	241:2	70:15	158:4	5 265:18
290:2	246:25	128:23	162:12,13,	267:7
Bev 5:22	281:19	204:17	18,21,22	270:14
77:20	Binion 4:10	214:22,23	164:23	272:1
158:15	243:12	215:16	165:23	274:16
159:21	biological	blocks 22:16	171:7,23	275:4,11,1
162:25	23:5	171:5	172:10,16,	7 277:11
164:9,10	Bird 4:23	board 1:3,10	18 173:8	280:12
244:16	59:25	2:10	175:10	282:6,8,10
263:23	60:2,11	9:9,12	177:21	285:10,11,
BEVERLY	65:7,9,15	11:6	178:18	16,20,25
77:19	66:12	13:5,13	179:13,17	286:4,11,1
beyond 37:16	bit	15:11,13,2	180:5,7	6,24
44:19	18:9,12,15	2 16:1	184:18	287:4,5,12
123:1	,19 20:21	19:6,22	185:12	,13
156:10	21:4 22:9	31:20	186:14,15	288:11,15,
214:5	27:17 33:5	33:8,12,21	187:13	24 289:1
251:7	35:22 76:8	37:10,18	188:1	290:24
261:24	83:7 84:8	38:10,18	189:6,22	Board's 52:6
BHP 86:15	86:16 90:7	39:10,12,2	190:1	77:23
219:25	119:8	5 41:9	191:6	98:14
227:3	127:7	42:9,20	192:3	99:3,12
bias 227:14	130:3	44:18	195:25	163:24
bigger 30:10	143:6	50:2,13,17	198:10	173:7
46:20,22	160:1,19	51:5 52:16	199:21	184:21
biggest	164:20	53:4,23	201:3	187:22
81:18	165:6	54:2	202:5	188:5
127:8	168:3,6	58:3,9	205:8	190:4,17
202:3	170:15	59:25	206:22	215:7
Bill 4:8	175:24	67:9,10	212:4	boats 82:7
216:4	176:23	78:5,6,9	220:3	178:15
	195:8	79:19,25	221:5	Bob 3:22
	198:10	82:17,21	223:3	219:8
			224:16,18	bodies
			226:12	
			232:25	

36:1,10	61:14,23	179:1	141:7	35:25
123:6	62:12	184:24	176:3,7	71:11
136:9	65:21	186:22	193:4	115:24
162:2	boundary	187:15	275:15	119:22
209:9,22,2	62:6,23	189:14	276:6	145:5
4,25	117:9,14	200:1	broad	178:14
210:14		205:1	115:20	208:15
219:22	boxed	206:6	136:13	buildings
265:16	31:16,23	242:12,21	broadest	23:15,16
body 108:24	239:25	248:12	84:13	builds 51:25
110:24	brain 155:10	255:11,17	broad-	278:3
115:3	brains	267:10	ranging	built 237:24
122:20	279:21	270:7,18,2	15:1	251:9
135:13	branch 101:8	5 271:14	Bromley	265:25
155:9	break 42:10	277:7	219:8	269:10
161:16,18,	59:19	284:3	brought	bullet
21 168:14	101:25	briefed	56:10,11	124:15
178:2,3	102:13,14,	briefly	78:17	175:16
207:25	17	116:19	114:23	bunch 173:13
209:3,11,1	104:21,22	120:5	119:12	230:4
4,16,18,20	151:3	144:25	144:1	bur 62:15
210:2,3,4,	213:9	145:8	173:23	burden 62:15
6 220:5	breaker	245:14	184:14	bureaucratic
233:4	246:3	bright 36:4	203:11	188:8,16
235:2	breaking	bring 57:1	217:16	Burgess 3:8
237:23	102:11	83:25	225:7	Burt 290:16
238:5	breathe	96:11	226:21	business
243:20	155:7	118:21	Brown 3:12	43:14
244:2	breeds 220:8	122:3	Bruce 3:13	118:22,25
245:6	bridge	144:21	budget 75:24	119:2
247:3	101:19	148:1	108:22	286:25
250:12,14	brief 59:21	156:24	budgetary	287:2
251:1	64:19,25	233:12	123:21	businesses
boil 264:8	68:8 74:21	261:15	budgets	90:12
bookmark	75:4 86:10	bringing	80:20 96:5	buy 58:14
41:15	87:20	120:15	build 32:4	93:6
books 256:16	89:24	121:18,24	54:6 75:9	Buys 5:9
Boone 3:22	103:17	188:19	118:25	buzzer
boss 222:8	104:17	brings	154:23	106:13
bosses 246:1	116:22	131:19	164:14	
bother	119:5,10	Britannia	214:4	
206:18	138:6	136:10	230:8	
207:12	149:12	258:7	231:14	
bottom 72:15	161:25	British	234:15,22	
86:1 133:2	165:20	136:11	236:2	
247:16	166:3	185:15	building	
bound	171:15	broad 10:8	26:11	
45:10,11	174:16	43:8 84:11	29:22	
boundaries	175:1,6	125:8		

63:3 64:2	35:15	70:2	4:6	cautious
calculating	136:2	71:13,17	Casas 6:4	166:21
62:19	258:25	74:16	case 2:24	caveats
Cameron	269:24	100:8	42:22,24	253:18
254:5	Canadians	113:17,22	45:1	CCME 85:8,10
Canada 3:24	108:8	126:6	48:5,20	cement 22:3
4:2,5 5:16	Canal 93:6	140:3	49:1,16	central 19:5
9:4	canvassed	144:6	56:22	30:12
12:13,21	283:16	183:16,18,	85:12	centre 27:19
13:2,10,11	capabilities	19 195:4	87:16	28:23
,12,17	118:23	220:13	89:11,14	centres
30:6 35:3	capacity	234:18	100:19	231:17
61:8 62:21	71:10	237:21	104:4	certain 93:5
64:4,5	103:2	254:20	136:2	103:12
67:3 71:22	148:2	255:23	137:6	115:6
77:6,11,20	149:4	258:2,5	146:22	182:3
107:14,17	capital	260:1	161:6	183:4
108:5	109:2	261:1	174:1	184:6
109:1,5	captured	266:20	183:6,16,2	274:11
126:3,7	17:6	269:2,8,15	2 192:7	certainly
142:11	capturing	,19,22	198:14	36:11
143:16	117:12	careful	204:2,3	75:19,23
144:9	206:9	193:11	206:23	81:11,16,2
155:3	Cardinal	282:7	208:12	5 92:2
156:1	290:18	285:21	212:8,10	93:25
157:9,12,1	care	carefully	256:24	97:18,20
3,23 158:3	7:9,15,18,	282:8,13	257:6,21	103:13
159:22	22 18:6,17	288:13	258:22	110:10
196:16	19:5,9,15,	291:3	259:11	114:25
197:6,15	17	caring	266:7	125:23
198:13,24	20:1,3,4,1	37:14,15	268:12	132:6
200:4,5	3,24 23:10	Carl 4:23	270:15,19	134:2
201:9,21	24:8 25:18	59:25	271:1,24,2	136:15
227:19	26:5,11	60:2,11	5 273:9	138:11
228:24	27:24	65:7,9,15	283:11	139:13,18
243:15,17,	29:14	66:12	284:5	144:3
21	30:15 31:5	73:14	cases 238:21	150:23
244:6,10,1	32:12	76:15	254:20	165:4
2,17	37:11,12	Carol 289:7	262:11,12	198:25
255:23	40:16,22	carried	cast 282:3	222:1,19
256:6,13,2	58:23	236:8	catastrophic	230:2
2 257:1	59:7,24	carry 52:12	101:21	244:5
262:24	60:13	156:11	catch 148:9	252:11
263:18,24	63:21	221:23	caucused	281:9
268:14	67:15,24	283:2	102:14	282:13
272:19	68:2,10,15	carrying	caucusing	certainty
288:5,9	,18	118:16	200:22	54:10
Canada's	69:5,12,25	155:5	cause 39:19	Certificate
67:4 69:17		Cartwright	40:3	8:23
125:24				
256:16				
Canadian				

Certified	143:4	254:3	42:6,12	145:14
291:14	145:16	263:24	59:10 60:5	146:8,17
cetera 15:3	146:11,25	264:3	64:17,21	147:7,12
34:21 35:5	147:9,15	265:2	65:1,8,12,	148:5,11,1
36:7	148:8	266:18	22 66:9,23	4 149:9,19
chains	149:21	267:5,19,2	67:11,25	150:9,25
227:19	151:5	3 268:9,23	68:4 72:20	152:11
chair	153:1	270:19	73:9,16	153:2,22,2
14:9,20	154:1,7,16	271:1,25	74:11,18,2	5 154:4,8
16:20,22	156:6	273:12	3 75:12	155:15
18:7,11	157:6	274:19	76:2,13	156:4,13,2
38:6,24	158:11	280:5	77:1,5,13,	1 157:3,7
40:24 42:9	160:7,15,2	284:5	22 78:8,23	158:7
50:20	3 162:4	290:23	79:4	159:2,5,11
52:11	165:2	chaired	80:2,12	,17 160:12
53:25 59:9	166:6	162:20	81:8	162:23
60:11 65:7	168:16	Chairman	82:15,20	163:11
66:4 67:21	169:4,10,1	8:21 12:1	84:3	164:19
68:13	1,17	13:18	86:5,8,19,	165:17
73:8,14,20	171:17	14:23	23 87:3,7	169:6
74:13	172:9	17:1,2	89:2,5,15,	174:4,12,1
75:19,25	173:12	87:11	20	8 175:3,20
76:15	174:2	89:24	90:18,22	176:12,24
77:4,10,20	175:23	90:21 93:1	92:5,11,23	177:3,9
78:4,13	176:20	96:21	93:8	178:23
81:10,24	177:12	100:15	94:3,12,18	180:6,24
82:18	179:4	102:17	95:11	181:13
87:1,6,16	181:2,16	116:1	96:18,23	182:16,23
89:11	184:2	152:15	97:4,10,14	183:24
90:24	186:25	153:5	98:15,25	184:17
92:13	188:15	176:14	99:22	186:18
93:10	189:17	177:6	100:12,23	187:12
95:13	190:24	187:17	101:4,14,2	188:10
103:23,25	191:4,13	191:9	3 102:4	189:11
104:19	192:1,6	252:11	103:19	190:6,21
105:2,14	197:3	266:5	104:9	191:1,5,11
106:12	199:19	267:16	105:1,12,2	,15,19,23
116:5	202:21,23	273:19	2 126:17	192:3,25
126:16	205:19	276:1,21	127:10,23	195:21
127:21	211:11	277:11	128:6,17	196:25
128:3,8,21	213:18	284:14	129:8,16,2	198:6
129:10,19	224:2	Chairperson	4	199:16,24
130:1,11,2	228:9	1:11	130:7,19,2	200:17
1 131:6,11	242:17	11:3,15	1 131:3,9	201:2,18
132:16,18	243:2,6,13	12:2,6	132:3,15	202:19
133:20	,25 244:23	14:4,21	133:17	203:13,23
134:12	245:18	16:17,23	134:10	205:9,24
135:7,25	246:7,11	17:3,8,17,	135:4,23	211:9
136:7,22	247:22	22 32:18	136:25	213:6,8,14
137:2	249:17,21	37:22	138:3	228:1
138:9	250:2,6,19	39:2,5,11	140:4	242:2,14,1
141:21	251:14	40:6	141:19	8,23
	252:6,14,2		142:13	243:3,8,14
	3 253:5		143:2,19	,23

244:9,13,1 9 245:16 246:4,9 247:19 248:9,14 249:8,23 250:3,17 251:11,15, 20,24 252:4,8,15 253:1,21 255:12,15 263:6,13,1 7,21,25 264:18 266:1,15 267:2,6,12 ,17,21,25 268:5,8,20 269:25 270:4 271:10,23 273:9,15 274:17 275:19,21 276:22 280:2 282:25 283:5,25 284:11,24 285:3,4 challenge 139:11 210:18 278:9 challenged 138:24 challenges 112:16 210:12 challenging 115:15 138:10 280:12 Chamber 120:11 chambers 21:6 170:9 172:22 194:17 chance	241:16 275:25 change 30:7,11 60:1,14 176:14 237:10 276:1 changed 166:16 237:19 changes 70:19 182:11 changing 132:1 139:5 237:10 channel 22:7 channels 21:19 characterist ics 207:25 characterize 55:17 charge 61:7 Charlo 289:15 chart 49:13 58:8,12,19 230:20 charts 58:10 checks 193:20 214:23 Chef 290:17 chicken 277:17 chief 33:13 38:14 51:3,16 60:3 118:5 220:23 224:25 287:23 Chiefs 246:2	Chip 59:2 cho 106:1 191:25 288:20 choose 162:18 choosing 218:8 chose 193:12 220:2 226:22 Christensen 2:6 289:5 chronologica l 90:2 Chuck 2:2 289:6 cigarettes 273:4 circumstance s 139:12 cited 186:14 Cities 63:25 Citizen 280:6 citizens 277:15 286:2 city 4:20 7:17 23:12 28:2 59:13,14,2 3 60:3,21 62:12,15 63:16,21 64:7,22 65:2,20 66:9 73:2,10,15 ,18 74:5,8,12, 14,25 75:7,16,18 ,19,25 76:6,14,16 ,20 77:7,15	78:1,10 80:15 81:5,11 82:16 88:9 90:14 95:21 96:9 105:17 117:12,15, 19,25 118:4,5,7, 11 120:9,17 127:16,21 177:24 211:19 229:13 242:19 245:3 271:19 287:20 288:7 city's 60:17 73:23 118:13 clandestine 98:1 clarificatio n 67:22 160:1 197:4 204:1 225:8 253:6,20 274:13 clarificatio ns 117:24 clarified 275:2 clarify 45:16 102:21 118:2 153:10 170:17 clarity 45:1 48:9 49:20 114:1 168:11 214:12 Clark 4:25	class 127:1 211:13 220:1 clean 34:20,21 204:7 290:4 cleans 290:2 cleanup 201:16 257:13 clear 14:10,15 19:7 24:14,20 35:25 38:7 39:20,23 41:8 44:14,16 45:22 48:15 50:16 51:2 52:13 62:25 67:3 76:16,18 79:12 82:3,8 97:18 103:10 129:19,22 130:11,14 137:19 142:6 143:7 165:12 186:4 187:19 189:6 192:12,23 198:15 214:6 221:20,21 224:18 226:13 229:5 230:22 232:22 237:4 238:1 259:18 290:19
--	---	---	--	---

clearly 19:4 64:1 74:14 83:6,8 177:19 207:24 214:16 253:18	co-chair's 108:9	com 46:23 219:4	40:8 47:3 71:12 102:12 103:21,23, 24 104:14,21, 24 105:3 118:2 148:19 151:25 193:24 205:13 206:5,10 239:14 249:14 253:18,25 270:12 277:9,22 280:22 281:8,9 282:21 285:3,5 286:16	167:13,19, 20,21 178:5,13 210:1 216:21,25 218:14 219:1,5 221:18,22 222:7,10 223:15 232:19 233:8 272:5 275:18
Clement 108:14	coincide 163:20	comfort 215:13 216:10 224:13		
climb 119:24	collabora 211:20	comfortable 237:21		
clinics 35:5	collaborate 179:10	comforted 282:1		commitments 18:21 25:3 28:2 31:4 53:11 79:21,24 98:21 99:13 110:19 122:18 198:16 217:3 218:21 219:15 233:19 234:5,9 235:7 236:2 268:17
close 182:21 257:12	collaborated 211:21	coming 11:17 49:22 98:24 100:2 105:24 121:10 190:2 192:24 195:9,24 196:1 200:13 218:11 219:18 223:19 232:7		
closed 42:23 56:20 287:4	collaborativ ely 44:15 47:1,21 50:15 107:4			
closely 205:5	collapse 100:20 101:7,13		Commerce 120:11	
closer 156:24 172:13 204:21 255:13 265:7	colleague 158:15		commercial 62:11 63:14,18	
closing 8:21 17:11 285:3,5,7 286:15 287:11 291:6,8	colleagues 51:17 156:1		commissioner 57:14 107:19,21	
closure 42:19,23,2 4 43:3,5,7 44:14,21,2 3 47:17,19 48:6,7,11, 21 49:3,9,10, 14 50:15,16 84:9,10,11	colleague's 88:5	commend 231:6	commissioner 's 108:1	committed 16:20 30:21 47:19 51:19 53:18 110:24 111:14 113:3 117:18 123:9 139:23 168:5 179:13 180:4 196:1 232:18 233:6
collect 63:6 76:8	collect 63:6 76:8	comment 38:3 39:13 57:24 66:24 140:5 164:11 173:21 189:1 252:25 253:22	commit 115:23 131:7 147:25 156:2 172:7 189:4	
collected 60:21 111:20,24 158:25	collecting 76:17		commitment 16:22 29:10,21 30:23 32:14 54:9 57:19 66:18,19 94:22 99:4,5 133:3 134:19	
collectively 109:17	Columbia 136:11 185:15	commenting 190:20		
coalition 97:20,21	column 20:18,19,2 3 24:24	comments 7:12 8:20,21 32:21 33:8,19		
cobbled 278:12				committee 9:20 54:1

58:16,17	communicatin	194:3,19	23:18	Conceptually
75:22	g 26:9	204:12,15	176:2	245:24
112:10	28:21	208:15	209:14	concern
113:3,6,10	192:15	209:5,6	compliance	19:18 31:8
114:4,9,16	communicatio	217:23	53:1	52:10
,18	n 195:6	227:12	235:14	94:25
115:4,14,1	208:14	260:21	238:3	97:17
7,18	227:20	comp 256:25	complicated	110:2
119:10,11,	communicatio	companies	134:1	141:12
14,15,19	ns 113:17	101:10	165:14	189:2
120:16	117:25	223:24	198:4	193:14
122:19	communities	company	280:13	221:3
131:17	54:20	50:14	compliment	223:8
132:1	120:3	199:5	118:12	225:16
133:11	123:10	220:14	compon 84:24	227:9,13
134:8	139:7,9	compare	component	232:23
135:10	141:13	16:12	154:20	234:6
160:6,7,15	272:23	compared	161:8	240:23
,16,17	281:9	17:14	components	282:9
163:2,7,8,	288:2	comparison	50:15	286:3
22	community	9:15	84:14,22,2	concerned
164:12,16	24:15,17	115:12	4 161:10	68:17
177:13,15	31:19	273:22	174:11	72:11,14
178:7	36:13 38:1	274:4	175:19	249:18
179:18	39:23 54:6	competitive	composition	concerning
182:10	55:2 78:15	119:1	179:17	88:6
207:6	80:24	238:20	235:3	107:25
208:13	95:9,15	complaints	comprehensiv	271:17
283:13	97:17	69:21	e 30:15	concerns
284:21	110:1	complete	46:24	21:3 50:12
committees	113:20	50:8 57:23	117:2	68:25
120:3	114:25	175:19	158:19	69:21 80:1
139:14	116:18	208:11	256:24,25	81:16
160:2	118:22,25	226:20	compressed	100:4
204:13	119:2,11	completed	103:11	110:2,5
committee's	120:2,7,8,	107:24	con 194:22	116:6,14,2
113:13	20 122:8,9	170:12,25	253:16	0
common 45:22	123:12	171:8	concept	117:10,16
179:14	132:14	175:11	207:11,20	120:21
210:13	133:23	215:16	277:16	126:13
222:19	134:3	274:12	279:8	157:19
250:22	136:12	completely	concepts	158:18
commonality	139:8,16,2	180:14	136:19	181:12
222:19	1 140:25	193:16	140:24	185:5
commonly	141:5,12	completing	206:25	204:12
46:25	142:17,19	170:23	207:10	214:3
commu 116:17	145:13	286:8	conceptual	215:2
123:10	150:23	complex	206:16	220:6
communicate	185:6,25			221:4
29:4	193:5,8,14			223:1
	,18			225:7
				226:3

277:13,15	234:22	n 79:15	143:14	201:22
285:25	236:3	103:6	219:10	202:1
286:1	confident	114:15	consultation	contaminates
concise	150:19	132:7	8:3,8,11,1	272:17
165:5	216:3	148:2	6 40:18	cont'd 3:2
conclude	confidential	164:15	54:5 65:4	5:1 6:1
211:5	249:7	285:21	67:18	8:1
213:2	283:19	consideratio	69:10	contemporary
concludes	confirm 64:4	ns 9:18	106:3,9	127:6
59:9 64:14	158:24	163:7	137:15,21	CONTENTS 7:1
205:10	confirmation	283:12	142:17,19	8:1
227:24	159:14	284:18	205:18	contest
284:25	conflict	considered	223:22	132:8
290:22	45:3,4	30:13 43:1	228:8	context
conclusion	223:19	67:9	252:20	18:12
64:7 71:1	225:15,23	266:12	254:2	38:11
113:1	conflicting	considering	consultation	52:19
conclusions	209:12	66:13	s 128:2	107:9
18:22 31:3	228:25	considers	consulted	141:3
228:15	229:7	114:17	71:23	173:9
278:9	conflicts	consist 15:8	consult-to-	181:24
concrete	45:10,13	consisted	modify	227:2
147:19	272:8	186:5	241:5	256:1
148:1	confusion	consistent	consuming	259:6
149:2	208:21	106:25	210:23	261:1
247:7	conjunction	124:12	Con't 3:1	262:22
concur 75:24	158:4	131:6	4:1	contingencie
condition	connotation	consistently	contain	s 70:9
44:1 63:12	253:17	47:11	234:25	contingency
84:21	cons	217:2	235:11	70:1
conditions	181:12,17,	consisting	containing	260:6,7
75:9 117:4	19	9:6 15:19	23:7	continually
271:19	conscious	constant	containment	124:24
conducted	211:3	195:7	18:25	continuation
117:23	241:3	constitute	contaminant	40:18
conducting	consent	134:7	144:14	226:6
117:18	284:14	constituted	contaminants	continue
conduit 54:7	consented	128:22	82:4	17:23
conference	112:18	construction	contaminated	31:13 40:9
213:23	consider	101:10	23:25 24:2	63:20 74:9
confidence	37:19	125:10	107:25	106:21
45:11,24	132:10	constructive	108:10	133:13
52:1 57:2	181:3	96:10	109:8	154:10
113:18	186:11,13	consult	123:22	161:13
147:21,22	218:14	161:1	144:15,19	177:10
148:21,22	285:24	176:5	145:2	179:24
207:19	consideratio	consultants	184:12	182:24
231:14			200:6,8	185:8
				202:13

210:3	136:14	290:20	count 222:7	119:13
258:19	contribution	correct 81:6	countries	191:24,25
278:1	61:17,19	100:22	255:24	251:16,17
continued	contribution	101:3	country 27:5	268:5,6
7:8 18:5	s 105:21	129:15	135:12	288:17
141:18	contributors	143:11	143:24	create 63:16
154:15	273:8	152:22,23	201:10	79:20
202:15	control 26:7	167:6	couple 18:23	259:1
258:16	27:23	168:22	106:12	created
continues	32:3,5	189:10	125:5	48:25
66:5 68:20	57:21	222:8	178:4	62:14
121:1	70:11	291:14	189:25	204:13
continuing	controls	corrective	206:15	256:12,14
111:3	27:17,25	124:17	217:20	creating
142:25	92:19	correctly	237:2	94:23
173:18	conversation	92:9	246:19	208:23
179:14	161:14	141:14	248:5,18	214:14
continuity	convey 87:25	166:17	249:5	creation
54:10	141:10	co-signed	262:3	69:7,12,14
contract	214:2	205:7	course 39:4	,25
83:5	conveyed	cost 24:20	81:18	Creek
101:11	103:12	124:13	94:15	10:15,16
143:13	221:1	165:13,16,	98:18	22:6,15
197:25	conveying	24	140:20	84:21,25
236:6,10,1	141:13	167:3,8,12	150:14	98:11
2 241:7	conveyor	203:18	177:7	99:15
contracted	229:14	costing	187:20	170:6
279:3	convince	124:23	189:25	171:2
contracting	240:6	costs 62:4	190:18	173:2
214:11	convinced	124:23,24	207:12	175:14,15
contractor	30:24	165:7,9,25	235:17	276:15,17
83:10 90:4	coop 277:17	166:6,9,12	254:13	criteria
92:10	Coordinat	,14,16	287:10	44:21
197:25	57:14	260:3	court 12:17	45:6,23
contractors	copies 27:3	council	62:25	46:1,3,6,1
289:21	co-	95:21	63:10 64:4	5 49:10
contracts	proponents	105:17	287:16	56:21
197:23	204:1	264:4	cover 10:11	82:24 83:1
198:1	205:5	counsel 2:10	21:19,20	85:8,16,19
236:7	226:18	12:15 15:5	70:4	,23 86:1
contractual-	copy 58:4	77:24 78:6	170:24	259:1
base	Cormier 2:20	152:15	172:22,23	critical
223:22	corporate	164:24	175:12	71:13
contrast	60:2	244:21	260:3	207:11,20
264:17	Corporation	249:24	276:9	criticisms
contribute		250:2	covered	35:2
106:22		264:1	260:16	critique
contributed		287:14	Crapeau 1:17	278:8
		288:23	82:21,22	Cronk 3:2
			86:20,21	

cross 101:19 212:25	160:23 161:4 162:2	129:21 185:2,6 218:15 274:25	211:4 212:16 215:22 286:25 287:2	241:25 285:17 286:5,6 287:8 291:1,4
cross-filed 212:7	currently 14:15 108:11,14	dark 51:16	days 33:22 81:17	decision- maker
crux 262:2	155:5	darn 279:17	137:16	207:14
cuff 164:6	166:6	Darren 3:11	178:10	decision- makers
cumulative 185:3,6	273:1	Daryl 3:15 19:15	203:12 204:10	184:16
curious 80:16 99:11 171:7 192:10 201:12	curriculum 254:23	data 111:20,24	227:22 233:14 256:9	decision- making
Curran 1:13 16:5 17:2,4,18, 19 39:14,15 40:7 89:22,23 90:20 92:5,8,24, 25 94:4,5,19, 20 96:19,20 97:5,15,16 98:18 99:1,2 100:13,14 101:5,6,16 ,24 102:15,16 105:16,24 151:25 191:7,8 252:9,10 267:13,15 288:19	curve 37:2 custodial 201:24 cut 49:23 96:24 237:14 cutting 198:22 201:9,11 CV 38:20 39:1 211:24 <hr/> D <hr/>	date 30:14 50:3 52:21,22 53:6 124:11 125:1 138:19 166:15 170:10 172:13 173:15 206:9 221:7 223:23 280:13	day-to-day 194:12 de 32:14 deal 13:8 45:15 81:14 139:19 171:6,25 183:12 224:7 246:3 279:10 dealing 141:3 258:15 deals 109:24 dealt 176:18 dear 25:19 debate 30:1,18 94:1 decide 95:4 200:9 decided 26:24 decision 31:21 51:15 69:23 124:25 172:11 173:7 219:2 240:5	decisions 11:10 63:1,11 64:4 99:21 124:22 172:16 174:10 176:5 184:10 207:16 235:13 238:3,7 261:10 279:5 285:19 declaration 226:17,25 declined 251:8 dedicated 145:1 deeper 212:10 defensive 104:23 278:25 defensiveness s 278:2 defer 136:7 deference 169:11 defined 43:8 46:10 47:1,9
current 90:8 117:3 124:12 136:15	DAR 14:18 17:16 43:5 110:25	day 1:25 46:18 51:4 54:3 83:2,10 90:1 118:19 141:8 151:8 196:4 199:4		

50:16	95:19 96:8	depends	90:4 91:5	25:22
237:17	98:9 99:14	187:22	92:19 93:3	27:13 54:3
definitely	104:13	deposit 27:9	designed	62:2 79:2
115:9	127:24	deprives	23:8 43:21	83:6 88:10
152:2	142:5	210:24	68:21	110:1
164:8	211:19	depth 212:11	designs	137:15
222:3	226:25	259:17	171:20,21	220:19
definitions	242:6,8,24	Deputy	desirable	285:6
52:23,24	243:10	237:13	79:24	288:2,18
degree	254:10	describe	desire	289:11
281:21	287:14,24	50:24	133:20	develop
Deh 288:20	288:7	107:10	desired	29:25
deliberation	denied	described	222:9	50:15
287:6	61:11,12	17:13	desires	113:20
deliberation	Dennis 4:22	126:11	31:18	182:5
s 280:18	127:20	174:11	desktop	255:21,25
Deline	193:17	218:3,18	168:8	developed
288:18	dep 259:16	245:6	despite	27:23
deliver	depart 66:19	describing	288:12	32:13
16:21	272:18	107:8	detail 34:20	44:15
270:21	department	177:23,25	136:6,23	47:22
deliverables	77:14	Description	167:21	56:16 58:1
197:24	109:6	9:2 10:2	171:22	91:19
delivering	158:8	deserve	211:8	113:25
111:8	174:20	138:13	detailed	118:14
delivers	197:6,9	desi 132:13	27:7	120:23
209:3	198:21	design 10:10	171:21	157:18
delivery	200:9	15:2 23:12	details 58:4	185:18
88:12	201:8,13,1	129:2,4,23	83:1,15	223:22
271:16	4 202:16	146:12	172:13	224:20
demolish	244:14	147:4	174:9	developer
23:16	272:11,14,	170:4,5,6,	270:23	2:16 3:2
demolition	15,16,22	20,22,23,2	determinatio	8:3 9:14
134:17	288:9	5 171:12	n 117:20	10:3,8
229:13	departments	172:15,22,	227:6	12:11,16
demonstrated	108:9	23,25	determinatio	13:15,25
272:15	196:14	173:14,16,	ns 50:19	14:5
Dene 25:21	198:22,25	18 174:10	determine	16:13,18
27:12	199:21	175:11,18	62:18	18:13,20
41:13,25	201:9,24,2	176:5	197:13	20:2
59:11	5 289:18	209:19	determined	21:14,24
73:11,18	departure	275:10,12,	75:22	22:10
75:1	66:18	16 276:8	161:18	24:14
77:7,16	departures	designating	Dethdori	25:3,25
78:1,10	142:24	91:8	83:21	29:6 32:14
82:23	depending	designation	Dettah 24:16	41:9 60:18
93:14	14:17	26:7 27:16		61:4,9
		designations		64:8 65:23

72:24	223:16	27:14	278:24	17:16
75:14 88:2	229:4,8,10	45:21	diet 273:4	98:12
89:6,9	,12 231:15	164:17	difference	99:17
91:20	234:5,9	186:13	245:10	117:23
99:13	236:6	development	differences	118:1,4
106:1,9	237:18	48:4 56:6	48:3,8	170:5,25
127:13,17,	238:11	70:12	49:5	172:24
25	239:24	107:20,22	178:19,20	175:12
128:14,18	241:6,19	108:17	245:13	276:10
129:17	242:7,15	109:1	246:24	diffusers
130:4,8	244:25	118:16	different	9:16 14:24
131:4,25	245:4,9	123:19	19:13	15:2
132:4	247:25	138:18	20:18 37:1	140:18
133:8,18	248:7,10	142:11	53:3 90:5	273:22
134:15,21,	253:9	143:16	91:11	274:5
25 135:5	263:9	144:13	121:8,12	dig 46:19
136:4,18	271:24	163:8	135:14	83:2
137:4,13	273:20	184:5	136:16	Digi-Tran
138:4,24	274:2,18	197:6	155:21,22	290:7
142:14	276:5	212:5	167:19	diligence
143:20	277:23	228:23	170:18	216:8
146:9	283:15	229:1,12	175:25	dimension
147:14	284:1	234:16	185:13	214:24
148:6	287:1	235:9	193:15	diminish
149:10	288:6	238:10	194:2	180:1
150:10	developers	288:5	203:21	direct 38:16
152:15	219:21	DEW 257:12	207:3,6	86:11
153:14,25	developer's	DFO 5:20	215:19	direction
154:9,11	136:16	13:9,17	222:21	21:25 82:8
155:16	Developers	159:18	225:9	83:15
156:14	34:6,18	162:24	227:18	236:22
157:10	37:19	164:11	240:7,12	directions
158:9,13	103:21	198:24	273:23	83:4 221:5
160:13	178:18	200:4,18	281:3	directly
163:12	287:13	202:13	difficult	155:10
165:4,18	Developer's	Dhilo 27:13	31:24	225:11
167:14	15:5 20:12	dialogue	33:24	director
174:12	30:20 31:4	149:3	79:6,7	60:2 104:1
175:9,21	35:9 66:4	diamond	90:13	109:4
178:8,24	68:17 76:1	180:15	91:22	222:11
180:3,22,2	82:13	183:4	143:6	289:5
5 181:14	102:5	232:2	241:24	directors
182:8	106:2	233:22	245:19	51:20
183:6,25	192:23	235:22	247:6,12	108:25
186:19	218:4	281:2	280:13	dirt 83:2
188:13	228:22	Diavik 48:17	290:12	disadvantage
189:3,12	233:6	86:16	difficulty	d 63:22
190:22	248:17	dictate	91:17	
192:19	264:15	250:25	diffuser	
193:1	274:14	dictates	10:12	
197:1	283:23		16:14	
199:17	developing			
203:14,24				
212:18				

disagree 20:16 94:7	110:25 112:8 113:10 115:21,24 116:9,12 118:5,6 140:9 158:20 179:6 207:10 216:24 233:7 246:22 253:10,12	10:3 135:25 152:20 153:7,15 163:25 185:11 211:25 283:10 284:6,8,10	168:8,13 170:24,25 171:3,6 172:13 173:14 176:4 188:2 197:13 198:1 224:7,21 230:5 232:15 233:16 235:15 237:22 259:12 268:18 283:9 290:17	doubly 45:12 doubt 49:19,20 190:3 Douglas 290:7 291:18 downplay 116:8 downstream 280:6 282:16 downwind 280:7 282:16 dozens 51:24 DPRA 4:5 Dr 7:12 33:6,11,16 ,19,20 37:23 38:6,7,19, 25 39:2,4,8,1 5 40:7 41:16 87:16 89:11,13 104:4 122:25 137:5 204:3 270:19 271:1,25 284:5 288:24 draft 245:11 drafts 50:16 232:11,13 236:18 drain 21:17 dramatic 229:21 230:17 draw 18:22 31:2 228:15 drive 46:2
disagrees 188:4		documentatio n 185:5		
disappear 217:1		documents 9:6 12:15 15:4,18 112:21 152:16 210:22 264:23 270:8 275:1		
disciplines 129:6	dispel 121:17	Dogrib 59:2	Donihee 2:10 12:1,2,3,7 13:4 14:12,21,2 2 16:3,24,25 17:6,8,9,1 0,18 41:23 42:7,8 152:13,14 153:3,4 154:5,6 174:5 176:12,13 177:4,5 187:17,18 189:5 190:6,7 191:2,3 250:1 253:17 266:3,4,5 267:3,4 270:12 273:17,18 274:9 275:22,25 276:20,23 283:6,8 284:12,13, 25 288:23	
disclosed 26:22	dispute 115:8 235:12 238:2 247:1	dol 51:24		
disclosure 114:11	disputes 69:19 115:10	dollars 60:25 63:8 125:7 260:13		
disconcertin g 83:11	disrespect 193:5	done 13:5,7,14 18:1 26:20 28:25 29:13,23 32:21 36:23 40:5 41:11,13,1 9 43:12 44:25 45:9,21 46:17 48:11 50:9,18 53:10,13 61:2 79:11 82:25 83:17 90:10 91:5,13 92:1 96:7 110:8 124:4 137:17,20 138:2		
discuss 28:2 29:21 42:10 60:16 92:18 149:18 155:21 204:5	disruptions 70:5			
discussed 110:23 181:19 250:20 284:7	distinction 225:18			
discussion 7:6 41:8 58:25 60:8 91:6,11 92:17,22 93:2,7,25 94:1 101:19 104:22 106:22 112:18 115:12 136:14 200:22 204:23 206:14,16 232:11 256:8,11 258:18 263:1 283:11	dithered 217:12			
	divergent 218:22			
	diverting 22:11,13			
	division 145:5			
	divisions 225:9 226:5 227:18			
	divulge 97:24			
	D'Nilo 88:9			
	doctors 35:4		door 33:4	
discussions	document		dose 35:20	

47:23	104:22	258:10	183:20	182:18,19
48:18	107:1	280:21	210:14,20	183:1
85:14	111:22	early 34:17	212:6	184:19
121:23	117:7	134:18	249:3	244:22
195:2	121:7	229:15	261:11	246:6
driving	125:16	285:1	effectively	247:20,21
83:9,12	140:20	earmarked	124:13	248:17
drop 51:13	147:23	124:2	effectiveness	249:21
dry 171:5	148:18	ears 207:15	s 216:9	264:2,5
Drybone's	154:17	easier 90:15	224:25	289:6
223:11	161:6	140:24	280:23,25	eight 20:5
Drygeese	168:5	easiest	effects	91:18
288:1	213:23	151:6	157:25	121:4
dual 278:7	217:5	easily 62:10	185:3,6,9,	232:13
Dubois	225:23	141:3	10 189:22	eighty 36:10
126:23,24	251:2	easy 86:18	275:5	EIR 79:15
due 60:14	dust 85:20	208:22	efficiently	80:4,9
62:24	155:8	245:21	165:3	either 41:24
63:12,22	duty 57:16	291:1	169:10	42:5 54:17
172:9	90:6,7	ebbs 229:24	Effluent	244:18
216:8	Dyer 3:4 9:4	ECATI 219:23	9:10	257:24
287:10	12:21 13:1	economic	15:11,23	261:16
Dumpee 90:16	104:1,8	70:5 93:23	effort	Ekati 48:17
Duncan 4:15	106:19	118:15	138:20	Elder 37:25
124:4	205:3	214:11	177:20	72:6,8,21
254:5,25	<hr/>	225:13	215:18	285:6
255:2,4,14	E	Ed 4:11 72:8	218:7	291:5
,19 263:12	EA 1:7 47:10	edge 52:6	247:25	elderly
265:1	48:14	Edjericon	248:2	83:23
266:17,25	173:9	1:11 160:6	efforts	Elders
268:22,23	190:17,20	Edmonton	165:5	287:15
Duncan's	225:3,6	57:24	Ehrlich 2:7	288:1
254:23	226:11	230:18	6:5 38:5	element
duplication	277:2	254:6	39:7	126:6
114:21	286:6,8	educated	78:4,5	elements
159:24	Eagle 289:25	195:13	165:1,22,2	172:18,21
163:4	earlier	Edward 5:2	3 166:13	eliminate
218:6,10	17:14	287:23	167:5,11	24:4
234:1	31:10	EEM 157:24	168:4,17,2	eloquently
duration	67:14	effect 68:18	1,25	277:14
237:17	80:17	155:25	169:8,9,14	else 36:18
during 47:10	81:23	207:16	,18,19	96:16
54:17 56:8	109:9	effective	170:1,16	99:10
60:19	125:9	124:19	172:8	153:3
66:14	192:7	182:2	174:1,6	247:16
71:25	202:24		175:8	elsewhere
72:10 96:9	213:25		176:16	37:4
102:13	218:20		177:11	
	224:10		180:8	
	236:18		181:11	
	239:17,23			

Elsie 290:2	encounter	116:3,8,13	59:2,4	283:12
EMAC 148:3	99:25	120:6	enjoy 150:3	entity
149:3	100:1	121:17	Enns 2:11	265:20,22,23
emerge	encourage	122:17,21	185:1,2	entomb 68:22
206:20	37:19 40:2	126:2	288:25	environment
207:23	282:6,7,9	137:16,21	ENR 3:4	5:15
emerged 30:2	encouraged	260:21	222:11	13:10,16
167:17	177:22	261:12	enshrined	77:6,11
emergency	206:8	275:15	30:3,19	104:2
58:2 62:9	encouraging	276:7	218:21	107:19,21
emerging	115:18	engaging	enshrining	111:21
136:3,11	endeavour	111:2	227:17	124:14
167:22	119:2	154:22	ensure 69:22	150:1
emphasised	endorse 72:3	207:9	70:23 81:1	157:9,12,13,23 158:3
81:23	280:22	Enge 4:8,9	103:6	180:22
emphasize	endowment	67:21	108:7,21	188:25
208:20	259:14	68:3,12	115:9	198:24
employed	262:16	75:6 76:5	124:13,17	200:4,5
14:15	265:11,21	77:3 99:24	126:12	201:9,21
employees	enemies	100:15	139:13,18	205:3
229:6	35:20	101:2,16,17	150:1	220:11
employment	energy 211:1	104:19,20	155:3	243:15,17
13:22	278:16	147:15,16	224:23	244:10,12
14:19	enforce	148:17	234:15	263:17
empty 21:24	70:22	149:21,23	ensures	273:7
EMS 49:11	98:14	151:1,17	227:16	288:9
52:17	135:1	154:16,17	ensuring	environmenta
53:16	227:12	156:6,7	70:6	l 1:2,6
54:11	enforceable	157:5	115:16	9:19 18:24
120:24	79:21	263:15	139:24	20:6 43:2
140:9	98:23	engineer	197:12,23,24 207:19	47:25
157:16	215:12	111:6	enter 155:9	55:13
160:7	219:3	engineering	entered 63:4	73:24
161:2,7,20	224:1	44:19	268:14	74:4,15
162:7	237:7	143:9,15,2	entering	91:20
222:20	enforcing	3 144:11	239:7	106:25
enable 69:14	235:16	145:20	enterprise	108:3
199:11	engage	146:1,11,12,22 147:5	55:3	110:21
enabled	80:20,25	166:15	entertain	111:13,17,20 112:11
281:20	139:6,19	279:21	216:14	113:2,15,21 114:7
enacted	140:2	engineers	217:7	115:4
222:23	155:22	20:21	entirety	126:11
encompasses	engaged	43:18	250:13	131:16
193:9	80:19	45:19	entitled	134:24
encompassing	122:10,11	52:25	10:4	135:15
193:25	engagement	145:23	153:15	160:5
	10:9	147:1,6		163:1,7
	113:19,21	215:17		177:14
		English		

178:6	Erika 2:25	et 15:2	290:12	examination
180:15	erodes 52:9	34:21 35:5		78:19
183:3		36:7	everyone	example
207:5	especially	evaluate	44:17,22,2	55:23 58:8
208:17,24	105:10	55:11	4 45:23	83:1 84:15
209:24	121:7	evaluated	194:7	85:21
210:5,25	288:22	256:5	244:4	96:13
214:12	289:8,22	evaluating	247:23	163:10
215:23	essence	45:8 46:3	283:18	186:9
219:2,24	255:11	evaluation	Everyone's	219:5
220:1,6,15	265:12	10:14	105:3	256:17
,20 221:25	essential	78:19	everything	257:25
223:2,4	45:1 52:9	171:1	36:18 37:2	258:3,8
224:10	86:3	175:13	42:1,16	269:4,6,24
225:12	215:24	205:22	49:15	examples
227:10	essentially	259:1	122:1	86:17
228:13,15	197:16	276:13	162:10	111:16
229:22	209:25	evaluations	171:11	135:12,19
232:14	establish	109:7	209:16	136:3
233:11,18,	69:10	272:13	213:19	138:14
22	113:2,5	evaporate	285:21	179:25
234:14,17,	129:5	230:8	291:3	181:25
25	178:6	Evelyn	Evesnick	183:17
235:7,21,2	established	289:23	290:3	185:3,13
5 236:5,11	54:4 61:17	evening	evidence	207:22
237:3,5	114:5	253:24	39:9 188:6	254:17
239:16	122:18	event 70:5	212:4	257:1,3,6,
240:3,20	161:19	137:12	225:25	11
245:11	162:11	287:22,25	229:3	258:6,25
248:5,19,2	224:4	events 30:10	232:4	268:15
4 250:8	establishes	eventually	240:22	excavate
269:10	115:17	162:8	247:23	24:1
278:5,23	establishing	217:9,14	evident	excel 220:3
279:7	111:5	everybody	71:14	excellent
280:20,24	112:9	21:13	evolve	112:13
283:13	113:9	33:24	182:10	except 36:19
284:20	establishmen	35:22	evolves	51:24
285:23	t 9:19	65:24	182:9	55:25
287:7	48:19 70:8	123:18	evolving	109:16
environments	115:14	146:3	139:4	110:14
37:1	224:19	196:3	141:15	exceptional
envisiage	283:12	235:5	exact 47:3	187:4
207:8	284:19	282:18	130:15	exchange
envision	estimate	283:21	exactly 45:7	54:8
243:19	166:9	285:14	46:5	excited
epidemiology	estimated	everybody's	82:3,9	20:21
38:15	70:4 166:7	11:16	105:11	excuse 14:12
equipment	estimation	196:1,7	147:3	60:5 65:7
290:15	167:4		188:10	96:23
Eric 4:10			253:7	
243:12				

186:15	257:18	expert	277:14	facility
ex-director	exists 36:25	187:13	extend 71:12	62:11
248:23	45:5,12	202:7	123:1	289:25
execute	54:15 56:3	249:25	150:6	facing 39:24
197:16,21	57:7 139:7	261:14	extended	fact 47:22
execution	184:6	281:9	41:16	55:25
45:15	exp 223:23	expertise	extensive	67:10
Executive	expand	38:22	38:15	95:17 99:4
289:5	142:25	128:15	155:20	201:8
exempt	144:24	143:9,15	205:22	268:25
226:11	expanded	144:21	211:23	278:7
exempted	70:9	197:20	248:20	283:16,23
226:10	117:10	experts	extensively	284:9
exercise	274:25	33:23 36:4	121:3	factor 70:9
98:19	expect 44:8	41:9 71:6	179:22	factors
exhaustive	60:25 61:4	143:22	204:4	71:18
116:21	159:6	164:24	extent	208:20
172:20	170:11,12	261:16,17	117:11,24	facts 192:15
182:14	174:9	279:3	121:23	fail 209:22
exhibit 9:2	175:11	287:13	external	failing
12:16,20,2	183:11	explain	38:10	223:24
5	202:13	44:18	140:9	fails 36:20
15:7,16,18	expected	58:13	243:20	failure
41:24	160:10	121:20,21	extra 199:10	40:17
232:12	171:8	192:19	201:7	67:17
273:24	173:8	195:19	extraordinar	220:21
274:1	202:25	198:5	y 246:17	failures
284:15,18	227:1	222:14	extremely	70:11
Exhibits 7:3	expenditures	explained	38:19	fair 25:23
9:1	108:7	explaining	54:14	103:6
exist 36:25	125:11,15	222:15	271:14	166:18,19
57:3 58:15	165:8	explains	eye 37:23	169:5
70:3 115:7	expenses	162:2	eyes 207:15	221:15
210:3,7,8	62:4	explicitly		233:25
262:6	265:14	220:23		246:21
269:3	experience	exploration	<hr/> F <hr/>	Fairburn
existed	47:18 48:1	223:23	face 282:15	5:17
225:18	144:1,21	explore	faced 280:12	fairly 141:7
existence	219:17,19	112:9	facilitate	179:22
208:2,3	223:10	exposed	54:5	195:12
210:8	229:20	51:15	69:12,18	290:4
existing	230:16	express	211:21	faith 45:20
107:10	248:21	154:25	facilitator	53:14
110:18	280:10	expressed	246:14	98:13,18
118:13	experienced	81:17	248:22	fall 31:6
124:19	144:5,18	185:5	facilities	202:10
136:9	experiences	207:22	61:14	falls 37:2
	39:17			

60:4	120:10	file	260:10	99:25
familiar	feedback	12:16,19	financial	100:1
41:17	141:23	222:12	58:5	104:13
42:20	247:7	223:11	60:3,13	107:16
111:12	feeders	229:2	75:23	111:22
135:16	72:15	273:24	149:7	120:18
185:16,17	feel 26:14	284:15	226:3	127:24
232:3	43:10	287:1	233:15	142:5
257:9	81:13	filed	256:20,21	151:12,18
265:10	83:16 84:2	15:6,15	261:16	155:23
266:22	86:14	26:17	financially	175:16
278:5	107:2	28:11,18	63:22	193:19
281:25	173:24	29:17	fine 89:18	203:3
familiarity	181:9	97:19	fingernails	207:11
38:15	feels 45:20	153:7,8	155:6	208:21
family 44:10	fees 70:4	212:6	finish 11:18	213:20
fantastic	fellow	254:24	170:5,6	214:3
269:6	277:14	274:12	211:13	217:17
Faro 266:8	felt 179:19	283:17	finished	222:20
faster 86:17	212:13	286:13	102:8	224:13
FCSA 124:1	fence 22:18	files 12:12	171:11	227:6
200:7	fences 22:20	48:15	190:17	242:6,7,9,
202:5,16	Ferguson	fill 21:23	253:2	24 243:10
fear 24:23	4:25	22:22,23	261:2	251:2
25:2	fiction	film 29:2	Finland 29:3	254:10
February 9:3	192:9,11,1	fin 260:2	fire 61:25	257:8
12:20,25	2,18,20	final 36:19	62:9 118:5	259:24
212:7	fields	37:7 89:3	firewalls	260:6
federal	143:23	98:11	226:5	264:6
61:7,13	fifteen	99:15	firm 234:4	272:1
63:3	111:22	100:4,24,2	firmly	273:20,25
64:3,12	228:5	5 101:5	179:13	277:4
66:16	251:3	146:18	first 13:9	285:8
95:16	fifty 194:21	163:12	20:17	287:14,24
107:11,25	251:3	170:4	25:21	288:7
108:10	fifty-seven	172:25	27:12 34:2	first-hand
123:22	275:1	202:22	42:18	71:5
146:25	fighting	203:14	49:23 54:7	Firthhagen
147:2	208:3	210:18	55:7 57:13	289:16
184:12	figure 38:18	266:2	59:11	fiscal 124:2
197:11	92:18	286:17	73:11,18	198:21
200:6	132:12	finalized	75:1	fish 34:21
201:22	137:25	172:3	77:7,16	72:15
202:1	141:10	finally	78:1,10	83:20,22,2
254:12	171:19	49:21	81:19	4 84:15
262:6,11	230:14	194:8	87:12	85:2,3,5,6
269:12		258:8	93:15	,21 158:25
287:9		finance	95:18 96:8	159:1
Federation				185:7
				272:17
				Fisheries
				77:14,20

158:8,11	240:14	290:13	forth 83:9	196:3
159:21	fly-in 51:23	force 185:17	100:2	204:22
163:10	focus 25:17	223:17	212:4	207:10
164:3,10	42:18	forced 44:17	247:24	217:7
200:20	116:9	50:13	fortunate	221:2
201:10,20	123:6	215:3	104:8	224:5,7
202:11	139:5	258:19	144:20	225:2
244:14,16	206:15	foremost	Fortune	233:10
263:22,23	211:1	81:19	42:24 47:3	234:12,23
288:9	224:8	foresee	212:7	236:10,13,24
fit 160:3	240:17	250:11	forty 35:15	239:4,10
164:16	focussed	foreseeable	106:4	240:4
190:2	210:21	202:18	194:11	273:6
196:18	250:14	forever	forum 179:7	285:15
266:12	focussing	19:1,17	253:11	286:9
fits 142:7	208:14	21:7,21	forums 40:3	forwarding
five 33:22	folks	22:21 26:4	154:24	287:8
43:7 69:3	19:6,22	36:14	forward	fought
71:20	24:16 25:6	57:10	11:11	213:24
111:23	29:2 31:14	183:20	31:17,21	215:22
133:14	32:2 43:10	237:18	32:1,9	foundational
142:20	110:4	254:12	36:16 51:6	112:21
202:6	111:11	forewarned	55:9 56:18	fourth
257:1	116:23	87:23	61:11	258:8,9
276:3	120:13	form 61:20	68:24	261:8
fixed 83:7	121:8,13,18	95:20	71:15	fox 277:17
fixing 123:7	122:2,6,9	161:21	78:16	frame 30:9
fix-up 158:3	141:12,23	162:14,19	79:21	116:11
flashing	145:6,12	233:18	91:21,22	framework
123:9	146:5	260:18	92:10	48:17 55:9
flatter	150:24	274:25	100:10	79:20
21:19	229:19	formal	111:1,2	124:3
flexibility	231:25	161:21	118:12	217:24
182:7	232:24	174:2	119:21	218:2,16
251:9	238:25	formalize	120:15	219:11
264:7	240:10	234:9,11	121:1	France 4:16
flexible	241:9	formalized	122:18	26:24
214:15	followup	54:9	123:13	29:25
flexibly	156:7	formed 210:2	126:14	30:17
82:12	follow-up	former 38:14	128:24	Francis 5:10
flip 259:7	88:5	222:7	129:1,7	174:23,24
flow 49:13	145:18	forms 36:25	131:8	Franco 2:13
58:10	158:15	37:1	132:6	288:25
flowing	190:8,10	formula	134:16	frank 114:11
260:2	food 36:7	62:19	137:9,23	179:6
flows 229:24	290:17	Fort 288:16	139:13	253:9
fly 51:12	foot 240:7		143:1	frankly
	Football		161:15	
			162:3,15,18	
			195:5	

141:25	210:24	260:2,12,1	11,14,17	138:17
171:24	frustration	3 261:16	258:5	gaining
181:16	278:3	262:4,22	259:3,21	207:18
197:21	fulfil 57:16	265:3,12,2	260:9	208:6
282:4	132:13	1	262:7,8	game 185:7
Fred 5:5	134:8	fundamental	265:5,8,17	gap 71:13
freedom 50:8	156:25	37:21	,25	gaps 208:25
220:14	fulfill	122:21	268:13,17	238:17
Freeman 5:6	223:17	funded	269:14	gatekeeper
freeze 21:7	fulfilled	204:14	funds 28:8	25:7
26:4	219:15	254:9	100:16	gather 185:8
166:15	full	257:23	101:9	Gault 5:11
225:24	48:11,14	262:13,15	108:7	Gavin 3:6
226:9,20	100:8	funding	132:8	Gee 230:3
229:4,11	103:6	8:4,8,11,1	258:9,20	general
freezing	113:6	6 26:8	260:6	50:11
10:12 19:3	114:11,14	28:5,15	262:16	76:19
172:21	124:23	40:17	FUNNING	107:18
175:12	129:20	54:10 65:5	205:18	108:25
276:11	133:5	67:17,24	228:8	109:4
French	148:9	71:10	254:2	173:21
127:1,3	169:11	106:4,10	funny 83:11	200:16
freshwater	179:6	108:11	furiously	243:21
85:12	262:21	123:17,21,	289:10	248:6,21
Friday 13:7	full-time	24	Furthermore	249:6
37:24	14:18	124:6,11,1	69:18	250:8
friend 89:21	fully 11:16	9,21	future	272:12
friendly	105:9	125:2,18	14:11,13	280:23,24
57:9	117:14	126:2	22:16 26:9	generally
front 58:3	218:3,18	148:3	27:24	20:20
136:20	fulsomeness	149:4	28:9,21	55:18
212:4	138:12	158:5	29:5 30:11	182:4
288:13	function	169:20,22	80:23	219:20
frozen 22:16	47:12	183:20	81:2,7	223:5
23:8,17	162:3,14,1	184:10,13	83:15 90:7	232:4
43:22,25	9 210:10	196:7,9	126:19	279:13
44:19	261:4	199:10	155:13	281:15
49:16	functions	200:4,7,14	184:10,16	generations
68:21	134:9	201:7	195:5	26:9 28:21
70:15	182:10	202:4,6,16	202:18	29:5 90:7
128:23	208:16	,25	214:15,19	gentleman
171:5	fund	208:4,6	216:17	74:1
204:17	69:12,25	210:11,16	238:22	genuinely
214:22,23	70:1,3,8,1	235:3	262:21	144:6
215:16	2 101:12	237:23	fuzzier 22:9	geographical
fruitful	218:8	238:5	fuzzy 147:18	117:8,14
119:2	252:21	247:4	148:19	geologists
frustrating	258:1,14	252:21		
	259:21,25	254:11		
		255:22		
		257:2,3,8,		

145:24	,17 211:18	glean 206:23	209:1	124:2
geophysicist	233:4	global	government	233:21
s 145:24	248:22	277:20	26:21	256:17
get-go 43:17	254:22	GMAC 54:11	28:10,14	265:7
gets 55:10	255:25	111:1	30:12	governs
getting	256:7,17	120:19	31:15 58:9	109:23
35:20	257:9,19	GNWT 2:24	61:7,14	grade 21:17
40:15	259:5,20	3:4 35:4	62:21 63:3	126:25
54:22	262:22	61:24	64:1,3,5,1	graders
83:22	266:22	71:23	2 67:4	21:18
86:16	271:17	87:25	69:16	gradual
182:21	277:1	88:11	87:13	125:14
199:10	278:18	89:12	107:13	grants 76:24
224:7	280:7	104:1,11	109:5	graphic
231:12	283:13	126:3	110:24	125:6
268:25	284:21	145:10	114:2	grapple
Giant 1:5	285:11	155:3	124:6	206:25
9:21 10:6	290:23	203:2,5,9,	125:24	gravel 83:8
19:2 27:6	Gilchrist	15,21	126:3,7	great 18:10
28:1,14,20	7:12	15,21	144:3,9,10	20:8 45:15
34:4 37:12	33:6,11,16	204:1,19	145:9	139:19
39:21 40:1	,19,20	205:4	146:25	171:25
54:1 66:6	37:23	243:21	147:2	173:13
68:22	38:6,7,20,	271:15	150:19	231:7
70:7,24	25	goal 34:20	197:12,14,	241:14,21
71:3 72:10	39:3,4,8,1	36:19	15,20	268:24
74:17	5 40:7	54:25	202:1	279:2
81:15 82:2	41:2,17	goals 47:20	233:16	greater
93:14	122:25	50:15	243:21	170:19,21
107:7,22	given 34:19	84:11	244:6	greatest
113:14	39:10	123:11,12	247:7,11,1	54:13
114:9	50:11	golden	7	Greenstone
117:17	108:18	278:20	256:13,15,	145:10
118:16	139:11	Golder 3:9	21	Greg 3:10
119:11,14	164:2	gone 31:17	262:6,11,2	gross 21:1
120:7,15	168:23	36:11	4 265:24	ground 21:10
121:14,23	169:9	166:25	268:14,18	169:13
126:9	185:5	228:17	269:11,12	179:14
142:11	189:21	232:20	271:3	194:4
144:16,22	262:10	234:10	272:5	198:11
153:18	gives 121:18	245:7,25	281:15,17	grounds
154:3,19	232:24	Gordon 4:21	282:3	61:12
155:20	giving 50:22	287:21	288:5	group 29:11
158:24	139:15	gotten 36:10	governments	39:18
177:24	166:24	gov 254:18	76:23	49:11
188:20	200:7	govern 110:7	95:17	53:19
190:19,24	255:10	governance	107:12	
192:13	glaciation	71:3	113:5	
193:9,13,2	30:7,11	108:19,24	115:22	
4	glad 127:11		232:18	
202:3,8,12	134:13		254:18	

74:6,16	196:10	229:6	46:9,18	150:4
100:7	guess 11:23	guiding	happen 44:3	hatched
110:22	16:10	113:8,25	45:11	112:9
112:8,13,1	20:16 46:8	guy 21:2	50:25	hate 279:13
7	65:15,17	guys 42:4	99:19	hats 19:13
113:11,24	75:12	43:19 50:4	194:7	95:20
115:25	78:14	106:5	198:17	190:14
120:24	80:3,4	127:11,12	223:18	haven't 13:7
121:5	88:14 90:5	195:24	235:16	79:18
130:5,23	94:6,8	196:20	289:12	83:21
132:12	95:6 97:16	222:5,6	happened	166:24
157:16,20	98:3,5		27:20	171:3
160:8	99:2,9		56:15 92:4	208:19
161:2,3,7,	100:1	<hr/>	93:20	269:7
13,20	127:5	<hr/>	124:16	having 43:10
162:7	130:3	hair 155:5	230:5	51:20 67:7
179:5	137:13	Halbern	249:7	83:13 88:1
180:2	190:10	79:10	happens	127:9
204:4,5	198:15	Halbert 3:13	51:24	133:4,11
232:9	199:7	half 59:17	260:8,16	150:4
236:15	203:3	83:8 88:2	280:6	169:2
246:14	204:6,8,11	137:16	happy 55:15	179:6
251:5	229:16,20	229:23	66:13	199:13
253:7,15	238:10	285:1	136:22	208:11
272:22	241:1	half-an-hour	harbour 82:2	218:23
283:23	245:1	264:7	hard 33:25	252:12
284:8	246:19	halfway	49:1,6	260:13
groups 71:9	259:11	11:23	50:22	261:22
97:21	266:6,7,14	Halifax 63:1	105:4,6,8	281:8
120:2,4	272:4	Hall 290:1	112:15	Hayden 2:5
123:11	283:22	hammering	195:1,20	289:6
160:3,10	guessing	94:25	209:10	head 84:17
162:16	36:6	hamper	239:1	122:4
182:1	guest 17:25	210:19	245:5	182:12
225:11	32:20,22	hampers	246:15	280:14
group's	33:6,15	210:14	247:12	headed
113:1	guidance	Hamre 91:1	285:21	229:16
grow 142:25	11:10 41:5	handle 12:4	hardest	heading
258:16	42:5	69:20	150:12	21:25
growing	186:17	Hanford	Hardisty	24:25
25:24	guide 85:9	26:19	1:16	277:20
142:23	109:17	27:18	87:4,5	health 9:4
guar 109:17	guideline	28:7,22	191:12,13	12:13,21
guarantee	9:8	29:16	252:5,6	13:1,11,12
71:17	15:10,21	30:16	267:18,19	33:13
210:16	guidelines	257:13	288:20	35:2,4,8,1
guaranteed	15:1 50:17	haphazard	Harper 150:7	5,17
202:7	53:4 69:17		Haruve 4:17	36:16,17,1
208:2,4	85:10,11		harvesting	9 37:6,8
guarantees	162:11			

41:10,19	36:21	280:9	231:9	260:20
68:18	46:14	286:10	233:7	highlight
70:11	47:4,6	290:22	249:1	116:22
71:22,23,2	49:18,19	hearings	268:19	highlights
4 72:2	52:18	66:14	282:21	217:20
75:8	54:2,3	140:21	helps 130:14	highly 144:4
80:18,21,2	55:6 56:9	141:9	170:16	258:13
4 81:2,15	63:14	206:9	176:22	285:24
82:9	66:14	Hearing's	195:25	highway
85:3,6	84:23	176:21	198:5	121:24
88:6,8,10,	94:21 98:8	hearsay	207:10	hill 119:24
12,19,24	99:16	192:21	hence 120:15	historical
109:22	100:3,6	hearts 25:19	Henry 3:17	138:19
124:14	107:2,5	Heather 3:24	Heritage	history
126:12	110:1,20	67:2	93:15	54:22
155:3,25	114:25	heavily	120:9	127:5
156:1	116:7,20,2	289:20	121:10	205:22
159:1	5 117:7,15	held 1:20	he's 33:10	211:17,23
185:10	119:8,15	49:25	38:14	hoc 210:1
186:12	120:23	113:10	40:14	Hockley 3:15
200:5	121:2	164:7	89:16	54:17
271:4,7,15	130:23	He'll 124:5	104:6	hold 32:19
,19,21	134:3,4	help 34:11	150:20	99:5,13
272:11,12,	137:14	54:5 55:4	174:21	226:5
13,18,19,2	139:22	106:21	193:20	228:3
2 273:3,8	140:3,13,2	110:5,9	222:11	holding
healthy	1 141:1	123:11	231:9	155:24
34:13	143:14	185:24	254:6,25	hole 226:19
hear 17:20	155:20,24	199:11	270:16	holes 230:12
33:8 46:4	172:24	206:19	hesitation	hollowing
59:1 69:2	178:9	215:7	249:4	52:2,8
71:5 92:8	218:14	231:10	Hey 44:25	home 204:21
120:20	221:18	236:2	84:20	homeowners
134:6,14	233:14,19	245:13,15	217:19	93:4
136:24	238:11	250:25	hi 14:8	honest
153:7	249:2,3	282:23	174:23	177:20
156:22	285:22,25	helped 96:4	hide 105:18	honesty
163:5	290:25	226:23	245:22	277:24
190:11,13	hearing 1:6	helpful	hierarchy	honour 16:21
206:1	21:3 52:15	38:19	160:10	honourable
241:16	67:16	105:20	high 49:7	132:19
255:13	72:12	131:13	61:1	150:6
277:23,24	78:15 79:2	132:21	120:25	honoured
281:12	88:3 96:15	141:23	125:15	219:6
heard 17:4	98:7 112:3	172:17	126:25	
19:24	138:1	177:6	229:25	
21:3,9	151:19	180:1	higher 55:2	
23:11	159:23	195:24	251:5	
24:13,22	217:5	204:22		
25:25	236:25			
27:8,17	238:23			
34:15,17	239:6			

hope 11:15	152:12	39:4 54:18	135:19	180:6
32:16 34:9	158:2		136:17	184:3
54:19 66:1	270:12	ice 14:24	137:8	187:12
105:20	273:17,19	55:23	139:16	188:11,12
119:1	276:21	118:1,7	179:9	189:20
122:14,23	283:6	id 92:20	184:7	199:16
123:2,7	houses	I'd 12:16,19	204:21	203:23
130:14	140:12	15:6,15	206:16	205:23
133:12	141:1	17:6	207:3	211:9
146:15	158:3	18:18,21	223:5	217:4,19
147:18	housework	33:1,14	254:21	229:21
179:25	283:9	66:18	268:18	245:16
194:15	Hubert 2:2	71:12 86:8	279:4	246:7
198:3,4	289:6	87:1	identificati	257:7
206:14	huge 186:6	104:3,9	on 272:21	264:24
278:16	Hull 3:9	107:9	identified	266:15
282:21	16:7,11	118:1	85:20	269:18
hoped 161:12	17:13	126:19	220:25	270:8
225:10	human 41:10	130:15	I'll 11:8	271:13,23
228:13	71:24 72:2	143:5	14:7 18:14	274:17,21
229:17	124:14	144:23	44:5 50:5	282:20
hopefully	185:10	174:2	58:14,17,1	283:25
26:14	272:12,18	196:5	8,19,22	illustrate
105:21	humans 71:14	198:10	59:18 66:8	125:8
122:11	Humble 4:20	202:24	80:15	illustrates
126:14	74:13,14	211:12	84:15 89:8	115:13
268:10	75:18	228:13	90:1,2	I'm 12:17
283:1	81:10,11	239:10	91:2 95:4	14:4 15:16
hopes	hundred 30:9	248:4	96:17	16:15,17
119:15,20	35:19	259:17	98:15	17:6
121:1,14	60:24	273:12,23	100:24	20:8,14
hoping 98:21	71:20	280:21,22	106:12,17	21:2 26:8
122:19	168:5	281:17	114:1	30:12
128:10	hundreds	282:6,7,9	116:1	32:19,22
157:16	27:2 56:14	283:20	120:4	37:22 38:3
171:23	hunt 44:10	idea 19:4	123:14	39:11
214:20	hunting	21:22	126:15	40:12
215:5	44:9,12	22:17,21	129:16	41:3,16,23
260:12	Hurst 4:5	23:1,16,24	131:3	42:15 43:3
270:17	Huskey	,25 72:18	132:25	44:6 47:2
291:3	290:14	85:5 91:8	136:21	50:20
hosted		100:16	137:7	51:17
118:18,19	I	101:12	138:13	52:12,17
135:20	I'm 86:19	137:18	142:8,9	53:1,25
hosting		159:24	151:1	54:19
287:21,25	Ian 7:12	178:12	153:22	58:7,21
hour 285:1	33:6,19,20	207:12,17,	156:14,24	59:13 60:2
house 273:19		21 210:1	159:17	62:20
housekeeping		261:22	160:12,20	64:22
12:5 41:4		ideas 25:12	162:4	65:9,22
		91:10,21,2	165:17	66:1,12
		3 92:21	176:19	67:12 68:6
		96:11		

72:14,23	167:1	259:7	155:11	187:2,21
73:9,17	168:7,10	263:7,13	implement	188:17
74:7,11	169:6,14	266:11	113:20	189:18
75:16	170:17	267:7	134:25	192:17
76:11	171:7,10,1	268:12,21	226:19	197:4
77:5,14,22	2 173:3,9	269:18	implementati	211:1
78:8,21,24	176:22	270:17	on 58:1	212:14
80:13,16	177:12,13	271:6	71:24	215:20
81:3,5	178:23	274:20	109:18	221:11
82:16,20	180:11	277:12	112:12	222:16
84:1,7	182:23	278:5	114:6	253:6,14,1
85:10	183:10	280:3,5	115:7	9
87:3,7	185:16	282:22,23	125:12,16	256:10,19
89:5 93:5	186:19	283:17	126:10	257:20
94:19	187:18	285:4,5	163:9	260:5
96:13,16,2	188:6,7,18	287:18	165:24	262:1
4 97:25	189:11	291:5	166:6,10	285:17
98:2	190:16	IMA 69:18,24	233:23	importantly
100:17,25	191:5,6,9	70:22 71:5	248:24	51:9
101:7	192:25	imagine 89:8	281:21	224:25
103:20	193:10,11	209:1	implemented	236:4
105:6	195:14,16	immediate	44:23 59:8	290:10
106:2	197:1	139:24	71:25	imprecise
111:11	198:23	251:7	114:20	47:24
116:23,24	199:9	immersion	223:13	impressed
119:7	201:12	127:1,3	implementing	151:15
122:2,3	203:21	impact 1:3	114:16	impressive
126:24,25	206:6	79:16	188:25	211:25
127:15,23	211:3,16	88:16,17,1	implements	improve 69:3
128:9,13,1	213:3	9,25	113:15	85:2 117:3
8 130:3	215:5	188:24	implications	188:24
132:3,9,16	216:5	220:7,8	277:19	improved
133:12,18	217:18	224:10,14	important	115:19
134:13,15	219:24	240:21	20:11	improvement
137:21,25	222:9,11,1	271:20	33:23	264:14
138:4	7	272:17	34:24	improvements
142:14,16	228:2,3,16	290:24	38:12	61:2,3
143:8,17	231:23	impacts	51:23	64:9 65:19
145:19	237:13	42:25	52:18 56:5	69:5
147:3	239:11	54:23	96:16	improving
148:15	241:3,4,6,	80:23 82:9	110:4	214:11
149:5,6,9	8,9,12	187:23	112:3,20	INAC 204:1
150:13,16,	242:3,7,14	188:1	123:18	218:7
19	,18,23	189:8	124:20	219:9
151:1,14	244:6,13,1	220:20	132:11,22	226:1
152:24	9,24	222:24	133:22	227:18
154:10,12	246:23	223:2,7	135:9,21	inappropriat
155:15	248:14	227:9	150:15	e 166:24
156:24	249:9,10,1	273:3	178:13	
157:12	7,18,19	imperative	179:12	
160:16	250:4,17	71:10	180:3	
162:17,18	252:11,16			
163:15	253:22			
164:20,23	256:2,23			

incidences 124:15	incorporate 100:4	25:20 69:7,9	97:22 273:6	114:12 139:17
incidents 227:8	116:7,20 118:11	70:17 74:4 94:23	indicated 12:11 57:1	155:4,13 164:12
include 93:2 98:9	121:14 136:19	98:10 99:14	63:15 98:7 112:24	172:17 173:14
113:16 155:12	139:7 236:21	108:3 110:12,15	173:16 274:10	184:14 185:12
170:5 209:6	incorporated 75:21	111:5 115:3	275:9	189:22 199:20
227:20 265:16	81:21 82:12	128:13,21, 25 129:5	indicating 33:7	207:18 210:20
included 18:25 95:3	164:5 203:16	167:24 168:1,14	221:22 indication	225:17 235:6
162:10 217:24	218:1 incorporates	178:2,12 180:17	176:17 186:5	254:25 275:2,4
260:22	117:13	183:3 203:21	217:13 237:13	279:20 informative
includes 26:6 40:16	incorrect 221:8	204:13 206:8	indigenous 100:7	124:8 informed
54:25 55:16,20	increase 113:18	207:2,24 208:13,16	individual 97:24	136:15 209:4
108:25 109:3	147:21 148:21	210:5,24 216:7,14,1	136:12 206:23	249:5 255:7
125:14 185:19	231:13 increased	6,18 217:21,25	individuals 195:13	informing 163:8
186:16	69:23 214:12	218:17 219:19	272:23	184:9 infrastructure
including 10:11	increasing 122:16	220:5,24 224:19	indulge 199:21	re 23:15 125:25
67:17,23 82:2 95:20	incredible 57:4 212:3	227:20 228:12,14, 20	industry 118:19	Ingraham 62:1
107:18 114:7,12,1	incredibly 185:20	232:18,23 234:15	227:3 281:7	inherited 44:1 48:24
9 136:9 185:15	212:16 indeed 107:1	243:19 244:3	ineffective 55:18	init 112:8 initial
203:5 218:25	indefinite 70:12	248:20,25 261:2,3,14	215:9 258:14,20	55:23 155:18
244:4 257:2,12,2	280:17 indefinitely	,17,18 280:19,25	inform 171:12	161:17 165:24
1 262:14 265:14,15	68:22 independe	independentl y 111:8	185:18 information	206:10 initially
273:4 275:16	216:15 independence	in-depth 38:16	15:9 47:11 49:9 50:3	260:11 initiatives
276:9 inclusive	207:21,25 208:6,8,12	211:7,14 Indian	55:8,10,17 56:19,20,2	124:7 input 113:20
172:20 179:20	224:24 227:17	174:20 indicate	57:6,7,14, 19,21	119:18 140:2
incomplete 35:9 55:18	independent	13:10 84:12	69:16 95:23	145:4
inconsistenc y 67:6				

161:9	169:9	intentions	38:9	investment
164:5	instructions	36:4 51:18	108:24	150:19
173:17,19	83:4	224:6	internally	238:17,19
201:25	instrument	229:15	108:20	invitation
202:14	164:14,17	241:20	122:11	149:22
inputting	256:20	inter 86:5	168:8	150:6
139:15	instruments	interact	193:24	invite 32:20
inquire 75:7	163:9	231:5	internationa	150:13,22
154:25	intake	interaction	l 257:4	155:25
inquiries	117:13	261:6	258:25	156:2
217:14	integrated	interdepende	interpret	involve
inquiry	203:17,18	nce 208:10	111:24	99:14
18:24	intelligent	interest	interpretati	168:18
inside 62:6	277:22	45:3,4	on 48:4	185:19
insights	279:5	94:6	114:2	209:5
115:1	intend 47:15	98:2,3	interpreters	involved
insisted	76:11	99:3	241:19	22:14
53:1	148:1	118:23	290:11	43:16
inspecting	149:2	126:8	interpretive	95:19,25
45:7	155:2	260:15	27:19	96:3
inspections	intended	265:13	28:22	120:25
227:21,22	94:7 103:1	282:2	interrupt	157:16
inspector	162:2	interested	65:9 86:6	169:22
45:2,5	177:16	56:18	interrupted	190:24
229:3	206:6	113:4	248:15	200:12
inspectors	278:21	115:21	intervene	202:17
225:13,22	intends	118:21	226:22	247:24
226:2,21	286:16	133:4,10,1	Interveners	248:23
227:11	intense	1 204:19	287:12	284:8
instance	33:22	268:13	intervening	involvement
53:2	125:15	282:17	102:18	71:8
181:25	intensive	interesting	intervention	147:24
223:11	125:10,11	29:24	s 220:4	148:2,3,24
271:20	138:20	150:17	introduce	211:18
instead	intensively	164:4	41:4	217:23
172:5	122:11	187:2	103:25	261:9
212:24	intent	260:25	126:21	involves
Institute	103:10,13	interfaces	254:5	207:13,14
28:11,19	155:12	139:14	255:2	IR 15:9,19
124:5	226:20	interim 85:9	introduction	55:25
254:6,16	intention	71:16	211:14	186:14
institution	118:9,20	intermittent	255:5	221:7
206:19,20	136:18	120:14	inventory	229:9
207:8	140:18	intermittent	27:7	IR-10 9:7
208:23,25	160:25	147:24	investing	IRs 49:10,21
instruction	183:8	148:24	238:22	56:23
	188:15	internal		221:6
				Island 72:9
				isn't 20:8

89:11	226:18	13:6,17	136:17	215:4
138:11	issues 38:16	15:9 18:17	137:11,19	218:23
183:20	45:16	20:11	138:9	219:20
188:3	46:22	22:7,21	139:3,4	220:13
208:8	48:18	24:11,12,1	140:9,18	223:21
219:3	54:12 55:1	4,16,20	141:7,15,1	224:1
220:21	60:13,14	25:4,5,23	6,17	226:2,22
269:17,20	67:23 84:1	28:15	142:6,25	227:10,13
ISO 36:21	85:2 88:19	30:16,23	143:5,12	228:10
53:1	93:23	31:3,11,23	144:8,14	229:8,14,2
isolation	95:24 96:3	,24 32:5	145:17,24	0,24
28:24	115:15,23	35:14	146:2,11,2	232:9,22
29:23	127:6,9	36:11,24	5 147:1	233:8,15,1
227:18	135:11	37:23	149:6	8,24,25
issuance	140:3	42:8,21,23	150:18	235:3,13
50:18	172:24	44:24,25	153:7,8	236:12
issue 13:16	178:20	45:3 46:18	155:5,11	237:4,6,7,
16:8 19:15	180:9,15	48:13	157:1	9,14
41:11	192:15	50:22,25	159:6,8	238:2,3,5,
50:8,21	209:22	51:12,19	160:24	6,18,21,22
66:7 67:8	214:2,17	52:9,18	161:12	239:3,18
68:14	218:23	53:24	163:14,15	240:2,14
78:18	225:13	54:18 57:4	164:4,6,8,	241:8
80:18	227:23	58:3 59:4	21 165:14	245:7,19,2
81:18 84:7	229:6	60:20	166:19,23	1 246:21
88:8 107:4	230:4,12	61:18	168:11	249:14
142:5	240:18	62:25	169:9	252:19
189:18	245:22	66:1,5,6	172:17,19,	253:6,14
192:14	246:25	67:12	20	254:3
196:15	247:4	68:24	175:9,23	255:1
203:10,20	249:15	73:21	176:2,20	256:10
204:10	261:19	79:6,7	177:16	258:17
205:6	275:9,10	80:1	180:1,3	259:9
206:8	280:15	81:12,13	181:20,21,	261:11
211:4	286:3	84:8,16	22 184:4,8	262:18
213:24	item 41:4	85:25	187:17	264:5,8,13
214:2	152:13	86:13	188:3,8,15	265:12
215:15	158:2	88:1,22	,17	266:21
216:22	219:8	90:25	189:2,18	268:23,24
217:3	253:2	92:14	193:24,25	269:6
222:14	270:13	93:11	194:14	272:4
223:19	273:17	95:14 96:2	195:1,6,7,	274:20
226:21,24	283:7	108:25	14,20,23	275:23,24
227:11,15	items 12:5	109:23	196:7	277:1
230:12,16	17:1	111:9	198:3,11	278:18,21
231:21,22	114:24	112:20	199:4,6,7,	279:13
236:7	176:15	124:20	19 200:9	280:13
238:10	275:16	125:1	203:17	281:20,23
250:7	it'll 41:6	127:1,3	206:25	282:4
254:10	52:16	128:9,21	208:22	283:11,18,
280:19	100:17	130:11	209:15	19,20
issued	it's 12:17	132:16,22	210:1	284:25
		134:1,13,2	211:1,24,2	285:12,13,
		3 135:21	5 212:8,9	17,18

290:10,25 291:1 I've 12:18 15:4 16:4 19:11 34:15 40:10 51:4 57:11 91:18 95:15,16,1 9 110:1 114:5 138:23 150:12 151:23 155:23 169:9 174:11 178:9 183:14 185:3 187:8 189:24 231:7,23 233:23 236:14 239:21 251:18 253:18 255:6 277:22 280:8 289:5 <hr/> J <hr/> J.C 289:16 Jackson 174:22,23 Jacque 4:2 James 1:15 87:8,10,22 89:4,18 191:15,17 251:25 252:1 267:21,23 270:14 271:10,12 273:12 288:18 January	134:18 219:7 Jason 4:3 Jean 126:23,24 Jeff 4:20 74:13,14 75:18 81:10,11 Joan 4:14 26:16 28:23 Joanna 2:16 66:3 87:15 89:10 103:22 106:11 123:14,15 128:11 132:5 133:19 135:6 138:8 143:21 145:1 148:7,12 150:11 151:11 160:14 166:5,19 167:9 168:2,15,1 9,24 169:3,12,1 6,24 179:3 181:1,15 184:1 186:24 188:14 189:16 190:23 197:2 199:18 203:15 242:16 252:23,24 253:4 263:11 283:3 Joanna's 193:23	job 26:20 29:17 45:21 51:19 91:2 137:25 150:7 151:6 193:24 216:4 220:14 241:21 246:17 281:14 288:11 290:12 jobs 210:16 Joe 280:5 289:22 Joel 289:23 John 1:13 2:10 3:9 12:1,3,7 13:4 14:12,22 16:3,25 17:2,4,9,1 0,19 39:14,15 42:8 89:22,23 90:20 92:8,23,25 94:3,5,19, 20 96:18,20 97:16 99:2 100:13,14 101:6 102:15,16 152:14 153:4 154:6 176:13 177:5 187:17,18 189:5 190:7 191:3,7,8 250:1 252:9,10 266:4,5 267:4,13,1	5 270:12 273:17,18 274:9 275:25 276:20 283:8 284:13 288:19 join 89:14 104:7 joined 104:8 106:19 joint 221:10 252:19 264:19 jointly 177:25 226:18 254:9 Jojo 230:11 Jo-Jo 56:15 57:22 Jonas 5:7 Jones 4:11 72:8 judgment 94:16 July 221:7 June 177:22 jurisdiction 81:14 98:20 156:18 jurisdiction s 146:15 Justice 3:24 4:2 67:3 227:18 <hr/> K <hr/> Karen 4:17 27:17 91:14 Karen's 91:15 Katherine	2:11,19 185:1,2 288:25 Kefalas 4:22 127:20 Kennard 3:11 Kenyon 4:15 254:6 255:4,19 265:1 266:17,25 268:22,23 Kevin 4:13 18:7,8 73:20,21 90:3,24,25 92:13,14 93:9,10,11 94:12,14 95:11,13,1 4 97:1,7,11 104:13 105:12,14, 15 128:8,9 129:10,11, 24 130:1,2,7, 17,22 131:11,12 132:18,19 134:12,13 137:2,3 141:21,22 143:4,5 145:16,17 146:19 147:9,10 195:10 228:9,10 243:6,25 244:1 246:9,11,1 2 254:3,4 255:5 280:22 Kevin's 40:25 140:7 253:5 key 18:23
--	---	---	---	---

19:21	labelling	289:16	168:3	223:14
58:25	91:5	lands 220:7	178:10	learn 30:25
108:5	Labour	land-use	202:10	127:7
109:18	120:10	229:11	212:12	140:10
119:16,17	Lace 154:19	Landusky	233:14	219:17
122:5	lack 42:19	258:12,23	241:15	learned 20:3
147:4	47:18 48:2	language	245:6	30:24
207:16,24	63:22	41:24	253:24	31:4,7
218:20	116:14	47:24	256:9	137:22
230:19	226:16	58:23	275:25	138:1,15,1
260:4,17,2	232:23	140:17,20,	276:21	6 183:16
4 262:25	lady 83:23	22 141:14	Lastly 70:17	217:9
Khouri 3:7	290:1,6	218:24,25	lasts 27:2	learning
kicked	Lagrely 91:1	226:13	late 33:5	111:10
269:13	Lagrely-	267:20	130:4	learnt
kidding	Hamre	large	lately 83:23	151:19
160:16	92:15	63:13,19	later 25:12	285:14
191:9	laid 51:3	115:16	42:5 47:16	least 19:9
kinds 19:13	68:1	119:24	87:17	20:14
33:24	220:22	121:20	100:17	63:17
35:24	lak 261:9	122:7,8	104:7	91:10,24
280:14	Lake 56:15	202:2,8	147:21	95:4
KINNEY	57:22	281:5,10	148:21	172:18
255:14	230:11	largely	180:11	174:10
knew 35:19	Lan 120:10	113:10	256:10	175:18
227:2	land 9:12	175:19	Latham 72:9	178:15
knowledge	15:12 16:1	258:14	law 69:13	195:13
25:24	26:7	259:13	205:21	223:25
38:16	27:16,25	266:18,19,	262:12	234:1
39:17 54:8	43:11,24	21	laws 229:17	236:25
55:1	44:3 47:7	larger	lawyer	280:15
138:17	50:17 53:4	172:18,21	253:17	leave 42:4
139:7	63:12	215:15	lawyers	58:19 66:8
143:12	64:9,11	last 16:3	227:19	96:17
185:24	65:19	20:22	lay 109:13	132:25
186:7	90:16	25:22	180:4	136:21
187:5	92:19	32:11 33:2	lead 115:19	137:7
238:17	123:7	58:8,21	230:25	180:14
known 90:16	150:5	59:18	leaders	196:20
118:10	162:11,17,	60:21	126:19	260:13
273:4	21 163:24	109:21	287:15	282:20
Kuyek 4:14	226:12,15	120:13	leadership	284:6
183:15	landfill	121:4	186:9	leaving
<hr/>	23:19 24:1	122:13	Leading	280:16
L	landowners	123:24	261:21	led 185:17
label 90:11	93:4	129:12	leads 37:15	legacy 39:21
labelled	Landry	133:2		40:1
283:19		137:16		193:9,13
		142:3		195:18
		156:22		

legal 61:13 78:6 164:24 180:16,17 206:15 208:1 209:23 232:25 244:21 249:24 253:16 258:18 288:22	183:16 206:23 217:9 let's 39:22 83:2 84:20 85:5 94:6 219:13 234:20 249:19 letter 53:7,9 112:25 115:13 133:8 177:22,23 178:5 179:4,11 202:11,14 205:8 212:22 217:20 219:7 221:10,13, 14,21 222:6,8 237:12 247:8 level 19:8 78:19 103:14 125:18 133:24 136:13 156:11 173:14 187:9 194:21 198:12 212:10 216:10 250:24 251:4,7 levels 23:14 90:5 136:13 169:20,21 185:20 186:16 levies 257:18 levy 61:6	liabilities 70:11 269:1 liability 203:16 256:15,16 liaisons 209:6 Library 27:9 licence 162:22 163:17 214:4 281:22 licencing 163:18 licensing 130:13 198:13 lie 245:14 lieu 60:17,18 61:5,8,15 62:19,20,2 3 63:2,4,7 64:8,15 65:19 76:18,24 life 57:11 85:13 117:1 150:3 235:18 250:24 280:11 282:22 lifestyle 193:25 273:4 light 102:6 123:9 201:8 268:16 lightly 134:2 lights 18:9 likely	109:15 limitation 53:6 123:4 139:10 limited 30:9 line 40:19 84:16,18 116:24 133:2 137:11 142:3 170:2 178:16 182:20 257:12 lines 18:23 105:20 232:16 283:4 link 178:16 linked 44:20 46:13 Lisa 3:4 5:16 9:4 12:21 13:1 104:1,4,8 106:19 204:7 205:3 Liske 5:12 list 7:3,4 9:1 10:1 12:8,9 16:4 116:21 172:6,20 182:14 242:4 263:8 266:7 listed 43:7 77:21 113:25 153:11 listen 54:23 56:1 57:8 58:9 122:4 202:23 288:3	listened 277:22 listening 141:24 159:25 little 18:9,12,15 ,19 20:21 22:9 27:17 33:5 35:22 47:13 52:21 83:7 88:21 119:8 121:25 123:8 127:7 130:3 143:6 144:24 160:1 164:20 165:6 168:3 170:15 176:23 178:9 192:12 195:8 207:1 221:23 224:13 228:19 229:21 233:25 238:10 240:14,16 241:4 249:18 266:7 274:20 280:20 live 72:9 88:23 145:20,21 193:22 196:4 223:25 231:5 280:6 lived 35:13 93:16
--	---	---	--	---

95:15	174:19	Lord's 11:9	285:14	1
156:9	175:24	Loretta 3:5	lots 36:21	Mainly
lives 34:25	177:19	Lorraine	121:11	277:15
35:14	187:6	290:7	122:6	maintain
living 34:12	199:6	291:18	198:20	21:20
35:14	204:14	lose 169:13	love 58:10	22:20
51:16	211:4	losing 15:16	93:6	147:22
282:15	216:25	lost 231:23	130:16	148:22
Livingstone	234:24	lot 21:25	loves 58:9	maintenance
174:21	254:19	24:21	83:24	19:2 24:4
246:14	275:24	25:11 28:6	low 220:21	70:3,10
248:3,19	285:12	29:1	lower 125:18	113:23
249:13	288:16	30:24,25	lowers 220:7	126:6
280:3,4,5	290:25	31:8 37:9	Lowman 5:16	165:25
282:22	longer	46:14	luck 79:18	167:7
283:1	254:19	52:12	280:18	199:1
loadings	282:18	53:10,14	lucky 212:2	201:16
12:13	longitudinal	55:6 56:2	227:8,10	265:15
local 43:16	71:25	58:5 59:1	Lukas 2:12	major 19:18
51:20 52:3	long-term	83:22 84:2	288:24	174:10
224:24	8:4,8,11,1	86:2,15	lunch 89:16	175:18
261:9,12	6 21:12	91:11,25	151:2,3	178:19,20
locally	27:14	96:11	152:6	246:24
144:11	28:5,17	114:22,23	154:17	273:7
located	29:19	115:1	lunchtime	makers 31:21
143:10	39:21	120:24	154:12	51:15
231:4,16	40:1,17	121:9	290:1	124:25
location	54:12 65:5	122:9	Luttmer	240:6
98:12	67:17,24	125:1	289:7	Makin 2:9
99:17	69:8	137:20	Mackenzie	289:7
117:12	70:6,10	141:24,25	1:2,10	man 241:20
118:5	71:24	151:19	9:11	279:2
locations	106:10	162:9	15:12,25	mana 58:16
9:17	113:22	170:17	107:12	manage 21:21
273:23	115:20	171:22,25	162:11	28:9
274:7	126:6	172:24	163:24	124:13
long 13:23	128:2	178:11,14	288:16	162:22
21:9	204:17	179:7	289:2	198:1
22:8,23	205:18	180:19	magic 43:20	288:11
26:7 33:12	228:8	184:7	mail 44:7,11	managed 49:2
39:24	238:9	195:11	main 62:7	265:11,12
42:15	252:20	198:3	245:9	management
57:13 69:7	254:2	208:11	257:8,17	7:10,15,19
71:21 84:8	269:8,15,1	218:23	259:3,10,1	,23 9:10
102:24	9,22	222:9		15:12,24
105:5	277:18	223:6		18:6 19:17
106:3	long-time	236:7,14		26:5,7,18
125:19	230:19	248:1		29:3
151:9	loophole	256:8		40:17,23
	226:16	264:8		
	loose 233:13	273:3		

46:13,16	225:9	matrixes	23:2,5,9,1	194:14
58:17	mandatory	162:9	2,21 24:2	195:24
59:24	200:11	matter 19:7	27:11	196:8
60:23		47:16	30:8,11	207:4,6,15
67:18	manner 68:24	54:24	34:16	247:22
68:11	124:19	57:18 86:8	37:20 47:5	248:1
72:12	Marc 6:4	134:1	52:20	261:15
85:18,22		188:4	56:14 60:7	265:10
108:23	March 112:7	227:12	63:18	meaning
110:22	212:14	250:21	65:10	279:15
111:6,14,1	232:8	287:4	75:14,16	meaningful
7	Margaret	matters 31:9	78:25 89:7	71:2,8
113:15,16,	5:17	57:17,18,2	94:7 117:8	122:20
21 114:8	marina	0 81:15	121:13	169:20,21
115:4	117:17	176:18	122:15	199:12
118:12		205:22	123:2	means 35:8
126:11	mark 2:21	211:24	132:7	47:19
214:15	3:2 39:21	215:15	136:8	53:3,4
215:13	106:23	maximize	143:17	69:15
226:1	marker 106:7	118:15	145:19	116:21
228:14	markers	may 18:15	156:14	119:23
230:17	28:25	27:8 31:3	163:18	150:4
234:17,18	Martin	35:6 38:24	176:15	185:8
235:7	290:13	54:12	198:23	meant
257:22,25	Masi 38:1	57:3,20	220:11	116:8,22
258:11	40:8 106:1	78:18	229:14,21	193:4
272:7	127:12	80:20 85:8	234:9	meantime
279:12,15	191:13,25	88:25	237:22	104:7
manager	251:17	103:12	270:17	measurable
142:16,18	252:3,6	106:12	Mayor 287:21	44:21
manages	267:19	112:17	McDump 90:16	measure
162:15		118:18	McGill 36:22	32:13,17
managing	mass 63:12	138:11,13,	McLennan 6:7	50:13
24:12	101:7	19 140:12	McPherson	52:13 59:7
144:19	194:17	158:12	5:23	70:15
239:18	massive	181:7	158:10,11	101:20
265:21	199:7	188:1	159:8,13,1	222:22
279:17	match 41:18	196:5	9 200:19	224:18
mandate	212:1	199:19	201:4,19	227:16
31:22 45:2		202:23	mean 39:22	233:1,3,9
69:8 70:23	material	214:18	43:6 82:4	239:15
113:9,12	23:22	215:2,18	116:13	282:8
157:1	26:16,17	223:16	132:9	measurement
187:10,19,	34:13 56:6	239:14	143:7	225:1
20 188:3,8	94:9	241:16	156:18	measures
197:19	228:18,20	272:17	164:8	53:12
199:2	materials	Mayans 101:6	177:20	69:13
225:5	12:8,12	maybe	184:4	71:19
235:2	155:14	21:13,15,2	187:19	79:20
mandates	matrices	2	192:11	92:9,16
196:13	161:9	22:1,12,21	193:10	

98:14,21	176:22	86:9 89:11	147:17	17:24
101:18	259:22	97:23,24	154:23	32:24
124:16,17	meeting	102:12	166:20	40:11
148:1	43:14	116:17,18	170:23	59:18
149:2	45:24	120:8	172:19	67:13
214:21	51:24	128:25	179:16	68:16,19
215:1	85:16,19	136:24	181:2,7	71:1 72:21
217:2	121:4	146:6	189:24	73:2,12,19
218:21	136:15	191:6	192:14	74:24 75:6
222:25	174:24	195:25	194:15	76:3,5
236:2	232:9	204:4,15	229:2,19	77:2,8,17
240:24	287:20	208:7	233:23	78:2,11
241:2	meetings	209:6	258:10,17	98:10
meat 44:9	33:23	230:19	268:11	99:8,14,23
255:9	49:11	250:4	Menzies 2:8	,25
256:3	52:20	288:15	289:8	101:1,2,15
mechanism	232:10	membership	Mercredi	,17 102:19
115:9	236:15	95:23	1:14 2:3	104:12,20
124:19	260:21	108:25	86:24,25	120:11
180:17,19	261:23	115:15	191:20,21	147:13,16
183:20	Mel 3:8	memo 9:3	251:21,22	148:2,15,1
223:17	melt 22:15	12:20,25	268:1,2	7,24,25
235:15	member	152:22	288:17	149:3,7,16
257:2,14,1	1:12,13,14	memorandum	289:6	,20,23
7 258:9	,15,16,17	9:13	mess 48:25	154:13,17
260:9	11:6	273:21	241:8	156:5,7
262:7	33:11,12	274:1	message	157:4
264:16	38:8,9	Memorial	52:13	243:9
265:4,5	39:12 71:4	290:1	57:21	263:14
mechanisms	78:9	mention	100:6	286:2
69:22	82:17,21	106:17	141:10	287:15
107:10,15	86:20,23	109:22	met 46:3	288:8
111:15	87:4,8	132:20	56:21	mic 102:14
124:6	89:21	151:5	57:22	156:24
126:12	102:15	mentioned	85:24	162:4
257:8	106:23	28:22	110:24	255:12
259:4,21	146:2	30:18	129:13	Michael 2:17
262:4,9	162:20	31:10	130:5	3:14 16:19
med 70:21	192:4	67:14 69:4	134:23	106:20
mediation	193:17	78:21 79:2	method 45:21	128:20
239:8	198:10	82:23 95:8	61:19	129:18
Medical	201:3	100:16,19	62:14 63:2	130:10,18
33:13	250:5	106:20	68:21	135:18,24,
38:14	251:12,16,	107:14	204:18	25
medicinal	21,25	114:6	214:22	146:10,24
185:7	252:5,9	117:22	methodology	160:18,20,
meet	270:14	124:1,10	63:24 64:5	22,23
120:17,19	272:6	125:9,20	266:24	162:1,8
141:9	277:12	138:23	Metis 4:8	173:11
167:3	members 33:2	145:8	11:20	174:13
	38:13 59:5	146:13		175:22
				176:19
				177:1

181:6,17	114:9	235:23	189:17	281:5,23,25
182:15	117:17	281:2,13	205:14	
middle	118:17	minimize	206:15	modelling
212:16	119:11,14	20:1 23:10	213:4	29:25
286:12	120:7,15	minimized	228:5	117:23
290:9	126:9	20:13	237:3	models
mighty	136:10	126:14	252:21	137:18
211:25	142:11,18	minimizing	264:8	140:17
Mike 5:10	144:16,22	20:24	miss 141:10	185:9
6:5	150:7	minimum	missed 52:20	281:25
14:7,8,9,1	153:19	98:23	156:21	modes 40:17
4 128:21	154:3,20	227:21	168:2	67:17
129:19	155:20	Mining 93:15	missing	modification
130:11	158:24	120:9	209:8	111:25
131:5	161:8	minister	mistake	moment
146:11,25	188:20	104:6	216:19	135:17
162:7	190:24	108:14,15,	mistakes	176:8
173:12	192:13	16,18	219:14,17	192:1
175:23	194:21	150:22	misunderstan	212:23
176:20	202:17	188:4	d 30:8	246:13
274:19,20	211:18	190:18	Mitchell	251:19
275:20,23	219:23	197:7	216:5	254:5
million 63:8	220:1	202:10,11,	Mitchell's	moments
70:4	233:4	15 219:8	216:19	193:12
125:1,22	248:22	237:13	mitigate	Monday 28:23
167:7	254:22	ministers	54:14	51:4
257:16	255:25	124:21	101:12	151:12
mind 54:13	256:7,17	150:14,15	272:24	188:11
71:19	257:10,20	287:9,10	mitigations	220:24
155:2	258:7,12,1	Minister's	79:13	225:1
177:15	5 259:5,20	222:8	80:7,8,10	money 24:21
200:20	261:7	minute 41:6	85:19 86:1	100:21
minds 196:8	262:23	54:2	214:9,10	108:8
mine 1:5	266:8,22	101:25	215:1	111:9
9:21 10:6	271:17	173:5	224:12	125:1,23
19:2,8	273:23	174:14	mix 22:3	165:11
20:19 27:6	277:1	189:19	253:16	192:2
28:14 34:4	278:18	212:15	mixed 45:2	201:23
39:21 40:1	280:7	213:9	225:5	238:12,18,
49:3 51:16	283:13	241:12	mixing 9:16	22
54:1 66:6	284:22	minutes	16:6,13	254:13,19
68:22	285:11	11:20 12:4	17:12,15	260:2
70:7,24	290:23	20:10	273:22	278:16
71:3 74:17	miner 172:13	32:23 41:7	274:6	monies 71:17
81:15 82:2	mineral	58:22	MMER 157:23	monitor
84:14,22,2	186:2	59:15,16	model 232:2	21:21
4 93:14	mines 48:12	65:6 67:19	266:13,18	69:8,24
107:7,23	180:15	106:4,6,7		72:1
109:22	183:4	138:9		112:10
110:3	222:3			
113:14	232:2			
	233:22			

185:7	228:12	58:15 66:1	281:20	municipality
201:15	234:17	72:4 87:17	285:15	61:22 63:5
monitored	235:8	102:7,9	moved 58:1	Murray 2:23
71:14	238:5	126:23	95:18	mutually
199:14	265:14	127:17	188:7	233:3
monitoring	269:22	128:1	movie 121:14	236:1
9:20 19:1	271:18	147:14,17	moving 25:14	MVEIRB 2:2
24:4 34:24	280:19,25	148:4,18	29:18	MVLWB 6:3
36:7,18	281:11,16	151:12,24	31:21 32:9	MVRMA 50:19
40:15	283:13	193:20	49:14 94:8	226:13,16,
46:2,4,7,1	284:20	272:3	122:18	23
2,16 67:15	monitorings	morphing	123:13	myself 46:24
68:1,14	142:21	139:4	134:15	120:25
69:10	monster	motivation	171:20	155:23
70:10	194:4	256:13	212:19	195:13,14
71:3,9,24	month	mouth 20:15	214:5	myth 194:14
83:16	120:6,19	move 11:11	217:2	195:14,15
85:15	121:6	25:7,8,13,	224:7	myths 121:17
88:16,22	monthly	16 32:1	225:2	193:8
94:24	120:18,19	44:3	234:12	
98:11	months	50:5,20	multi 257:3	
99:15	14:16,19	52:4,17	multifaceted	
109:19	54:16	71:14	231:16	<hr/> N <hr/>
112:1	121:4,8	78:16	multiple	Nahir 2:17
113:3	171:24	79:20	116:25	14:7,8,9,1
115:8	172:2	80:15 94:6	262:13	4 16:19
118:11	217:14	98:3,5	multiplicati	128:20,21
126:6	232:10	105:23	on 208:22	129:18,19
131:17,18,	236:17	122:4	multi-	130:10,11,
21	Montreal	128:24	stakeholde	18,23
157:15,17,	63:1	129:2,3,22	r 29:24	131:5
21,25	Montruil	133:1	multitude	146:10,11,
160:5	4:18	137:9,23	121:8	24,25
163:1,8	monuments	164:22	140:14	173:11,12
166:1	29:8	176:23	145:12	174:13
167:8	moor 82:6	196:3	multi-year	175:22,23
177:14	Morag 5:23	204:22	54:9 262:7	176:19,20
178:6	158:10,11	207:10	265:5	177:1
183:3	159:8,13,1	208:9	municipal	274:19,20
185:4,10,1	9 200:19	209:18	61:14,20,2	275:20,23
4,19	201:4,19	213:19	1	NAPEG 145:22
186:16	morning	214:15	62:5,6,7,9	146:6,14
189:9	11:4,8,15,	215:17,19	,23 63:9	narrow 85:25
203:20	17,19,24,2	217:7	65:21	193:9
204:17	5 13:7	224:5	66:16	Natasha 5:13
207:5,13,2	17:23	234:23	76:21,22	137:5
3 208:17	33:5,8,20	236:10,13,	municipaliti	205:20
209:4,25	37:24	24 237:19	es 61:6	206:3,4
210:5,25	40:10	238:20		211:12,15
216:7		239:4		217:10
217:25		251:6		
218:2,18		253:22		
219:11				

241:21	68:24	282:14	8:10,15	177:25
277:4,10	70:13		9:8 11:20	205:12
280:2	71:11	Nico 47:3	15:9,20	211:20
Natasha's	189:9	night 33:2	17:24	225:25
222:14	207:1	109:21	18:5,8	228:4,7,10
Nation 25:22	209:18	nights 105:5	32:24	242:6,9,25
27:13	239:9	nine 95:21	40:11 44:8	243:4,7,8,
41:14 54:7	262:20	105:17	49:25	10,18
59:11	negligible	nobody	59:18	244:1,15
73:11,19	125:23	242:23	67:13	245:4
75:1	negotiable	Noell	68:16,19	246:8,12
77:8,16	221:1	289:23,24	71:1 72:21	252:12,18,
78:1,11	negotiate	noise 60:7	73:2,12,17	22 253:23
93:15	133:13	nominally	,19,21	254:1,4,9
95:19 96:9	negotiated	225:11	74:24 75:1	263:10,14
127:24	234:4	non-	76:3	264:19
142:5	negotiation	aboriginal	77:1,8,17	270:6
214:4	247:24	93:16	78:2,11	286:1
224:13	253:13	non-	90:3,14,21	287:14
242:6,9,24	265:20	compliance	,25 92:14	288:8
243:10	negotiations	238:6	93:11	northern
254:10	177:18	None 74:23	94:15	108:17
287:14,24	245:5	121:16	95:14,22,2	109:1,8
288:7	246:20	non-	5 97:2,3,8	118:15,17
national	248:7,21	engineerin	98:9	123:19
27:4,9	249:7	g 54:25	99:8,14,22	126:25
30:1 109:2	Nelson 3:19	non-	100:25	127:4,5,6,
Nations	nervous	hazardous	101:14	8 142:10
104:13	275:11	23:19	102:19	143:16
NATIVE	net 83:22	non-legally	103:3	144:12
267:20	275:5	182:1	104:12	145:2
Natural	nets 83:23	non-profit	105:15	154:19
205:4	networking	96:1	112:7,19,2	174:20
nature	118:24	noon 16:21	2	197:5
115:16	neutral	normal 28:10	120:11,13	228:23
235:4	249:5	117:5	128:7,9	232:2
NCR 109:2	281:12	123:21	129:11	288:4
N'Dilo 24:16	Nevertheless	282:2	130:2,22	northerners
83:24	275:14	normally	131:12	281:24
110:1	Newman 3:10	60:12	134:13	North's 72:3
220:19	NGOs 252:12	207:2	135:20	133:20
ne 209:22	nice 147:18	north 4:8,14	136:5	253:6
necessarily	148:19	7:9	137:3	Northwest
48:16	222:5		141:22	33:14 64:1
207:15	nickle-and-		143:5	87:14
208:10	dime		144:2,19	88:13 96:2
257:19			145:17	119:3
necessary			147:11,13	120:10
			148:15,25	147:6
			149:16,20	200:16
			151:10	271:3
			154:12	272:5
			156:5	
			157:3	

273:1	NSMA 7:22	44:14,20	201:20	279:23
288:5	68:10,20	45:6,22	202:12	okay 11:22
note 34:3	69:2 71:4	46:1,15,25	244:14,17	14:14
125:6	80:17	47:8,20	263:22,24	17:22
178:17	147:23	48:2	288:10	35:22
183:2	NSNA 7:14	49:10,14	October	64:21,23
204:9	NT 1:23	50:16	167:14	65:15
219:1	nuclear 27:1	53:2,3	230:2	66:10,23
253:6,15	29:3	70:20	286:5,25	67:11
257:20	30:2,6	83:16	287:3	68:12
286:9	257:22,25	85:1,4	offence	72:20
noted 58:17	258:10	149:25	43:17	73:9,16
82:5	num 107:24	161:9	offend 143:8	74:18 76:2
227:23	numerous	214:13	offended	77:13
notes 170:14	51:11	Oboni 2:13	103:9,15	80:12
not-for	nurses 35:5	79:9	offer 34:1	86:23
265:22	nutshell	288:25	40:4	89:15,17,2
not-for-profit	198:4	obtain 49:9	office 27:13	0 90:18,22
262:12	NWT 9:9	229:11,12	107:23	94:20
nothing	15:2,11,22	obvious 39:8	108:2	97:14
23:24	33:12	259:19	142:11,12	100:24
123:15	271:16	obviously	145:2	130:19
166:14	281:24	45:14	officer	134:10
230:9	290:20	91:25	33:13	135:4
273:5	Nyyssonen	109:13	38:15 60:3	141:19
notice	2:25	123:17	107:18	145:14
140:13,15	<hr/>	177:20	142:17,18,	146:8
248:3	<hr/> 0 <hr/>	187:1	20 222:12	147:7
noticed 37:9	Oak 60:23	189:18	officers	149:19
147:16	obey 229:17	202:2,3,8	107:17	150:25
178:7	object 65:18	257:9,18	offices	152:11
notification	68:21	259:24	146:14	156:13
208:15	85:23	260:19	official	158:7
notion	objected	262:23	174:20	160:21
207:17	68:20	occasionally	officially	162:25
280:16	objection	61:22	269:7	164:19
282:1	248:8	occur 45:13	oh 42:3	167:5
Nova	objections	119:23	62:20	175:20
269:5,12	283:17	149:17	89:18 99:9	177:3,9
November	objective	occurred	100:24	180:8
217:15	21:13 37:7	215:23	157:8	182:23
np	216:12	222:24	159:8	200:17
3:10,11,12	objectives	occurring	163:15	206:4
,21,22	24:13,17	71:20	171:4	213:7,16
4:5,14,21	42:19	Oceans	201:4	237:24
5:16,17,18	43:3,7,17	77:15,20	248:10	242:18
,20,21		158:8,11	270:23	243:3,14
		159:22	273:16	244:9,13,1
		164:10		9 246:9
		200:20		249:8
				252:15
				267:6,12
				270:17

old 35:13 154:19	253:10	255:6	ordered 44:11	246:10,11, 12 248:10
older 152:1	opener 37:23	278:8,10,2 1,22	ordinances 66:16	253:13
Olivier 5:20	opening 11:6,13	279:25		254:3,4
once-a-year 261:25	107:14	282:12	O'Reilly 4:13 13:20	284:9
onerous 282:13	205:13	opposed 225:11	14:23	O'Reilly's 11:23
ones 55:2	openness 51:10	opposite 56:24	17:23	org 58:8,12,18
99:16	oper 257:25	optimization 166:15	18:3,7,8	organization 58:24 98:1
119:9	operate 114:10	225:24	32:19	138:25
140:19	209:24	226:9,20	73:20,21	144:16,18
158:5	operating 101:10	229:4,11	74:19	210:19
163:14	199:5	option 79:23	90:23,24,2	257:22,25
170:21	281:2	126:4	5	258:11
181:6	operation 76:9	181:24	92:12,13,1	262:13
202:2	operational 111:19	215:19	4	organization al 58:10
one's 277:4	operations 47:13	220:21	93:9,10,11	230:20
280:14	72:10	224:16	94:13,14,1	organization s 90:8,11
ongoing 71:3	112:1	240:12	5,18	113:5
88:22	113:22	257:19	95:12,13,1	115:22
124:22	215:14	optional 237:7,8	4 96:25	139:15
161:23	257:18	options 10:16	97:1,2,5,7	258:19
165:25	operators 281:13	19:25	,11 103:15	262:10
166:11,12,	opinion 48:8	23:6,9	104:14	organize 230:21
14 167:7	opportunitie s 118:16	28:3,16,20	105:13,14,	organized 112:6
171:10	opportunity 11:18 33:3	128:23	15	136:5
173:17	53:18	170:7	128:7,8,9,	original 186:8
201:15	68:13	171:3	18	264:9
233:6	106:14	175:14	129:9,10,1	278:12
234:16	118:24	181:24	1,25	originally 128:23
235:8	121:19	200:24	130:1,2,8,	206:6
282:10	149:3	215:4	17,20,22	others 28:3
online 26:23	157:19	216:6	131:10,11,	150:21
260:20	164:13	240:12,25	12	170:20
onsite 142:19	168:23	259:11,13	132:17,18,	172:14
onto 121:24	180:11	276:16	19 133:18	173:17
283:20	185:22	order 44:7	134:11,12,	184:10
open 22:17	236:23	70:3 72:1	13	190:14
56:19	239:19	90:2	137:1,2,3	249:4
101:8		111:23	138:4,10	252:13
116:16		123:23	141:20,21,	254:18
131:25		125:21	22 142:14	
140:25		127:15	143:3,4,5	
154:24		138:13	145:15,16,	
223:15		263:8	17	
237:19		273:16	146:18,19,	
			20	
			147:9,10	
			190:14	
			228:9,10	
			242:3	
			243:6,7,24	
			,25 244:1	

279:24	201:10	3	owns 202:1	par 31:5
otherwise	203:18	177:12,13,		Paradis 2:18
104:4	218:1	17,19	<hr/>	14:6 73:6
206:10	overcome	178:2,3,12	P	106:18
222:23	55:4	179:15	p.m 152:8,9	116:2,4
Ottawa 27:10	overlap	180:17,19,	213:11,12	119:7
51:13	163:21	23 182:1	291:10	140:5,6
230:18	234:1	203:10,20	package	142:15
240:5	overly	204:6,13	236:1	144:23
ours 156:18	188:15	205:6,17	packages	149:14,22
ourselves	193:3	206:9,12,1	119:1	152:19
195:12	overridden	7	page 7:2 8:2	153:6,24
197:19	229:3	207:3,12,1	9:2 10:2	154:1
outcome	overruled	3,17	133:8	155:17
278:13	226:1	208:19,24	pages	156:15,23
outlay	oversee	212:6	56:13,14	159:4,16
125:16	69:13	213:21	96:21,24	162:5,6
outline	overseeing	215:20	191:8	163:13,15
43:11	108:6	216:16	paid 61:10	170:13
120:5	oversees	217:22	149:5	171:17
178:18	108:2,10	218:17	194:25	192:7
237:2	overshop	219:19,22	260:14	193:2
245:9,15	112:5	220:5,24	Palmer 2:21	203:25
outlined	oversight	224:19	106:23	paragraph
239:21	8:3,7,11,1	228:8,12,1	panel 34:5	56:12
outlines	6 40:16	4,20	79:1 108:3	parallel
64:2	58:16 65:4	231:21,22	110:12	161:12
outset	67:15	232:8,18,2	128:13,15,	266:9
210:11	68:1,14	4 233:4	22	paraphrase
outside	69:14 71:9	234:15	129:1,6,13	54:19,20
22:19 28:9	74:4,6,15	235:2	,19 141:2	pardon 47:3
40:1 60:8	75:10,20,2	237:23	224:20	57:18
61:23 66:7	1	243:20	261:3	246:2
75:15	106:3,9,24	244:2	panels 29:25	Park 3:3
81:13	107:6,9,10	245:6	162:17	90:17
90:13,14	,15 110:19	247:3	panel's	Parliament
143:10	111:15	248:20	224:23	107:17
156:18	112:2,5	250:8	paper 27:2	parliamentar
244:5	115:3	251:5	91:4,6,15,	y 254:14
262:10	121:3,5	252:20	23 92:17	partial
266:23	122:19	254:2	93:12,22	148:10
outstanding	126:2,12	261:5,10,1	112:18	partially
13:19 16:9	128:1	1 265:15	115:12	116:12
270:14	131:23	281:8	183:15	participant
outweigh	132:2,10	overtop 22:8	232:11	169:20
79:8	133:25	overturn	263:12	participants
overall	134:5	235:13	283:11	161:1
139:20	136:2	overturning	papers 25:20	participate
	161:3,13,2	238:2,7		
		overview		
		211:5		

54:20	55:10,22	239:20	138:6	,19 130:12
96:15	57:19 65:4	240:7	149:12	Pembina
120:2	73:1 84:19	258:4	161:25	28:11,19
149:5	102:10,18	party 51:7	165:20	124:3,4
157:24	103:4,9	114:4	166:3	184:7
168:20,23	106:1	244:18	171:15	254:6,16
200:5,8	107:3,5	249:12	174:16	266:25
212:2	110:22	Party's 51:8	175:1,6	268:23
247:13	113:4	pass 116:1	179:1	pensions
272:7	115:11,21	passing	184:24	265:10
participated	118:18,21	56:12	186:22	people 13:20
74:5 112:5	119:20	192:9	187:15	14:19 21:9
241:15,22	120:24	passionate	189:14	24:16,22
participatin	130:25	39:18	200:1	26:23
g 98:5	134:7	86:14	205:1	27:19
262:25	161:1,2,7,	passive 70:2	242:12,21	29:3,9
participatio	20 162:16	past 36:10	248:12	31:14,25
n 55:3	176:6	54:22	255:17	33:23
69:11,23	177:18	81:17	267:10	34:12,22,2
126:8	178:11,21	95:25	270:25	5
149:16	179:19	121:23	277:7	35:6,12,13
186:12	180:9	122:16	284:3	,19
199:12	182:8	162:15	pausing 79:6	36:4,5,7,1
261:14	183:12	203:12	pay 61:15	3,25
particular	210:10	204:10	66:5 67:5	37:5,15
47:5 73:25	212:13	219:14	76:17,23	39:22
88:3	217:8	220:16	100:21	41:20
109:21	224:4,21	223:4	259:13	43:13,24
110:9	239:7	252:13	265:13	44:4 47:5
163:14	240:16	268:14,18	282:4	51:8,12,14
213:24	241:4,14	280:9,11	paying 65:18	,21,22
226:16	244:4	patience	payment	68:19 82:6
228:25	247:7,18	147:10	60:16	83:20
257:2	248:1	Patrick's	62:19,20,2	88:17,23
261:20	249:3,10	126:20	3 63:4,6	90:15 91:7
262:4	250:9,20	Pat's 126:25	260:14	92:3
269:15	253:9	pattern	payments	93:15,16,1
282:23	261:7	125:9,14,1	60:18	9
particularly	264:21	7 235:20	61:4,8,15	110:2,3,7,
21:9 72:2	275:11,16	Paul 2:3	63:2	9 116:13
88:17	276:8	289:6	64:8,15	121:24
122:15	281:6,20	PAUSE 59:21	65:19	131:19,21
124:15	283:16	64:19,25	76:17,24	132:12,23
208:12	284:7,15	68:8 74:21	Peace 1:22	135:15
209:13	286:16,21	75:4 87:20	289:22	139:17
parties	288:6	103:17	peak 125:16	144:5,18
10:10	partly 38:21	104:17	peer 110:12	150:2
38:10	partner	119:5	128:13,21,	178:11
43:16	144:8		25	179:12
44:15	partnership		129:3,5,13	185:19,20,
48:13	32:2,4			24,25
	234:12			186:17

188:19	22:15	44:2	personnel	lly 156:10
194:3,8,11	37:18 42:9	perpe 26:3	237:10	pick 161:22
195:2	52:5,16	perpetual	perspective	picture
196:1	71:20	7:9,14,18,	106:22	196:21
204:15	79:22	22 18:6,17	223:20	Pido 290:15
207:3,7	87:23,24	19:5,8,15	237:1	piece 109:20
211:4,7	93:1	20:1,3,4,1	266:24	110:4,9
226:24	105:10	3,24 23:10	281:12	112:20
231:5,12	134:14,18	24:8 25:18	perspectives	181:23
232:2,4	135:18	26:5,11	93:13	197:21
237:7,21	152:17	29:14	107:3,6	255:9
239:24,25	153:10	30:15 31:5	138:21	pieces
240:5	173:4	32:12	179:23	109:13
244:5	179:19	37:11,12,1	pertain	176:1
247:11	221:7	4,15	248:5	Pierre
249:15	222:18	40:16,22	Peter 5:8,12	290:17
252:3	229:16	58:23	290:14	pilot 28:24
276:24	232:20	59:7,24	petition	29:23
277:3	236:3	60:13,20	108:2	PILT
278:11,25	239:8	63:21	phase 29:14	61:10,11
289:10,13,	240:5	67:15	55:25	62:17
17	244:4	68:2,10,15	113:6	64:2,6,12
peoples	247:12	,18	125:10	66:5,7
35:13	261:6	69:5,12,25	133:6	67:5
people's	271:7	71:13,16	165:25	pipeline
35:8,16	period	74:16	166:6,10	81:23
36:1,10,15	7:20,25	113:17,22	226:12	pits
,17,19	8:5,13,18	140:3	237:21	22:17,22
37:5,7	65:14 73:5	183:16,18,	254:20	23:19
per 167:7	125:11	19 234:18	255:23	placed
perceive	127:19	237:21	258:5	112:19
230:24	154:15	254:20	260:1	places
perception	197:14	261:1	266:20	200:11
45:12	242:1	268:13,17	269:2,8,19	plain
54:14	254:19	277:17	277:17	140:17,20
perceptual	263:5	perpetually	216:5	plan 14:18
227:14	280:17	258:2	258:12	20:4 21:6
Percy 1:16	periods	person 130:5	289:15,16,	24:9,10,11
87:4,5	114:19	personal	17,23,24	,13,17
191:11,13	230:9	103:14	290:3,14,1	25:4,5,15
252:5,6	permanent	149:6	8	26:12
267:17,19	70:13	198:9	physical	27:14
288:20	161:16,21	personally	37:16	29:12,14,1
perfect	235:9	107:22	109:24	7,20
244:12	permission	195:19	123:1,6	30:15,17
performance	248:18	290:23	236:7	31:11,12,1
220:17	permit 69:15	physiologica		5,17,24
281:16	130:13			32:12
perhaps 18:8	226:15			
	229:11,13			
	permitted			

34:19	282:16	158:12	5 274:9,23	38:22
38:23	plans 28:1	160:19	281:17	40:22
46:21	29:7 46:4	174:14	pointed	59:23
48:11,14,1	49:3 69:3	179:4	54:19	60:17 66:4
6,21,22	81:7 82:14	182:25	points 42:17	67:4,6
49:12 56:8	88:15 91:9	206:2	122:5	68:10
57:25 59:7	109:7	213:17	125:6	73:23 74:3
71:15,25	110:16	253:2	155:22	91:22
72:5,12,16	113:21	286:9,23	176:25	134:22,25
75:9,11	155:19	pleased 69:2	229:25	190:9
81:22	157:17	71:2	247:23	205:17
108:10	195:4	228:16	273:19	228:7
118:14	228:14	plethora	policies	237:3
123:23	235:7	209:8	108:6	238:1
125:3	260:7	plutonium	196:14	241:3
126:10	271:4,6	257:13	225:19	254:1
129:20	274:24	podium 33:17	256:12,14,18	positions
130:12,24	275:2	126:21	policy 9:11	52:4 202:7
138:18,22	plan's 91:19	277:5	15:12,24	286:22
139:9	plant	point 25:10	147:2	positive
154:25	13:21,23	31:23	227:17	188:22,24
157:24	23:1,12	41:6,18	political	219:20,21
161:19	185:24	42:11,18,2	70:5	278:13,25
173:1	plants 185:7	2 47:7	100:20	possibility
184:13	play 61:21	49:12,15,1	101:13	103:8
185:6	71:2	7 53:6,15	151:22	possible
197:17	190:19	57:8 58:25	246:1	41:21
200:7	208:20	86:10 92:7	ponds 111:11	68:18
201:23	playgrounds	95:8	136:10	70:10
203:17	35:23	123:25	269:5	80:23
214:8	plays 261:8	133:1	pop 35:19	84:21 86:2
216:10,11	please 12:6	141:11	population	165:3
239:17	33:16 41:5	157:14	272:13,22	219:11
240:1,2	42:12	163:14	273:2	possibly
269:9,19,2	60:10	173:24	portion	169:10
2 274:24	66:25	186:3	63:13,19	post 233:16
planned	86:11	188:2	portions	post-
282:13	106:7,24	190:9	63:16	remediatio
planning	107:13	203:25	portrayal	n 70:2
10:9	108:16	210:18	192:16	72:1
26:5,11	109:12	211:16	posed 80:17	posturing
29:22 43:5	110:11	212:12,19	position	151:22
80:19,25	112:2,24	213:22	7:8,14,17,22	poten 260:7
84:10	113:24	216:2	8:7,10,15	potential
109:17	114:22	219:4	18:20 25:6	22:15
116:8	124:10	233:8	30:20	45:3,4
117:5	125:5	237:15		53:17,22
119:19	126:1	240:14		63:23
234:18	130:9	249:2		79:16
270:16	135:23	256:10,19		
275:15		266:22		
276:6		273:5,16,2		

80:23	291:6,8	232:17	151:14	274:24
85:19	pre 136:7	236:16	152:5	275:4
88:25	preamble	254:8	157:10	presenter
117:12,17	274:21	283:18	158:9	28:12
187:23,25	precedent	284:6	160:1	presenters
214:21	61:13	prerequisite	165:7	77:21
220:19	precision	s 212:5	181:2	87:1,9
223:2	48:2	pres 73:10	191:7,18,2	270:10
251:10	prediction	presence	2 192:8	289:19
259:21	189:8	281:10	200:22	preservation
potentially	predictions	present	205:11,17	26:19
56:4	185:9	184:8	212:9,15	president
209:12	preface 90:6	212:13	213:3,15,1	108:15
Potter 3:24	229:21	248:4	7 215:23	pressure
67:2,3	prefer 89:13	255:6	222:15	238:25
152:18	91:1,16	presentation	227:24	pressures
274:10	preference	7:8,14,17,	228:2,5,7,	102:24
poverty 96:4	80:10	22	11 241:11	pre-
power	222:4	8:3,7,10,1	242:3,5,10	technical
207:16,18	preferred	5 11:19,24	,25	117:8
290:20,21	41:1 79:16	17:24	243:5,11	pretty 40:25
powerful	84:18	18:5,10,12	244:17	96:24
37:25	126:4	,14 25:16	252:3,18,2	105:18
212:16	224:11	32:10,23	0	137:19
PowerPoint	241:2	38:4 39:13	253:23,24	155:20
212:8	pre-hearing	40:10,22,2	254:1	164:6
powers 58:2	117:7	5 42:13	263:3,7,8,	244:24
practical	213:23	59:9,12,15	10 264:20	259:18,19
10:4	Prejudice	,23 60:13	266:14	previous
152:22	283:19	64:15,22	267:14	158:20
153:16	preliminary	65:2,4,11	268:3,7	223:4
154:2	171:20	67:16,20	270:6	282:22
practice	172:1	68:5,10	288:12	previously
111:10	preoccupied	69:4	presentation	63:6 66:14
131:6	210:5,6	73:13,19	s 40:19	131:7
136:11	preoccupy	75:2 76:7	73:1 77:12	146:13
146:1	208:5	77:9,18	82:11	price 282:4
practices	prepare	78:3,20	89:25	primarily
18:20 20:2	30:22 96:4	90:4 102:5	102:8,10	111:9
26:15 31:6	287:6	103:20	103:23	208:5
113:17	prepared	106:3,9,17	137:14	226:2
114:8	18:14	124:9	190:11,13	primary
136:4,19	25:20 33:7	126:2,18	250:10	108:11
212:5	87:23 89:6	127:14,17,	251:18,23	209:11,18
217:9	111:21	25	276:25	210:9
224:3	112:17	128:1,4,10	presented	214:3
prayer		134:20	107:3	prime 150:22
11:7,9,13		136:1	129:20	
285:7		147:14,17,	136:4	
		23	161:23	
		148:18,23	203:1	
			205:7	
			218:5	

principle	269:23	46:23 51:6	15:10,12,2	112:14
114:10	274:15	52:19	1,24 53:20	177:21,23
236:24	285:19,20	54:17	produces	230:3
238:24	problem	55:14	109:9	232:19
principles	33:24	57:9,15	product	236:16
113:9,25	37:20	69:21	207:9	project 1:5
114:2	39:23	78:17 96:9	221:12	9:21 10:6
220:25	139:25	102:23	Production	14:7 20:2
prior 50:18	223:9	105:19	290:16	28:24
67:6	225:21	107:1	productive	29:20,23
102:11	234:2	108:2	84:21	30:7 34:4
133:5,11	282:15	110:17	122:16	42:23
284:7	problems	111:2,4,5	products	43:9,21
priorities	53:23	113:9	164:15	45:14,17
109:7	258:15,16,	115:10	professional	46:4 48:23
200:10	22 279:10	122:17	145:23,25	50:5,12,24
237:10	proce 226:10	123:21	professor	51:13
priority	procedural	125:4	205:21	52:3,25
59:6	225:19	127:14	211:23	54:7 56:23
202:12	procedures	129:2,4,23	profit	57:4,22
private 49:2	69:11	150:1	265:23	58:13,16
56:7,16	208:7	166:22,25	program	60:19
136:3,12	proceed	173:5,9,17	109:8	64:10
227:3	11:24 12:6	,18 176:6	112:1	68:23
280:6	32:25	178:10	114:13	71:16,18
pro 52:14	42:13	184:15	118:10,13,	73:7,25
55:15	60:10 67:1	188:22	15 124:2	74:5
68:23	103:20	190:3,25	126:9	79:14,25
79:24	135:23	200:6	144:15	81:5
84:23	182:25	225:3,6	145:2	88:17,20
121:1	213:16	226:11	157:25	95:19
188:19	214:22	238:20	158:1	105:9
216:21	216:22	241:5	185:18	106:24
245:20	222:2	245:21	186:13	107:7,9,16
proactive	227:5	265:8	199:13	108:12,18,
238:9	253:3	269:13	250:15	19,22,23,2
probably	proceeding	278:3,7,14	programs	5
36:12	240:15	,24 279:22	27:23	109:19,24
93:25	241:23	286:8,9	88:12	111:4,7,8,
127:8	proceedings	processes	94:24	11 112:11
129:13	40:2 107:2	47:17	157:24	113:7,14
143:13	127:11	48:19	185:14	114:7,10,1
162:8	240:13	163:4	219:11	4 115:7
194:15	proceeds	205:23	235:8	118:17
207:7	233:5	procurement	271:16	120:22
231:10	237:20	118:14,19	progress	122:22,24
246:21	process	197:16	16:16	123:17,20
251:8	21:11	produce	18:15	124:11,23
262:2,20	24:25 40:5	12:12	30:22	125:12,16
266:21		46:11 49:3		126:5
		produced		129:3
		9:8,11		132:9,14
				134:16

136:10	231:19	257:21	185:16	pros 181:16
138:18	232:24		192:7	protect
139:18,20	233:5,10,1	promise 54:5	198:14	85:12
142:16,18,	5	234:19	214:7	protected
22 143:25	234:7,13,2	promised	217:6	81:2
144:2,6,7,	3 235:4,18	12:8	221:1,16,2	126:13
13,22,25	236:8,13	promises	1 222:24	protection
145:11,13,	237:17,20	223:25	225:17	124:14
20 146:5	240:9,23	promote	226:8,23,2	225:12
149:15	249:16	121:13	4	protective
152:20	250:13,14,	proper	proponents	118:7
153:19	24 254:11	26:3,5	145:11	prove 210:7
154:3	271:5	70:21	221:14	278:23
155:18	272:6	properly	225:5	proven 28:16
156:16	275:24	60:22 67:9	272:2	180:16
157:1	277:2,19	117:11	279:9	234:1
158:5	278:11,18	129:12	Proponent's	provide
160:24	279:25	properties	159:25	10:3,8
161:6,11	280:13	61:2 62:22	217:17	13:13 14:2
162:7,9,14	283:14	63:7,10	224:6	41:25
163:16	284:22	property	proposal	57:19 62:2
165:7,13,1	285:12	60:22	21:17	63:20
6 167:15	projected	62:18	22:6,10	70:19
170:19,21	165:8	64:6,11,13	48:20	76:22
171:3,12	171:13	76:23	68:17 69:1	79:19
172:9,10,1	projections	93:3,6	80:22 94:8	111:7,25
1,15	36:17	propo 215:11	211:19	113:8,13,2
173:2,7	projects	221:20	218:5,8	0 114:1,5
174:10	49:24	proponent	proposals	123:23
182:9,11	124:7	45:2	96:11	149:2,4
183:19,21	136:9	47:4,5,15,	217:7	152:17
184:5	145:3	23 49:18	propose 88:5	153:14
187:11	200:15	50:22	165:9	155:3
188:19,20,	254:20	52:7,15	196:17	173:13
23,25	255:23	53:8,23	232:25	175:10
189:3,23	257:4	55:15,22	proposed	176:3,8
192:16	261:20	56:9	16:13	182:14
193:3,22	269:2	63:15,20	17:15	201:24,25
197:8,9	275:6	65:11,16,1	20:20	202:7,13
199:3	280:10	8,25 66:15	68:21	215:12
200:13,15	281:21	79:18	70:16,23	223:6
203:1,18	project's	84:23 88:2	71:5 80:23	225:17
205:6	114:1	94:22 98:8	107:8	236:22
208:25	226:4	105:7	113:13,25	264:17
211:18	project-	113:19	148:3	266:13,23
215:21	specific	114:6	217:25	268:16
216:3,16	114:13	138:25	264:14,15	275:14
217:12	prologue	139:19	proposing	276:5
218:2,12	154:18	144:4	184:5	provided
220:9,18	prominent	163:6	278:2	12:15
222:7				
225:22				
229:15				
230:17				

13:22 15:5	122:20	publicly		127:19
44:16	123:10	15:14	<u>Q</u>	128:19
55:10	126:9,13	pull 210:21	qualifications 131:1	130:8,15
76:21	134:7	pulling	qualified	132:4
95:22	136:2	212:25	144:5	135:9
166:8,9	137:7,14	213:1	qualities	138:10
200:4	140:12	pump 72:16	168:9	140:8
217:13	144:9	pun 278:21	quality 9:10	141:7
273:20	145:8	punch	15:11,23	142:9
290:16,19	147:21,22	194:23,24	85:7,9,23	143:6,20
provides	148:21,22	pure 84:9	117:2,16	145:18
54:10	151:18	purpose	158:22	146:16,18
215:13	154:22,24	44:13 91:3	quarterly	147:25
221:15	155:2,13	92:21	111:18	148:9,12,1
providing	156:12	93:22	227:21	6,22
33:22	169:1	131:22	question	149:1,10,2
61:23,25	178:10	177:17	7:20,25	4
62:1,5	180:10	209:11	8:5,13,18	150:5,10,1
79:25	192:22	278:7	9:15 13:20	2
158:5	196:15	purposes	14:23 15:1	154:15,21
172:7	197:8,15	159:1	16:3,4,7,1	155:12,16,
290:21	198:13	pursue 40:3	0 17:5	19 158:17
provision	199:1,14	56:19,24	34:3,23	159:3
55:7,20	201:10	80:8	55:19	163:1,3,12
71:17	207:19	180:12	65:10,14,1	165:12
260:17,24	209:7	183:10	6	167:2
261:8,13,2	210:23	205:14	66:2,10,11	168:21
provisions	227:22	211:7	73:5,22	174:11
201:7,13	228:21	216:22	74:19	175:4
234:25	231:14	224:16	75:13,17	176:2,14
235:11	232:23	pursuing	76:6	183:9,14,2
260:5,22	233:4,24	133:10	79:6,7	5 184:21
pru 53:20	234:2,6,22	135:7	80:3,17	186:10,19,
public 8:20	235:24	pushed 220:3	81:12	20
17:25	240:23	227:11	82:23 84:4	190:8,10
29:18 31:8	241:22	pushing 95:4	86:3	192:6
33:11	248:4	putting 20:5	87:24,25	197:3
35:15	249:14	23:13	88:4,5,14,	198:19,24
38:8,9,14,	253:25	112:22	25	199:23
21 52:10	255:1	169:14	89:3,7,16	200:21,23
57:23 62:8	261:23	181:24	90:19,20	201:3
68:25	270:11	203:6	95:7	202:22,24
69:14	273:16	247:24	97:6,9	203:8,14
107:3	276:25	PWGSC 3:17	98:16,18	204:6,8
108:2,7	277:9,12	pyramid	100:3,24,2	206:18
109:4,11	282:9	84:10 85:6	5 101:5	219:25
111:18	290:22		104:11	221:25
113:18	public/		119:12	223:14,15
115:1	private		125:21	224:9
116:2,3	258:3			231:17
	publicized			242:1
	56:21			243:17
				244:25
				245:6,8,19

246:7	117:24	157:14	258:2	re 59:23
248:16	126:18	158:2		129:4
250:7	127:16,21,	159:9,16	rain 83:13	
252:2	25 145:15	184:3	rainy 83:10	reach 13:12
263:5,11	147:8,11,1	243:17		34:22
264:3,4,25	3 149:20	268:10,21	raise 109:25	149:25
266:2,6	151:20		132:8	236:24
267:5	156:5	quickly	raised 19:18	239:6,9,22
268:10,21,	157:5,9,13	26:14	163:15	reached 74:6
24	158:9,12,1	110:21	225:16	
270:14,18,	4,16	122:3		readily
20,21,23	159:6,20,2	167:23	raises 220:5	69:15
271:2,7,8,	4	195:17	raising	220:20
13,17,22	164:18,20,	200:25	142:5	ready 152:16
272:10	25 167:12	217:8	Ramona 3:25	real 32:2,4
273:10,14,	169:15	225:23		45:4 51:1
21	180:11	quiet 58:5	ramping	86:14
274:3,11,1	182:17	quirk 147:2	125:14	105:3
8 278:9	184:2,20	quite 17:6	Randy 5:6	131:22
questioned	190:12	34:22 36:8	Ranson 3:5	218:11
196:10	191:9,14,1	58:24	rapidly	227:13
questioning	8,22 192:1	90:13	225:14	239:20
102:9	193:15,20	121:23	rather 14:25	275:9
127:15	194:1	141:11,25	24:25	279:14
142:4	202:20	150:19	34:20	realize
154:11	205:10	160:19	56:19	15:14
170:2	218:20	166:23	131:23	80:20
177:10	228:3	171:23	138:10	186:11
182:20	242:4,8,17	172:14	176:14	196:12
209:11	,25	181:16	198:14	really 20:24
questions	243:4,9	197:20	210:6,10,1	21:20
11:21	244:15,18,	204:11	6 217:8	24:7,9,15
17:14	23 247:17	241:9	234:24	28:1
19:1,21	248:5,18	248:23	259:17	29:7,24
20:7 32:19	249:6,20,2	249:1		30:9,23
34:1 56:4	2,24 250:2	quoted 203:4	rational	31:5,11,18
72:22,25	251:18,23	quoting	279:5	33:24 35:9
73:11,15,1	252:7,14	216:5	rattle	37:6 61:18
8 74:24	263:8,9,16		170:20	62:13
76:3	,20,24		rattling	78:21
77:2,3,6,1	267:3,13,1	<hr/>	182:13	83:9,12
1,15,21,25	6,24	R	Ray 2:24	91:23
78:3,5,9	268:4,7	Rachel 1:17	204:2,3,11	92:17
86:9,20,22	270:1	82:21,22	222:5	132:22
87:2,5,9	273:11	84:6	237:11	134:18
89:25 92:6	285:24	86:20,21	270:15,19	137:18
96:19	quick 38:3	119:13	271:1,24,2	150:15
100:13	39:12	191:24,25	5 273:9	151:14,16
101:24	51:23	196:6	284:5	184:2
102:18	119:23	251:16,17	RDG 217:16	189:6
103:1,9,12	138:13	268:5,6	222:9	194:1
105:6,8	145:18	288:17		195:1,25
	152:5	radioactive		199:4

215:10	rec 53:7	224:21	68:25	24:3 234:6
222:15	260:22		73:23	
230:9,14	recall 33:2	recommend	105:10	reducing
231:17	216:1	52:6 69:6	112:20,23	264:7
235:14,17		71:22	137:7	reduction
239:3,18	receive	188:2	138:20	275:6
244:3	177:22	224:15	153:12	reevaluating
247:8	received	240:24	167:20	140:10
253:10,14	12:12	259:24	168:11,12	
254:12	178:5	264:12	180:10	refer 185:13
255:8,25	217:15	recommendati	183:8,13	240:20
256:5,12,1	281:6	on 32:16	211:7,24	reference
4 258:6		92:17	220:16	56:12
259:16	receives	111:25	221:24	135:7
260:25	286:24	161:15	225:25	141:4
262:14,21	receiving	188:5	232:4	187:1
264:13	220:4	239:15	233:23	192:9
265:3		recommendati	240:22	referenced
268:24,25	recent 62:25	ons 100:2	247:23	158:19
269:3,8,20	64:4	102:22,23	270:8	212:9
278:12,16,	recently	103:3	273:24	referred
22 279:2,4	36:2 54:4	114:16,17,	283:21,24	16:6 57:23
280:9	212:8,22	20 157:19	284:6,15	81:5
285:13,19	recessing	190:2	288:13	110:13
289:14	102:1	236:21	records	283:10
290:10	152:8	255:25	26:21,25	
291:2	213:11	259:17	27:7,9,12,	referring
reason 48:20	reciprocated	262:3	15 69:15	136:1
72:14 83:3	95:5	268:12	94:22,23	177:12,14
97:17		286:23	97:19	187:9
150:24	reclamation	recommended	210:23	reflect
209:22	54:21	32:12	recourse	24:15,18
217:2	122:23	92:15	50:10 57:5	31:18 95:9
222:25	185:14	231:22,23	recovery	reflections
223:21	reclamations	239:5	186:4	36:23
269:6	54:22	reconstitute	recreation	183:23
reasonably	123:5	129:5	118:8	reflective
170:11	recognize	reconstitute	recreational	268:25
171:8	19:7 50:21	d 129:22	63:18	refused
reasons	52:5 68:23	130:24	recruit	57:24
70:19	218:9	reconstituti	90:13	219:6
140:14	221:12	ng 128:25	recycle	refuses
208:11	247:22	reconstruct	23:22	70:21
209:21	290:11	185:24	red 232:16	regard 75:20
220:23	recognized	record	redactions	228:25
reassurance	93:12	26:6,18	58:6	regarding
282:5	126:5	28:16	redo 277:15	9:18 68:17
reassured	224:3	38:21 39:5	reduce 20:1	73:24 83:1
281:10	recognizing	41:22 42:2	22:14 23:3	88:8 113:2
reassuring	42:15	66:25		114:6
94:21	112:4	67:12		

117:10,16, 25 172:24 173:19 181:12 183:14 271:20,21 283:12 284:18 Regardless 176:3 regards 88:10,15,1 9 104:14 242:5 249:16 270:15,18 274:22 regime 107:12 108:20 region 100:7 109:2,3 288:17,19, 20 regional 109:4 142:16 registered 96:1 145:22 146:14,21 147:6 registration 147:1,3 registry 26:17 29:18 39:1 53:7 112:25 219:9 220:25 224:3,22 228:21 233:24 234:2 235:24 255:1 regrets 87:18	regrettable 79:22 regular 28:15 91:2 113:18 260:18,21 261:22 regularly 235:19 regulation 69:19 regulator 69:7 70:17 114:21 regulators 44:2 282:3 regulatory 78:17 107:12 163:4,9 205:22 211:23 215:4 217:21 223:17 226:8 reimbursemen t 62:4 reinforce 253:5 reinforcing 202:12 236:1 reiterate 116:16 reiterated 82:11 reject 266:18 rejected 266:12,20 relate 214:10 related 7:9,15,18, 23 15:2 16:4 18:6	40:23 43:4 59:24 64:9 65:11 68:5,10 85:2 107:6 108:7 110:19 114:23 115:10 280:15 relates 13:16 81:22 110:12 relating 19:1 81:15 relation 12:13 158:18 relationship 160:4,11 234:12 277:1 relationship s 51:9 54:6 208:15 230:7 relative 16:5 17:12,20 relatively 225:23 258:4 269:4 released 50:4 releases 109:6 relevant 81:12 107:16 114:13 172:15 173:6 reliable 28:15 relieved	241:16 rely 289:19 relying 183:17 remain 80:1 178:21 188:20 214:19 remaining 116:10 178:19,20 214:18 remains 16:9 75:22 remarks 107:14 211:6 241:11 remedial 70:22 remediate 34:19 35:11 85:22 123:4 remediating 114:3 remediation 1:5 9:21 10:6,17 19:25 24:9,10 25:4,15 26:10 29:19 31:12 34:4 35:12 43:12 46:11 54:24,25 69:21 70:6,23 71:15 72:5 75:10 76:9 82:13 109:24 111:22 113:6,14 114:10	115:19 118:17 122:24 123:20 124:17 125:17 126:4,9,10 129:20 130:12 133:6,23 138:22 142:11 149:1 153:19 154:3,25 156:16 170:7 175:15 187:10 188:20 189:23 197:7 203:1 216:9,11 239:18 240:2 269:15 274:24 275:6 276:17 277:2 283:14 284:22 285:12 remember 36:12 83:8 92:3 93:19 218:13 remembered 91:12 remind 286:4 remiss 144:24 remove 24:3 48:9 197:18 removing 23:6 70:14 208:7 renewal
--	--	--	---	--

202:6	227:19	require 32:5	234:16	278:16
rent 289:24	235:3,5	48:16	235:8	respect
repea 220:22	238:4	50:14	238:9,12	68:25 69:6
repeat 17:5	260:18	70:18	282:11,14	81:11
46:24 47:2	261:22,23	226:14	researching	94:10,15
148:15	265:23	227:16	70:13	95:2,6
175:3,8	reports	261:25	reservation	99:4,12
200:21,25	41:22	required	180:21	105:19
248:16	55:21	19:9 24:5	reservations	172:9,10
repeated	109:6	51:9 62:10	183:7	177:12
148:13	111:19	66:5 67:5	reside 88:18	189:25
217:13	114:13,14,	79:14	resident	190:5
repeatedly	15 163:20	125:19	33:10	226:7
222:25	223:4	140:16	277:12	245:20
replace	260:19,20	221:3	residential	271:2,4
61:17	274:12	222:25	63:14,17	274:10
reply 217:13	275:12,13	223:7	residents	284:10
287:1	represent	226:15	80:22,24	respected
report 20:9	97:8,12,18	requirement	81:2 82:5	220:11
28:11,18	representati	14:17	88:9,23	respectful
55:24 56:2	on 95:24	50:23	90:8	105:20
100:5,10	224:24	61:18	154:24	182:25
109:10	representati	167:4	156:9	respectfully
111:6,21	ve	225:2	271:16,19	20:16
137:5	87:13,25	239:3	281:24	183:2
152:16	103:2	261:25	289:2	respond
163:19,21,	represented	requirements	resolution	28:18
24 172:1	35:3	20:1,13,25	115:8	66:24
180:18	represents	23:4,11	235:12	75:17
184:8	98:2	114:21	238:2	160:21
190:17,20	reprocess	234:17	247:1	208:25
211:7	23:22	235:5	resolved	209:5
212:3,6	req 202:15	238:4	135:11	responded
217:10	request 13:9	265:23,24	resolving	116:15
218:4	15:6,9	requires	275:8	responding
220:23	50:3 61:11	21:20	resonance	50:12
228:22	64:12 99:6	45:15	52:16	82:16 84:4
254:8	156:9,25	51:8,10	resort	114:18
255:20	174:2,7,8	222:23	223:24	response
256:4	175:9	260:8	resource	9:14 15:5
287:6	185:12	requiring	56:3	55:15
reporter	requested	224:19	resources	56:10,16,2
12:17	157:1	research	70:2	3 66:11
276:3	requesting	41:11,22	137:24	86:10 88:8
reporters	202:15	70:12	141:25	114:18
287:16	Requests	90:10	144:12	137:4
reporting	55:17	115:19	205:4	165:5
111:18	275:2	124:3		177:2
163:18,23		179:23		186:15
		211:21		217:15
		224:2		

219:12	198:21	49:12	166:22	risks
231:15	restrict	79:1,16,23	167:2	7:9,15,18,
264:24	210:20	92:16	172:2	23 18:6
273:21	restricted	97:19	185:2	24:12
274:2,21	264:22	110:12,16	235:19	40:23 49:7
responses	result 13:6	111:19,24	237:19	50:23
55:16	48:3	128:13,22	287:3	59:24
responsibili	188:25	129:1,6,13	reviewing	68:11
ties	215:6	,19 130:12	19:19	165:9
161:22	resulting	152:4	109:21	239:19
225:9,12	10:16	157:8	110:21	251:7
229:7	175:14	164:23	190:20	275:7
230:22	276:16	165:23	reviews	risky 34:13
235:1	results	167:15,24,	137:6	river 49:14
responsibili	46:12	25	167:22	ro 269:17,18
ty 25:11	53:6,8,21	168:1,3,4,	280:11	road
34:18	117:19	5,10,13,18	revisit	83:6,8,10,
35:10	182:7	,22	236:19	12,14
61:10 76:1	218:11	169:1,2,19	revolve	151:8
81:14	272:8	,23 177:21	225:4	215:5,10
123:3	resume 39:1	178:18	ri 49:14	roaster
172:11	212:1	180:7	122:3	23:18
225:13	resuming	184:17,21	Richard	134:17
responsible	11:1 102:2	185:12	1:11,14	robust
88:11,18	152:9	186:14,15	86:24,25	206:11
108:18	213:12	187:13	160:6	208:16
123:20	retired	191:6	191:19,21	209:3
124:21	33:14	206:22	251:21,22	269:20
197:12,23	retreat 24:3	215:13	267:25	Rogerge 4:2
265:19,21	return 84:20	224:10,14	268:2	role 34:7
287:9	89:8 224:9	232:25	288:17	71:2 108:6
responsive	returned	233:9	Richards	109:18
231:1	43:24	236:20	289:23	110:15
responsivene	89:14	238:14	Rick 5:21	111:1,7
ss 231:14	returning	240:11,21	Ricki 4:5	115:16,18
rest 139:25	45:17	241:9,13	rifle	134:5
145:1,6	revenues	244:20,23	44:7,11	161:23
286:18	28:10	246:4	rigorous	190:4,19
restate	76:19	251:9	166:25	197:8,14
189:21	reversed	255:21,24	Rio 227:3	203:2
restated	52:5	263:25	risk 30:8,13	209:7,18
285:18	reversibilit	264:3,4,5	36:13	roles 200:10
restates	y 30:2,19	267:7	40:16	208:22
219:9	review	285:10,11	46:21	209:12
rested 11:16	1:3,10	286:4,19	67:17	225:8
restoring	12:11	287:12	79:7,8,9	228:25
209:7	19:6,22	288:10	83:16	229:7
restraint		289:1	272:12,21	230:22
		290:24		235:1
		reviewed		
		125:3		
		129:3,20		
		130:12		

room 102:25 111:12 137:18 195:10 206:7 207:7 211:4 212:17 221:15 245:21 282:19 285:14	rushed 122:2 Russell 2:22 <hr/> s sadly 268:24 safe 22:23 34:13 85:1 140:1 145:22 150:1 safety 68:19 71:19 83:14 109:22 118:7 126:13 safety-type 62:8 sake 116:5,22 Salve 286:1 samples 131:20,24 Sangris 5:2,5,7,8 51:3 225:1 287:24 Sarah 5:20 satisfaction 47:14 satisfactori ly 70:24 satisfied 12:14 13:17 99:18 232:5 281:16 satisfies 12:22 save 26:25 169:7 255:7 saw 90:3 106:20 217:17	218:9 259:23 289:18 scale 108:18 125:7 scan 258:24 scare 92:2 scenario 26:11 29:22 scenarios 29:25 scenes 289:14,18 schedule 10:9 108:21 164:21 176:4,8 272:9 275:15 276:6 scheme 56:24 Schmidtke 3:21 School 126:20 science 189:7 201:23 279:20 scientific 209:4,15 scientist 123:5 scope 31:22 40:2 66:8 67:10 75:15,22 81:21 108:21 209:13,19 262:19 265:17 286:7 scoping 215:22	216:2 286:5 Scotia 269:5,12 screen 37:10 scrutinizing 181:23 searched 185:3 seasonally 14:16 second 20:19 49:21 60:6 64:22 102:6 137:11 142:19 205:25 207:20 210:13 215:25 216:18 217:4 221:24 222:13 225:4 248:15 257:17 269:18 274:9 seconds 106:12 secret 56:7 58:2 secretariat 158:3,4 sector 49:2 136:3,12 secure 123:23 securing 210:8 security 115:20 208:1 209:23 210:2 220:10	233:15,17, 18 sediment 82:4 85:2,7,9,2 3 117:2,16,1 8 158:23 170:14 171:2,24 sediments 10:15 170:7 175:14 276:14 seek 57:6 79:23 147:1 161:9 164:5 seeking 204:16 225:8 seeks 108:3 123:21 seem 27:8 42:19 43:13 47:9 55:21 94:25 151:21 201:11 232:6 247:14 275:12 seemed 16:10 230:8 seems 36:19 37:6 41:8 47:14 53:23 60:20 66:17 206:12 226:2 266:8 278:20 seen 29:2 36:2 37:17 52:2 57:21
---	---	--	--	--

115:3	259:13	154:22	Shee 89:3	signatory
180:18	separately	155:2,13	sheet 33:4	281:18
210:1	265:12	167:14	276:24,25	signed
212:22	separation	275:3	She's 205:21	177:24
225:15	227:19	sets 212:4	shift 25:17	178:7
226:7	September	setting	194:23	222:6
229:20	1:24	19:16	230:17,24	232:1
281:7	10:7,18	43:17	shoes 157:12	233:22
289:5	25:22	108:6	shoreline	234:4
selected	152:25	258:1	30:7,11	245:12
136:2	153:9,20	260:11	short 22:8	269:11
selecting	172:7	setup 265:4	31:6 116:9	277:3
126:3	275:18	seven 84:24	140:13	significant
selection	276:18	142:22	154:17	31:8
117:21	286:13	194:20	215:13	48:3,8,12
selective	series	257:3	246:13	52:2 81:16
19:25	102:17	seventy-five	274:20	108:19
Selene	107:24	58:25 59:3	shortcomings	110:15
290:13	serious	several	55:4	150:18
self-	114:15	20:12	shorten	187:23
preservati	seriously	81:17	42:16	188:1
on 210:9	22:13	230:19	shorter	214:17
seller	176:7	233:14	40:12	220:19
194:16	served 33:13	256:11	short-term	222:24
sends 87:18	105:17	257:21	46:21	223:1,2,7
SENES 3:12	service	260:4	showing	227:10,13
senior 31:20	290:18	shadow 51:16	121:25	232:23
52:3	services	Shafic 3:7	125:6	234:6
108:24	35:4 60:2	Shandel	229:3	240:22
226:1	61:20,21,2	289:15	shows 48:1	275:6
272:6	3,25	Shannon 2:5	226:1	279:8
sense 34:16	62:1,5,6,7	5:11 6:3	shut 57:21	282:9
43:4 46:20	,9 71:23	289:6,9	shuttle	signs 22:19
84:13	76:21,22	share 99:11	290:18	sign-up 33:4
122:1	88:12	133:20	sic 79:10	276:24,25
171:13	109:5	135:18	141:12	Silcock 2:19
196:10	144:10	157:19	273:10	silence
198:4	145:9	205:6	286:14	57:23
223:6	197:15	shared	sicker 36:5	similar
sensitive	201:10	124:24	sides 119:22	48:11 49:4
252:11	272:11	135:19	194:25	53:25
sent 52:14	session 38:8	206:13	277:23	54:11
179:11	168:6	sharing	sign 211:16	212:8
202:11,14	216:2	39:16	236:17	Simon 2:4
separate	230:1,3	Sharon 3:19	signage 29:7	289:7,9
202:4	sessions	290:3		simple 176:2
225:11	56:9,11	shed 268:16		255:20
	114:25			simplificati
	140:25			on 21:2

23:4	91:5,8,12	101:21	250:18,19	131:14,16
simplify	92:20	139:1	Slack's	133:2
20:22	93:18	188:23	99:12	137:10
simply 43:25	110:3,7	210:13	Sladic 3:25	158:17,21
59:3 91:6	112:1	227:7	Slave 4:8	163:3
121:9,21	114:4	257:20	11:20	175:16
144:25	115:19	266:9	17:24	228:17
184:4	121:10,12,	situations	32:24	231:24
187:10	18,24	30:25	40:11	234:24
218:25	124:16	208:18	59:18	240:13
220:2	126:4	209:14,15	67:13	256:23
single 84:15	139:1,2,3,	210:4	68:16,19	257:7
207:8	25 150:7	254:17	71:1 72:21	259:8
224:5	175:15	six 14:16	73:2,12,19	slides 113:8
sink 230:12	192:21	121:4	74:24 76:3	116:6
sir 12:3	194:6,9,12	232:9,11	77:2,8,17	256:2
17:9	195:2,4	257:1	78:2,11	slight 60:1
95:2,10	203:16	sixteen	98:10	slightly
98:2	230:10,13	206:22	99:8,14,23	179:20
274:14	231:8	sixty-two	100:25	281:3
276:1	251:6	60:24	101:14	slippery
283:8	257:13	size 16:12	102:19	83:12
284:16	265:15	17:15	104:12	slow 170:15
sister	269:23	141:2	120:11,14	small 35:25
266:10	275:9	sizes 16:5	147:13	54:24
sit 130:25	276:18	17:12	148:15,25	121:6
149:18	sites 16:6	skim 55:6	149:16,20	213:22
195:10	17:12 20:3	skip 116:5	154:12	227:8
244:5	26:25	119:7	156:5	229:14
253:8	27:1,22,23	228:17	243:9	282:4
site 10:17	28:7,9	256:2,23	263:14	smarts 43:19
14:17	29:15	259:17	287:15	smelter
19:8,17	30:5,25	Slack 5:3	288:8	186:2
22:11,13	31:7 49:3	40:24	slide	Smith 288:17
23:20,24	108:1,10	42:11,14	20:8,11	smoothly
24:2	109:8	79:5 80:6	32:11	290:5
26:7,19	121:15	84:5	106:24	snapshot
27:3,16,18	123:23	86:7,13	107:13	121:6
28:25	144:15,19	98:17	108:16	sneaky 35:18
29:8,18	145:2	105:2	109:12,16	social 35:4
30:16	184:13	128:3	110:11,12,	71:23
37:12 44:1	200:6,8	142:4	18	214:2,4
50:15	201:22	205:19,20	112:2,24	236:6,9,12
54:15 56:7	202:1	206:2	113:12,24	272:11
57:25	258:5	211:11,17	114:22,24	281:22
63:21 66:6	273:23	213:7,18	116:24,25	286:3
69:8	sitting	243:1	123:16,17	societal
70:7,11,24	87:14	245:17,18	124:10	
71:4 76:11	189:3	246:18	125:5	
79:8 82:2	situ 23:5		126:1	
	situation		128:10,12	
	20:4			

101:7	24:8	82:25	177:15	11:22 27:1
society	27:10,18	91:21	source	28:8
93:15 96:1	30:5 32:9	92:19	108:11	32:20,21
120:9	42:3 51:7	95:24 98:1	125:2	33:5,15
121:10	62:20 63:8	112:9	184:13	201:13
socio 214:10	65:9 94:19	128:15	sources 23:6	specialist
soil 186:2	95:7 97:7	130:4	south 43:11	142:22
soils 23:25	98:3	131:19	52:4	specialists
24:1 34:21	103:22	137:22,25	space 21:24	155:13
123:5	112:5	139:11,12	Sparks 5:15	specialities
solution	116:3	142:3,7,8	77:10,11	34:11
26:3 51:7	122:2	162:19	157:11	specialized
53:22	128:12	192:22	200:3	143:12
70:13	130:2	196:7	243:16	specific
71:16	138:9	206:17,20	244:7,11	43:4 56:21
79:17	146:19	207:13	263:19	91:5,9
212:23	148:8	210:8	speak 14:7	92:16
215:11	152:23	211:5	18:1 33:3	114:19
224:17	154:1	212:24	67:22	117:10
235:9	156:21	217:1,17	68:14	129:6
282:18	157:8,12	222:10	95:10	142:9
solutions	158:21	230:7	99:10	155:24
51:2 196:2	159:8	235:15	106:14,19	157:17
224:8	168:2	236:1	116:2	158:14
279:11	174:8,23	239:11,25	121:9	172:6
solve 247:25	181:13	246:20	122:11	173:19
282:14	188:7	247:2,16	156:2	176:10,11,
somebody	201:4	251:6,9	158:18	15 197:14
282:1	206:6	254:14,17	193:12	199:3
somehow	231:22,23	256:3	199:25	200:10,14
21:11	239:13	259:8,9	212:18	201:23
82:12	240:13	265:11	219:16	204:8
132:2	241:8	266:9	249:15	238:17
137:9	246:1	278:5	274:14	248:6
164:1	248:10,14,	sorts 26:2	speaker	249:6
someone	15 251:3	96:5	17:25	specifically
99:10	256:25	193:15	speakers	14:10 57:1
141:5	267:7	232:5	106:18	109:25
249:4	269:18	sought 47:11	speaking	160:4
270:21	273:16	48:24 49:9	38:21	164:3
something's	283:8	sound 241:20	72:21	165:22
194:6	286:11	290:15	111:18	172:19
somewhat	287:8	sounded	167:25	193:7
122:2	sort 12:18	145:18	266:25	194:14
139:10	15:1 16:8	soundman	speaks	201:14
266:5	20:7,10	287:16	124:15	277:19
sorry 12:2	21:8 22:18	sounds 34:20	spec 176:10	spectrum
15:16 20:8	24:6 25:6	37:11	special	207:22
	28:9	43:20		208:9
	31:16,23	141:23		speculative
	32:7 53:22	143:8,14		
	55:6 74:6			
	80:25			

101:18	SRK 3:15	269:1,21	started	status
spell 234:16	St 126:20,24	stages 47:10	49:21	120:21
235:1,4			186:4	statutes
spelled 83:5	stabilizatio	stake 203:3	212:19,20,	61:5
spend 109:15	n 24:10,11	stakeholder	25 226:10	stay 108:21
110:14	25:5,15	217:22	230:7,16	182:11
119:9	31:11	261:9	starting	188:11
121:11	43:22 56:8	stakeholders	49:12,15,1	steadfastly
178:14	57:25 72:4	29:21	7 64:10	215:21
207:1	214:22	69:11,20	65:24	Steele 4:3
208:2,14	215:18	71:6 126:8	133:5	Steelworkers
210:15	239:17	140:2	139:12	41:14
278:15	240:2	168:18	188:23	step 46:9
spending	stabilize	169:22	241:6	215:24
125:25	22:4 48:24	261:18	256:19	222:20
spent 35:1	139:1	262:25	starts 46:25	Stephen
124:25	stabilized	stand 32:16	state 88:24	150:6
165:8	140:1	203:4	111:20	Stephenson
171:25	251:6	231:18	147:20,21	277:4,10
202:25	stable	239:14	180:3	stepping
211:4	124:11	standard	186:1	194:6
259:14	125:2	120:5	stated 14:18	209:17
spill 57:22	Stacey	185:9	63:6	steps 10:10
225:24	289:7,9	260:20	148:20,21	32:8
spilled	Stacy 2:8	standards	220:24	212:22
72:13	staff 2:2	37:3 49:24	271:8	214:8
spirit	14:15 38:2	118:6	statement	275:16
253:15	52:3,8	214:12	38:12,17	276:8
split 259:12	62:16	standing	72:4	stern 151:13
spoke 51:4	77:23 78:6	140:24	104:15	stewardship
122:25	142:12	standpoint	105:24	29:19
123:3	145:1,20	187:22	statements	30:17
144:24	146:21	start 11:4,5	34:17	219:24
158:21,22	162:20	28:20 44:8	47:25	stick 85:21
162:8	164:24	91:7,10,24	84:12	151:7
163:3	180:7	92:22	147:18	stop 60:6
168:6	182:17	134:17	148:19	151:1
193:17	184:20	152:12	225:20	190:12
spoken 37:25	230:19	159:23	state-of-	205:24
38:8	241:13,19	161:8	the-art	278:25
267:20	244:21,24	178:13,14	238:14	stop-gap
sponsor	246:5	194:9,20	States 26:20	70:15
123:20	249:20	195:9	27:22 28:8	stopped 52:4
Springs	264:1,4,5	196:21	29:16	154:11
290:19	275:12,17	225:6	258:12	storage 21:5
squander	287:13	234:21	static	stories
279:24	stage 19:3	245:1	182:11	
	48:14 70:3	254:21	stating	
	123:8	255:10	214:6	
	135:9	258:15		
	161:6			

91:11	struggles	202:5	Sue 99:9	27:22
93:13,17,2	252:12	submissions	151:17	29:15
1 210:22	struggling	103:7	sufficient	257:23
story 27:20	29:4	286:17,20,	117:9	superseding
stragglers	157:13	22,24	153:1	160:8
11:16	175:24	287:3	214:23	supplementar
straight	students	submit 62:21	221:22	y 163:25
116:6	126:21	67:7	225:18	support
straightforward	studied	submitted	226:5	63:11
ard	123:5	18:13,14	suggest	65:17
271:13,14	studies	50:2 58:9	37:13	74:9,15
strategic	36:22,23	112:25	71:13 91:4	76:20 80:4
238:17,19	127:1,4	130:13	233:2	92:9
282:13	136:2	133:9	suggested	142:21
strategy	137:6	137:5	241:1	178:12
96:4	158:23	172:2	suggesting	188:6
STRATOS 3:14	170:3,5,12	205:8	91:15	197:9
stream 28:10	172:6	206:22	236:9	201:24
85:22	173:20	217:8	suggestion	202:7,13,1
195:7	176:4,10,1	221:9	52:7	5 217:11
street	1	224:22	231:2,11,1	221:16
51:21,22	183:17,22	225:25	8	227:20
145:10	206:23	232:17	suggestions	231:4
strengths	212:10	submitting	52:12	237:13
281:4	256:24	64:11	78:16	288:22
stretch	257:6,21	284:10	96:10	supported
85:17	266:7	subsequent	223:3,12	112:4
strictly	268:12	48:19	231:20	183:2
195:15	271:18	272:20	suit 129:1	232:1
strike 12:9	stuff	subsurface	summaries	supporting
Strohl 219:8	20:5,22	203:17	27:4	197:10
strong 35:20	21:7,10	succeeded	summarize	275:1
37:25 52:7	23:17,19	50:7	111:19,24	supportive
119:15,20	26:4 28:17	success 70:6	136:8	245:25
122:20	29:5,13	122:21	173:22,23	supports
144:10	35:18	220:21	summarizing	75:20
178:16	37:17 56:2	233:24	286:22	suppose
219:3	58:5 99:6	successful	summary	188:3
strongly	165:10	44:9,12,22	126:1	supposed
72:3 81:20	171:9	,23 45:15	summer	134:17
178:11	230:21	46:11	107:23	Supreme
structure	236:21	54:21,24	108:13	62:25
160:17	248:6	55:2	121:8	63:10 64:4
structures	268:12	135:13	sums 170:2	sure 12:17
161:5	subject	185:21	superficial	17:6 22:7
	170:2	succinct	266:5	26:8 30:12
	178:22	271:9	Superfund	34:11
	237:10	suddenly		38:11
	245:1	35:25		41:1,16,23
	254:13			
	submission			

45:20	147:15,16	173:23	213:20	161:10
51:17	148:17	216:21	228:13,19	task 185:17
52:12 53:1	149:21,22	245:10	233:11	208:5
83:25	154:16,17	259:9	246:15	210:24
85:10,18	156:6,7	283:2	262:18	tasks 209:9
86:7,13	157:5	tabling	264:7,9,13	211:1
89:6 96:16	sustain	284:10	279:9	taxes
100:17,20	150:3	tailings	talked 28:23	60:17,18,2
103:1	Sustainable	10:11	30:17	2,24
111:11	107:19,22	21:16,23	52:23	61:1,5,8,1
132:9	Suzette 4:18	22:1,3	53:11 74:2	5 62:20,23
134:6	swim 82:6	46:19	76:7 109:9	63:2,5,7,1
146:2,20	Sydney	72:13	118:3,4	0 64:9,15
147:3	111:11	155:8	121:3	65:19
149:7	136:10	170:6,24	122:13,22	76:8,12,18
150:13,16	269:5	172:22,23	165:6,7,10	,20,24
162:17	symbols	175:11	170:3	taxpayer
182:24	28:25 29:8	230:11	179:22	225:14
196:23	symptom	276:9	192:12	taxpayers
199:24	272:4	taking 57:13	212:21	76:23
213:3,18	system 19:16	76:10	239:16	teacher
218:18	26:5 28:15	96:14	246:20	126:20,24
222:9	36:18	131:20,23	264:12	team 35:9
235:5,16	94:23	138:9	talking	52:1 73:7
239:12	110:22	183:5	16:12 34:5	75:8 89:12
241:10,21	111:14,17	273:13	42:20	106:23
246:23	113:15,21	283:4	46:6,22	113:14
253:1	126:11	talk 18:18	49:16 62:8	114:10,14
286:23	155:9	25:13 26:8	67:15 85:5	116:18
surely	184:6	27:14	91:24	121:11
35:8,11	223:22	28:6,12	122:4	122:6,7,12
surest	226:8	29:10	152:21	136:16
210:18	247:13	30:21	161:14	138:18
surface	254:12	32:8,15	168:8	139:11
21:17 22:1	systems	37:9 39:19	170:17	140:7
203:17	142:18	46:4	172:1	142:6,16,2
surprise		53:10,12	192:13	4 143:10
164:21		54:1 58:22	200:24	144:11,13,
225:22		116:13	209:19	22,25
surprised		121:9	214:24	146:12
266:8	<hr/>	124:5	238:11	149:15
surrounding	table 7:1	133:3,13	244:25	151:16
273:7	8:1 9:5	134:20	250:21	152:20,23
Susan 4:9	12:21 13:2	151:21	261:2	155:18
67:21	20:9,17	155:21	talks 128:12	156:16,17
68:3,12	87:14	164:8	137:11	157:2
75:6 76:5	89:7,16	177:13	216:10	158:24
77:3 99:24	92:22	181:17	tar 111:11	160:24
101:2,16,1	96:12	192:2,18	136:10	162:7
7	99:20	195:11	269:5	163:16
104:19,20	104:3	196:6	targets	172:10
	106:19	207:2		

177:24	10:5	217:3	288:6	,23
183:21	152:22	218:24	territory	92:7,11,22
189:3	153:17	222:14,16	266:10	,23,25
190:15,19,	154:2	223:19	288:1	93:8
24	Teed 2:22	279:9	test 43:14	94:3,12,17
193:3,22	teeth 210:21	terms 21:5	85:15	95:5,11
195:2	teleconferen	25:14 45:8	text 219:1	96:17,18
231:1,16	ce 130:6	53:20	236:19	97:4,13,14
272:7	Telus 290:16	78:16	thank 11:3	98:25
274:14	temporary	79:15	14:8,11,20	99:22,24
287:13	161:5	80:21	,22 15:16	100:10,12,
288:22	tempting	132:6	16:17,19,2	23
teams 181:19	209:15	134:4	2,23,25	101:4,16,2
technical	ten 11:21	135:7	17:17,22	2,23
2:11,12,13	32:24	137:23	32:17,18	102:6,16
,14 9:13	59:15	138:2	33:21	103:19,21
21:2 37:16	67:19	157:15	37:21,22	104:9,19,2
38:18	101:24	167:13	38:5,6	4
56:9,13	156:10	178:20	39:2,7,8,1	105:1,12,1
77:23 78:6	167:21	179:4,14	1,15,19	6,21,22,23
146:12	205:14	181:19	40:6,7,13,	,25
147:5	213:9	198:16	20,24	106:6,11,1
162:16	252:21	207:4	42:14	3 116:1,4
164:24	264:7	212:10,17	59:10,25	126:15,17
167:14	tend 135:15	216:3	60:11,14	127:9,10,1
168:6	tender 241:7	224:5	64:16,17,2	3,23
184:21	tendering	230:11	1 65:1,22	128:2,6,16
217:21	134:16	254:21	66:3,22,23	,17,20
220:22	196:20	255:22	67:10,11,1	129:7,8,16
222:12	tenure 53:20	256:5,6	2,20	,18,23,24
230:1	208:1	261:2	68:6,12,13	130:7,10,1
231:4	209:23	269:13	72:7,19,20	8,19
244:20	term 13:23	286:9	73:7,16	131:1,3,5,
261:19	21:9	Terri 5:9	74:11,13,1	8,9,12,15
264:1	22:8,24	terribly	8,23	132:3,15
267:7	26:8 69:8	53:14	75:12,19	133:17,19
273:20	106:3	territorial	76:2,13,24	134:10
274:1	125:19	61:5 66:15	77:1,4,5,1	135:2,4,6,
275:3	199:6	95:17	0,12,13,19	24 136:25
285:24	204:14	107:11	,22	137:4
288:24	214:10	Territories	78:13,22,2	138:2,3,8
technicality	215:14	33:14 64:1	3 79:3	140:4
53:5	247:2	87:14	80:12,14	141:18,19
technically	250:23,24	88:13 96:2	81:8,10	142:13
209:3	279:13,14	119:3	82:14,15,1	143:2,19
technician	282:18	120:10	8,19,20	145:13,14
287:17	terminology	147:6	84:2,3,5	146:8,10,1
technologies	207:1	200:16	86:12,25	6,17,24
14:25		271:3	87:1,3,7,1	147:7,12,1
167:17,22		272:5	0,15	5
technology		273:2	89:1,2,5,1	148:4,7,14
			0,15,19,20	,16
				149:8,9,18
				,19,21

150:9,25	18 200:17	273:9,13,1	243:7,25	139:2
151:20	201:1,17,1	4,15,18	244:17	141:16
152:14	8,19	274:17,19	245:15,18	142:20,22
153:4,22	202:19,21,	275:18,21	246:11	143:24
154:4,7,8,	23	276:1,20,2	247:18	144:11
16 155:15	203:12,13,	2 277:10	250:19	150:12,15
156:4,6,13	19,22,23	279:25	that'll	154:6
,20	204:24	280:2,4	213:2	156:18
157:2,3,6,	205:9,10,1	282:24,25	250:9	160:21
7 158:6,7	5 211:9,12	283:5,25	that's 13:14	162:10
159:2,11,1	227:25	284:5,11,1	14:13 16:8	164:6
5,17	228:1	3,24 285:8	20:15	166:7
160:12,14,	241:12,14,	287:11,21,	21:12	167:11
22	18,25	23	22:12	168:10
162:22,23	242:2,3,14	288:10,21,	23:13 24:4	169:5
163:11	,16,18	23	25:18	173:9
164:19,21	243:1,3,8,	289:1,8,20	28:11	175:15
165:1,17	12,14,23	,21	29:14	176:6
166:5	244:9,12,1	290:6,13,2	30:22	177:6
167:5,11	3,19,22	0,24	31:19,21	179:21,24
168:15,17,	245:16	thanks 17:21	32:3 44:11	181:8
25	246:4,6,13	18:7,10	46:9,10	182:12
169:3,18	247:19,21	25:16 59:8	49:11,15	184:13,14
170:1	248:9	73:7,20	50:7	188:10
173:11,24	249:8,20,2	74:10 79:5	51:23,25	190:3,4
174:4,22	2,23	84:5 90:24	52:9 54:23	191:4
175:20,22	250:3,6,16	92:4,13	56:4	193:21
176:11,13,	,17	93:10	58:8,13	196:11,24
20	251:11,13,	94:2,14	61:22 63:9	198:3,15,1
177:2,6,11	15,19,20,2	95:13 97:1	67:9	6,17 199:5
178:23	2,24	98:17	68:1,6	201:16
179:3	252:1,2,4,	105:2,14	70:15	204:23
180:6,24	8,10,15,17	128:3,5,8,	72:18	206:21
181:1,15	253:4,21	11	79:24	209:16
182:16	255:2,4,5,	129:10,15	82:19	217:3
183:1,24	15	130:1,21	85:17	219:18
184:1,17	263:3,6,12	131:11	86:21	220:18
185:1	,13,15,19,	132:2,18	88:11,25	221:3
186:17,18,	21,25	133:16	89:4,18	224:6,21
24 187:12	264:2,17,1	134:12	91:13,14,1	225:12
188:14	8,21,24	137:2	5,23	227:12,24
189:11,16	265:1	141:21	94:17,20,2	228:21
190:8,21,2	266:1,4,15	143:4,18	1	229:7
3	,17	145:16	98:2,20,23	231:24
191:1,3,5,	267:2,4,6,	146:7,23	100:20	232:2
11,15,17,2	12,15,17,2	147:9	101:3,18	233:2,7,12
1,23	1,24,25	164:10	110:10,23	234:2
192:3,5,24	268:2,3,6,	189:17	122:14	235:12
,25	7,9,19,20,	195:20	124:3	236:11
195:21,23	22 269:25	205:19	125:3,7,18	238:13
196:24,25	270:2,4,5,	206:4	127:2,7	240:1
197:2,3	9,19	211:11,15	132:21	241:11
198:6,8	271:1,10,2	228:9	135:8	244:12
199:15,16,	2,23,25			245:14

251:14	31:7 44:10	278:8,9	178:1	thresholds
256:18	53:7 56:2	283:9,10	183:13,21	161:9
257:15,18	57:18	they'll	198:2	threw 159:7
258:22	58:5,24	150:17	228:4,24	throughout
268:23	63:19 76:9	162:3	239:25	55:13
269:23	83:20	180:10	241:13,20	85:16
273:25	84:23	they're	272:6	106:25
276:2,21	91:11,25	26:25	281:5	109:14
277:25	93:12,17	28:24 30:6	thick 130:3	110:13
278:17	98:22	43:19	thickness	112:3
279:15,22	99:10	45:24 46:5	14:24	116:25
284:16	100:21	50:9 51:18	118:1	120:6
thaw 22:15	110:8	52:15	thin 110:9	187:8
theirs 40:11	112:16	59:17 61:3	third 258:3	203:11
theme 19:18	115:9	72:12	third-party	throw 44:5
30:3	117:23	85:10	111:16	179:9
106:25	122:8,9	127:1	249:2	219:24
139:22	126:21	137:23	261:4,5,11	throwing
154:20	127:2	145:22	281:8	169:4
themselves	133:3	146:21	thirty	238:12,18,21
184:3	134:14	158:5	106:5,7	thus 70:5
themselves	135:10	174:18	194:11	224:14
31:16	137:4,8,10	194:18	227:22	tied 261:21
34:6,22	,20 139:19	197:9	this'll	Tighem 4:21
35:6 62:2	140:14	204:20	42:19	287:21
146:21	143:15	207:24	241:15	tighten
199:21	166:22	215:3	thoughtful	42:17
204:20	167:19	218:15	105:16	till
230:21	171:4	222:5,6	thoughts	89:7,13,16
240:1	175:25	231:16	34:1 41:4	timelines
thereafter	176:2,4,5	239:25	78:22 81:7	49:4
111:23	177:7,20	245:11	93:6 115:1	timely
there'd	182:3	249:3	119:18	114:11
13:23	187:23,25	256:3	145:4	126:10
therefore	194:2,5,10	269:21	163:6	287:7
67:5 218:7	198:20	279:10	186:25	Tinto 227:4
220:19	200:14	they've	187:1	tired 33:25
thereof	214:17	18:21	192:10	65:23,24
116:14	219:7	20:15,20	193:10	105:18
there's	220:15	21:14	194:2,3,5	tissue 159:1
12:20	223:25	26:20,22	195:10,18	title 37:13
13:19	224:5,13	27:19	203:22	91:7 104:2
19:21	227:4	28:8,25	250:16	131:16,18
21:25	229:5	29:23	thousand	153:7,10
22:14	232:19	30:3,18,21	56:14	Tlicho
23:5,9,23	233:25	,24 31:17	60:24	
24:2,22	239:19	43:8 47:4	71:21	
25:2	240:22	50:6 59:16	threads	
29:17,20	244:23	63:4 66:20	233:13	
	256:8,19,2	112:14		
	0 257:11	137:17		
	264:3	138:2		
	265:4			
	273:5			

288:19	243:1	tours 121:12	286:10,19	138:17
today 11:9	245:17,18	140:25	290:7	trend 226:6
16:21	250:18,19	towards 25:1	transfer	Trevor
18:2,18	280:23	58:1 90:1	114:3	241:21
26:9	Tom 289:25	115:2	transition	290:16
28:6,13	tomorrow	171:20	29:12,15	tried 52:14
41:20	126:19	178:1	transitionin	116:7,19
45:21	165:15	179:14	g 26:10	170:20
53:13 55:4	tone	212:22	translate	206:23,24
59:16	103:8,13	217:2	147:19	trioxide
60:16	104:22	245:5	translators	18:25
65:3,6	105:7	253:13	140:21,23	68:22 69:6
68:5 87:17	tonnes	town 82:2	transparency	70:14 71:7
99:6	280:16	90:12	44:24	72:3
100:18	Tony 3:12	122:7	69:19	139:25
104:7	Toogood 2:4	145:12	111:16	194:16
122:25	289:7	194:20	207:17	282:11
130:3	tool 43:25	Towns 63:25	231:13	trip 44:9,12
136:20,24	44:11	townsite	236:3	71:19
141:2	54:4,12	74:17	transparent	troubling
149:5	tools 28:3	toxic	114:11	42:22
155:20	256:21	23:17,22	169:1	true 36:24
157:22	top 84:11,17	Trace 289:15	Travis	truly
161:14,23	85:25	track 15:16	289:15	47:20,21
165:7	163:23	28:16	treasury	54:20
176:21	182:12	215:17,19,	31:20	195:14
177:7	topic 25:20	25 233:23	108:5,8,15	244:3
206:13	37:13	tradeoffs	158:4	247:24
212:13	224:17	22:14	202:5	278:12
215:19	225:4	traditional	256:11	trust 28:8
255:6	topics 55:5	125:24	262:9	45:15,18
289:19	155:21	185:23	265:18	52:9 54:6
today's 94:9	213:20	186:7	treat 19:9	69:12,25
Todd 5:3	top-level	187:5	treated	70:1,8,12
40:24	48:18	287:25	72:16	100:3,9,16
42:14	total 166:9	Trail 62:1	treatment	101:12
59:10 79:5	202:25	185:15,17	10:5	119:22
80:6 82:23	totally	186:1	13:21,22	188:16
84:5	196:20	187:2	14:10,25	209:7
86:7,13	touch 280:21	training	22:25	220:9,15
98:17	tough 105:18	71:11	23:1,4,5	234:22
105:2	142:23	trajectory	81:21	236:4
128:3	286:3	41:16	153:18	237:11
195:11,14	288:11	trans 169:1	154:2	258:1,9,14
205:19,20	toughest	transcript	Tree 1:22	259:24,25
206:2	285:19	8:23 219:1	289:22	260:2,12
211:11,16,		transcripts	tremendous	261:6,16
17			24:23 25:2	262:4,22
213:7,16,1				265:3
8 228:1				
229:2,10				
237:11				

278:11	173:3	typically	143:12	156:8
try 12:9	176:23	265:22	155:7	173:20
18:14,18	193:3,10	Tyson 2:14	166:16	174:3,7,8
19:23	196:2	288:25	172:18	175:9
20:22 21:8	204:14,22		190:4,8,9	176:9,10
25:7 44:18	210:6,15,2	<u>U</u>	192:23	177:8
83:25	1 247:5,12	UBC 205:21	195:25	199:8
89:24 90:2	255:7	ultimate	206:5	274:22
91:2,7	269:21	57:5	225:10,18	276:2,5
119:11	Tuesday	ultimately	236:18	undertakings
120:4,19,2	117:22	65:16	245:13	7:4 10:1
1 121:17	120:18	83:19	253:20	13:6 153:9
138:21	turn 40:12	140:15	256:19	286:13,19
140:23	102:5,6,14	197:6	271:2	underway
141:1,2,8,	128:10	un 52:8	understandab	60:19
9 142:1	131:14	uncertainty	le 141:3	unfold
151:6	162:3,4	209:15	understandin	196:24
165:14	250:22	224:6	g 25:23	unfortunate
177:21	turned	unclear 47:8	44:16 66:7	80:1 139:1
188:11	212:24	underground	82:3	unfortunatel
194:12	turning	21:6,24	102:21	y 25:5
195:1,4,16	212:17	22:2,4,5	117:3	87:16
,19 208:9	turns 106:13	23:7,17	121:22	104:5
231:3	tweaks 173:5	70:14	159:14	204:2
235:12,13	twelve 14:19	194:18	186:8	238:23
236:21	232:10	231:9	196:12,15	272:8
238:20	twenty 11:20	235:10	206:12	unilateral
239:1,9,10	19:12	280:17	255:21	221:13
240:8	32:23	underlines	285:10	unilaterally
246:15	40:12	52:8	understands	43:8 47:9
247:25	59:16 65:5	undermined	146:3	unique 199:6
255:20	96:2 213:4	45:11	41:10	285:23
271:13	223:11	understand	102:22	United 26:20
277:15	twenty-five	27:20	103:2	27:22 28:7
trying 20:14	35:21	48:23,24	106:5	29:16
23:3,21	212:15	49:4 52:11	undertake	41:14
29:9 38:18	251:2	53:5 58:4	14:2 41:25	258:12
55:8 91:22	twenty-four	66:19	156:19,25	universal
97:25 98:4	97:23	88:7,11	272:12	45:22
121:12	twenty-six	97:25 98:4	275:14	universities
122:3,10	95:16	105:9	undertaken	121:11
125:8	type 62:10	107:2,6	70:24	University
137:25	135:13	110:4,9	198:17	36:22
138:25	182:1	119:23	215:14	unless
140:10,19	196:8	129:12	undertaking	56:21,25
143:8	204:16	131:22	12:10,14,2	99:10
149:25	typical	132:23,24	3 48:12	188:4
154:18,23	121:6	136:18	117:1	248:7
167:1		139:17	152:25	
168:7			153:5,14	
169:6				
171:12,19				
172:5				

283:21	1:2,10	216:6	virtually	wakes 193:19
unlike 38:13	9:12	231:16	23:23	Walbourne
unresolved	15:12,25	240:23	vision 47:19	5:21
115:23	107:12	273:23	122:23	walk 20:10
214:18,19	162:11	274:6	205:7	21:4 26:13
215:15	163:24	varying	visions	194:21
untenable	288:16	179:23	131:19	walked 24:6
227:7	289:2	vast 144:1	visit 27:20	walking 44:8
unwarranted	valuable	vector	51:13	WAMP 4:25
218:6	41:7	272:16,21,25	150:7,23	ware 124:22
update 18:15	value 62:18	vegetation	visited	warm 147:18
upfront	63:9 108:7	186:1,5,8	107:22	148:19
257:3	111:9	vehicle	visiting	warming
262:7	138:17	101:20	108:13	277:20
265:5	139:19	119:21	visualizatio	warranted
up-front	165:11	vein 48:17	n 141:6	50:23
265:25	179:7	53:25	vitae 254:23	224:14
uphill 210:9	187:3	venue 117:21	Vivian 6:7	Warul 6:3
upon 11:1	221:23	164:5	voice 39:18	wasn't 49:24
61:12	222:10	verification	281:11	100:24
67:16	values 44:21	261:5	voices 134:4	148:8
102:1,2	63:7 93:3	Vern 2:6	voids 22:4	180:2
152:8,9	Van 3:14	289:5,22	volunteer	204:11
213:11,12	4:21	version	252:13	218:10,18
235:7	106:20	154:19		221:19
255:24	135:18,24,25	versus 10:12		222:8
291:10	160:18,22,23 162:1	175:12		266:19
uptown 24:16	212:9	214:1	Wah 89:2	waste 27:1
urgency	287:21	276:11	251:25	29:3,23
134:14	vari 90:4	via 5:13	wah-shee	30:2,6
useful	variable	130:5	87:10,22	257:22,25
119:21	43:4	vicinity	89:4,17,18	258:2,10
180:16	variations	82:9	191:17	watch 127:11
253:11	124:13	view 31:3	251:25	watching
281:23	variety	134:23	252:1	139:5
user 259:13	19:13	178:19	267:22,23	277:17
usually	93:12,17	219:4	271:12	water 9:9,12
37:10	94:24	222:23	273:11,12	10:5
utilized	96:3,5	245:10	288:18	13:21,22
70:1	124:5	249:2	Wah-shee	14:10,25
	143:23	viewing	1:15 87:8	15:11,13,2
	various 9:16	222:18	191:16	2 16:1
	34:10	views 218:22	270:15,18	19:10
vague 28:2	95:20	Villages	271:11	22:22,23,2
29:10,21	107:6	63:25	wait 89:13	5
30:23	124:7		waiting	23:1,2,3,1
Valley	139:14		139:2	3 33:12
	161:10			

34:21 36:7	Webcast	weighed	22:8,9,10,	188:23
50:17 53:4	290:16	102:24	25	190:11,13
72:12,17	website	weight 52:12	24:7,19,23	195:3
81:18,20	286:12	weird 147:1	,24 26:8	200:7
85:1	we'd 41:21	welcome	27:15 28:5	205:11
117:1,2	69:4	33:15	30:20,23	213:8,14,1
123:6	215:12	104:3,10	31:22	9
130:13	229:17	126:7	32:1,15,21	214:20,24
150:5	232:21	127:12	,24 34:5	215:3,11
153:17	week 13:24	149:15,22	40:9,14,15	217:2
154:2	17:11	150:22	46:7,21	218:13,23
158:22	33:25	174:24	48:7,20	219:18
162:12,17,	51:12	welfare	49:16	224:18
21,22	96:14	109:25	50:6,12,14	230:4,21,2
163:24	102:24	we'll	,21 51:2	3 236:9
198:13	109:9,14	11:21,24	55:8	237:24
220:3	110:14,20	17:23	56:17,18	238:13,23
226:6,12	112:4	18:1,2	59:7 62:7	240:18
277:16	114:25	21:15	67:14	250:21
290:19	117:1	39:13	72:22,23	253:25
watered	120:18	42:10	78:17 85:5	257:9
83:13	122:13	53:12	94:17 95:1	268:25
watering	125:9	59:18	98:20,21,2	277:20,24
83:10	149:6	76:13	4 100:9	278:15,19
waters 145:5	150:13	85:21	104:8	279:15,16,
water's	151:15	89:16 93:8	105:5,18	17 284:6
22:22	179:23	94:6 98:3	111:1,10,1	285:1,15
watery 83:12	187:8	99:9	4 115:6	287:19
ways 22:2	189:25	101:24	117:13	291:2,3
31:12 43:6	213:25	105:23	121:19,21	Westermann
93:19	216:24	128:4	122:13	3:17
111:14	218:14	134:20	123:18	Western
222:21	253:19	146:9	125:6,8	28:24
231:3	275:9	148:5	127:4,7,11	wet 157:12
262:13	279:23	152:2,5,11	128:24	wetting
272:24	280:9	157:18	132:22	10:13
288:16	285:9,13,2	165:2,14	139:12,23	170:8,9
weak 55:18	2 286:12	173:20	140:19	175:12
215:9	287:19	175:21	141:3	276:11
weakest	288:3	177:1,9	144:20	we've 11:22
178:16	290:8,9,17	181:13	151:3	18:1
weaknesses	,25	182:25	157:16	21:3,9
281:4	week-long	184:10	164:17,22	24:7,9,13
wearing	230:1	190:21	165:23	25:18,25
19:12	weeks 14:3	205:14	166:21	26:17
95:20	42:2,21	245:1	168:7	27:8,10
190:15	105:5	284:15	169:2	28:1 29:9
weasel	178:4	286:5,17	171:18,19,	36:21
279:14	week's 107:1	287:6	20	44:17
	weigh 38:19	we're	175:17,23	46:13
		11:5,23	180:4	51:11
			182:21	52:2,14
			184:5	
			187:3	

53:11 54:2	233:2,19	147:25	wish 241:23	129:1,13
55:6 57:20	234:19	149:6	wishes 115:2	130:24
58:18 60:6	236:16	150:1	wonder 14:1	132:1
61:10	240:1	151:15	35:3 90:14	134:6,19
66:13	241:1	173:13	156:8	135:10
67:16	249:2,3	203:10	wonderful	137:17,20
81:16	259:11,12	209:8	278:22	139:16
84:22	261:1	250:13	wondering	140:22,23
95:22,25	279:20,21	264:10	16:15	141:17,24
96:4,7,10	283:6	277:16	74:3,8	144:5
99:16	whatever	279:8	75:16	145:3,9
109:8	23:7 83:4	whoo-hoo	76:11	146:6,22
110:25	90:17	94:9	78:21 84:1	147:4,5
111:17	132:12	who's 27:24	101:8	149:1
112:3,18	153:8	57:8 98:5	128:14	161:20
113:1,3	190:1	108:14	133:12	179:14,24
116:6,7,15	218:16	123:5	137:21	180:1
,19,20,25	229:24	226:24	165:24	183:19
117:6,25	236:21	237:12	183:22	188:2
118:19	237:23	249:4	190:16	193:22
119:15	254:15	whose 34:25	198:23	194:12
121:2,12	265:16,20	98:1	199:9	196:8,11,1
122:22	whereas	wide 86:2	203:21	7,18,24
124:16,18	42:24	wiggle	264:11,16	197:12,17,
126:18	whether	221:15	266:11	21
135:7	13:12	wildlife	woods	198:11,16
140:13,17,	16:11,15	150:4	35:23,24	214:7,8
21 141:1	24:16 45:9	willing	wor 121:4	224:21
143:13	46:3 75:21	32:3,15	work 13:20	230:4
150:3	85:15	38:25 98:9	29:1,24	232:6,15
151:9	117:20	216:13	30:14	236:7
155:19	155:4,5	Wilson 5:18	31:13,22	237:22
161:14	170:8	win 220:1	32:6 33:25	238:16
171:25	171:5	wind 161:19	41:12,19	239:11,20
172:1,24	187:20,21,	window	51:3 57:9	240:8
173:14,16,	23 188:3	119:17	63:16 69:9	241:7
23 179:22	207:25	windy 46:18	74:7 83:17	246:16
180:18	208:1,4	83:2	84:2	247:5,13,1
194:11	227:13,14	wing 152:2	86:2,15,17	4 251:4,7
205:4,10	246:25	wins 219:23	89:12 90:2	262:21,22
212:22	266:11	winter 118:8	91:14,25	271:4,7
216:24	271:3,17	wisdom 11:9	92:18	272:23
220:22	281:12	94:10,16	96:8,14	275:10
221:18	283:23	98:14	101:11	278:10
223:23	whip 43:19	wise 37:25	103:5	279:1,21
225:7,15	whole 42:22		107:5	285:20
226:7	46:22		110:7	worked 13:11
227:8	48:20		112:20	95:16
228:17	78:18		113:18	115:15
229:20	93:12,17		115:24	167:16
230:3	96:5		121:12	181:25
231:11,15	101:18			206:24
232:10,15,				208:19
19				

222:3	142:20	286:17	156:9	222:1
238:25	144:9,16		201:17	223:10
246:15	145:9	written	230:18,25	224:11
278:4	180:20	114:18	231:5	225:2
worker 70:11	196:15	221:6,13	242:19	226:25
workers	197:8,15	229:5	271:20	242:5,8,24
90:13	198:13	286:21	273:2	243:10
109:25	workshop	287:1	277:13	245:2,24
	25:21	wrong 12:18	278:17	254:10
working	112:6	143:17	279:24	286:1
19:12	117:8	145:19	286:2	287:14,24
49:11 51:6	118:18	wrote 17:10	287:20,22	288:7
53:19 74:6	135:20		288:7,19	yesterday
95:18	136:5		Yellowknifer	11:17
105:4	177:19	<u>Y</u>	s 75:9	27:18
107:4	212:14	yearly 70:4	97:12	42:15
110:3,22	232:7	Yellow 80:16	150:2	56:10
112:8,14,17	workshops	Yellowknife	154:22	59:15
113:1,4,11	19:14	1:23 4:21	155:4	65:3,23
,24 115:24	world	7:17 27:11	Yellowknives	67:13 90:1
120:2,4,24	36:2,23	33:11	21:10	98:7 102:8
121:5	185:15	38:17	25:21	106:21
123:10	220:1	39:22	27:12	119:13
132:11	258:5	51:14	41:12,25	120:1
144:2	world-class	59:14,23	45:17	122:22
145:13	49:3	60:4 62:12	48:10 49:8	125:20
157:16	worm 212:24	63:6 65:20	50:7	151:18
160:2,7,9	worried	72:14,17	51:1,5	165:6,13
161:2,3,7,13,20	83:20	73:3,10,15	53:13,18,2	166:20
162:7,16	134:15	74:14,25	1 54:15	168:7
178:1	213:25	75:19	55:14	193:17
179:5,19	230:23	76:16	56:17	217:16
180:2	241:4,6	77:7,16	58:24	283:11
204:3,4,5	worries	78:1,10	59:5,11	yet 13:7
205:5	201:6	80:16,22	73:11,18	27:15
212:20,25	worry 83:14	81:11	74:25	35:14
221:10	105:7	82:1,4,10,	77:7,16	93:24
230:13	worse 49:25	16 83:9	78:1,10	115:23
232:9	worth	88:9 90:9	79:12 80:8	122:14
234:11	110:10,21	93:4	82:23	168:12
236:15	181:4	96:9,22	84:18	170:24,25
239:24	worthwhile	97:8,22	93:14 96:8	171:3,6
245:5	55:3	117:4	104:13	186:6
253:7,15	wrap 162:8	119:3	127:24	245:12
278:19	280:14	120:9,11,17	142:5	266:19
279:7	write 154:18	127:16,21	177:24	275:12
284:8	writing	137:15	211:19	YK 83:21
289:10		142:12	213:4,24	98:9 99:14
works 57:24		143:10,16	214:7	YKDFN 5:2
58:14		145:21	215:2,21	8:7,15
109:4		146:14	216:20	11:19
		154:24	219:18	32:22
			221:4,17	

40:10,11,2	34:9			
2 43:10	yous 285:9			
47:10				
50:12 52:4	you've 19:23			
54:8 73:1	24:22			
78:14,24	25:10 39:9			
79:4 81:9	85:20 95:8			
98:7,15	97:18			
102:19	100:3,6			
105:1	107:5			
110:25	110:20			
112:6	119:8			
119:10,17	120:23			
120:12,14,	139:22			
16,20	140:3			
136:5	148:25			
205:11,12,	158:19			
17 211:10	165:10			
213:15	167:18			
218:20	170:3,23			
220:10	195:7			
221:2,20	233:13			
222:17,23	240:11,25			
223:21	241:24			
224:8	264:11			
225:16				
227:16	<hr/> Z <hr/>			
228:2	zone 16:13			
243:4	17:15			
244:15				
245:14,17	zones 9:16			
250:18	16:6,11			
252:17,22	17:12			
253:23	273:22			
254:1	274:6			
263:10				
264:19	Zortman			
266:16	258:11,22			
267:14				
268:21				
270:5				
YKDFN's				
219:4				
Yose 2:20				
you'll 32:17				
175:3				
188:16				
228:16				
young 119:19				
126:19				
yourselves				