



MACKENZIE VALLEY ENVIRONMENTAL

IMPACT AND REVIEW PANEL

GAHCHO KUE PROJECT

ENVIRONMENTAL IMPACT REVIEW HEARING

Mackenzie Valley Review Panel:

Chairperson	Darryl Bohnet
Panel Member	Rachel Crapeau
Panel Member	James Wah-Shee
Panel Member	Peter Bannon
Panel Member	Richard Mercredi

HELD AT:

Yellowknife, NT

December 6, 2012

Day 4 of 6

1	APPEARANCES	
2	Chuck Hubert	) Panel Staff
3	Simon Toogood)
4	Shannon Hayden)
5	Stacey Menzies)
6	Carol Luttmer)
7	Cailin Maki)
8	Alan Ehrlich)
9	Kathy Racher)
10	John Donihee)
11	Dave Tyson)
12	Terry Antoniuk)
13	Brigitte Masella)
14	Ann Gunn)
15		
16	Stephen Lines	) De Beers Canada
17	Terry Kruger)
18	Cathie Bolstad)
19	Veronica Chisholm)
20	Leah Russell)
21	Craig Blackie (np))
22	Andrew Williams)
23	Elizabeth Biscaye (Sabet))
24	Shirley Tsetta)
25	Grace Mackenzie)

1	APPEARANCES (cont'd)	
2	Wayne Corso	)De Beers Canada
3	Glen Koropchuk (np))
4	Mike Herrell)
5	Nathan Schmidt)
6	Gary Ash)
7	Alex Hood (np))
8	Dave Putnam)
9	Ken De Voss)
10	Travis Schindel (np))
11	Rob Coolen)
12	Brenda Anderson (np))
13	Bill Horne	)EBA Engineering
14	Daniel Johnson	)JDS Mining
15	John Virgl	)Golder
16	John Faithful)
17	Amy Langhorn)
18	Peter Chapman)
19	Alison Snow (np))
20	Tasha Hall (np))
21	Rie Hatsushika (np))
22	Dan Coulton)
23	Kasey Clipperton)
24	Cam Stevens)
25	Kyle Hodgson)

1 APPEARANCES (cont'd)

2 Kristine Mason)Golder

3 Graeme Clinton)Impact Economics

4 Terri-Lee Oleniuk)Counsel

5 Martin Ignasiak)Counsel

6

7 Dora Enzoe)Lutsel K'e

8 James Marlowe (np))First Nation

9 Stephanie Poole (np))

10 Ron Fatt (np))

11 Emily Saunders)

12 Mike Tollis)

13 Terry Enzoe)

14 Roy Desjarlais (np))

15 Sam Boucher (np))

16 Joseph Catholique)

17

18 Bill Enge)North Slave Metis

19 Ed Jones)Alliance

20 Eric Binion)

21 Robert Mercredi)

22 Wayne Langenhan)

23 Susan Enge)

24 Joel Dragon Smith)

25

	APPEARANCES (cont'd)	
1		
2	Lionel Marcinkosky (np)	)AANDC
3	Robert Jenkins)
4	Nathen Richea)
5	Paul Green)
6	Velma Sterenberg)
7	Francis Jackson)
8	Michele Culhane)
9	Tricia Melander-Ford)
10	Marc Large)
11	Mike Martin)
12	Eric Yaxley)
13	Marty Sanderson)
14	Robert Mulders)
15	Julian Kangan (phonetic))
16	Valerie Gordon)
17	Scott Duke	)Counsel
18	Ramona Sladic	)Counsel
19		
20	Kate Witherly	)NPMO
21		
22	Todd Slack	)YKDFN
23	Alfred Baillargeon)
24	Fred Sangris (np))
25	Randy Freeman)

1	APPEARANCES (cont'd)		
2	Kim Poole	(np)	) YKDFN
3	Edward Sangris	(np))
4			
5	Kimberly Balsillie	(np)	) GNWT
6	Russ Teed)
7	Gavin More)
8	Luke Coedy	(np))
9	Dianna Beck)
10	Brittany Shewera)
11	A. Lizotte	(np))
12	Katherine Robinson	(np))
13	Shafic Khouri)
14	Derek Rains)
15	Rachel Bowden)
16	Kelly Kaylo	(phonetic))
17	Greg Brady	(np))
18	Bob McLeod	(np)	) Premier
19			
20	Joel Holder		) ENR
21	Sunny Ashcroft)
22			
23	Kelly Burke		) DFO
24	Bruce Hanna	(np))
25	Julie Dahl)

	APPEARANCES (cont'd)	
1		
2	Claire Stratton-Ross	) DFO
3	Bev Ross)
4		
5	Ann Ronald	) Parks Canada
6		
7	Scott Duke	) Justice Canada
8	Ramona Sladic)
9		
10	Rob Johnstone	) Natural Resources
11	John King	) Canada
12	Arana Dixit)
13	Sharon Smith)
14	Nan Dave (np))
15		
16	Marc Casas	) Mackenzie Valley
17		) Land and Water Board
18		
19	Henry Zoe	) Tlicho Government
20	Ginger Gibson (via phone))
21	Sonny Zoe)
22	John B. Zoe)
23	John Nishi (via phone))
24	Joline Huskey (phonetic))
25		

1 APPEARANCES (cont'd)

2 Lisa Lowman)Environment Canada

3 Carey Ogilvie (np))

4 Erik Allen)

5 James Hodson (np))

6 Corrina Wat (np))

7

8 Mike Molinski)Transport Canada

9 Dale Kirkland)

10 Shannon Vollema)

11

12 Stephen Ellis (np))Akaitcho IMA

13

14 Patrick Simon)Deninu Kue

15 Elmar Platt (via phone))First Nation

16 Linda Vandenberg)

17 Mark Detromond)

18 Dave Pierrot)

19 Robert Zien (np))

20

21

22

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1	LIST OF UNDERTAKINGS		
2	Number	Description	Page No.
3	1	AANDC to provide, by December 7,	
4		2012, a list of CIMP projects	
5		related to Bathurst caribou herd	77
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1 --- Upon commencing at 9:08 a.m.

2

3 THE CHAIRPERSON: Good morning,
4 everyone. Welcome to day 2 of Gahcho Kue hearings. We
5 like to start the day with a prayer, and I've asked
6 Florence Catholique to -- to help us, and she kindly
7 agreed. So please stand.

8

9 (OPENING PRAYER)

10

11 THE CHAIRPERSON: Thank you very much,
12 Florence. Staff have -- have advised me that the
13 transcripts for the Dettah and Lutsel K'e community
14 hearings is available on the -- on the Mackenzie Valley
15 website, so that -- they were posted last night and are
16 available.

17 We've had a good first day. Everybody
18 respected the time, and -- and we moved along very well
19 and got through the day's agenda nicely. And I ask
20 that everybody be cognizant of the time again. You may
21 think that the Chair is a bit pushy but I'm actually
22 under the direction of the -- of the panel. The panel
23 really wanted me to maintain the schedule, and that's
24 what I intend to do.

25 So we will begin with Tlicho, and Mr.

1 Henry Zoe has the chair.

2

3 PRESENTATION BY TLICHO GOVERNMENT:

4 MR. HENRY ZOE: Good morning, Mr.
5 Chairman. Mr. Chairman, this morning I have with me my
6 colleague, the chairman of our Kwe Beh Working Group,
7 Sunny Zoe, with me here. And I also have John Nishi,
8 our caribou expert, on the line listening in. And
9 he'll be helping me do my presentation.

10

11 (BRIEF PAUSE)

12

13 MR. HENRY ZOE: Mr. Chairman, this
14 morning the Tlicho government is making their
15 presentation on this project. Mr. Chairman, our Tlicho
16 government made a number of recommendations.

17 The Proponent will consider, in setting
18 the water quality objectives, the traditional use the
19 Aboriginal people of the region, and the levels will be
20 set suitably to protect these traditional uses, level
21 of use, and protection at various endpoints in Kennady
22 Lake and downstream. De Beers committed to consider
23 uses but not to protecting uses in all the variety of
24 forms sent out by AANDC.

25 Mr. Chairman, the recommendation set out

1 in these areas were satisfied through ongoing work and
2 the response of De Beers on water quality, fish
3 compensation, our approach to traditional knowledge,
4 and independent monitoring.

5 Mr. Chairman, we will be providing in
6 our final submission to the Board and to the panel, the
7 -- the issue of Ni Hadi Yati in our closing arguments.

8 Request for study, Mr. Chairman, we are
9 -- we're satisfied with the response that we've
10 received from De Beers, so I won't be speaking on this
11 issue.

12 In regards to socioeconomic commitments,
13 adaptive support to Tlicho government services, we
14 require on the land counselling and space for
15 contractors. We're satisfied that these have to be
16 managed by the Proponent and the Tlicho government if
17 there is a satisfactory IBA.

18 Mr. Chairman, I'm now going to turn to
19 John Nishi, who's on -- listening in, to do the
20 following slides.

21 MR. JOHN NISHI: It's John here. I'm
22 just wondering if you can hear me okay?

23 THE CHAIRPERSON: Yes, we can hear you
24 very well, thank you.

25 MR. HENRY ZOE: Yeah, we can hear you.

1 MR. JOHN NISHI: Okay. Thank you Mr.
2 Chairman and Mr. Zoe. I will try to take us through
3 the next through -- few slides here. And I'd like to
4 just open off with a kind of reminder to a -- to the
5 group that -- just the critical importance of Ekwo or
6 barren-ground caribou to a -- a -- to the ecology of
7 the North and also to the -- the cultural of the
8 Aboriginal peoples, and specifically Tlicho.

9 And, you know, just to remind ourselves
10 that as -- as a keystone species, it's -- caribou shape
11 the ecology and the environment of the North through
12 both herbivory; being a prey animal for predators like
13 wolves, bears, and wolverines and scavengers, such as
14 foxes and ravens; but also the -- the keystone that --
15 that these caribou fed and have fed Aboriginal peoples
16 for -- for generations and since time immemorial. So
17 as a keystone cultural species, Ekwo are essential to
18 Tlicho language, culture, and way of life.

19 I'd like to go to the next slide,
20 please.

21 The influence of caribou scarcity over
22 the recent history is a very -- a very important piece
23 of context. And what I mean by this is that prior to
24 today, the most recent Tlicho memory of a time of
25 caribou scarcity was in the 1960s. And it was at this

1 time that the community of Wekweeti had to be
2 evacuated, Behchoko and Gameti, because of a scarcity
3 of caribou and other game.

4 And this was a significant change, led
5 to strong impacts both on the political and social
6 fabric of Tlicho culture and society at the time. And
7 because of that recent history and the -- that
8 influence of scarcity, it's -- it is a defining aspect
9 of the relationship between Tlicho people and -- and
10 Ekwo. There has been a changing role of caribou in
11 Tlicho way of life, but they continue to be a cultural
12 keystone species.

13 Next slide, please.

14 As -- as everyone in the audience is
15 aware, the Bathurst caribou have under -- undergone a
16 very dramatic decline in recent years. And this is
17 again a reminder just how important the relationship
18 between people and caribou is. This chart just shows
19 sort of the -- the overall trend in the rate of decline
20 in the Bathurst herd. And this graph just shows the
21 decrease in the -- in the breeding females of the herd.

22 Just go to the next slide, please.

23 One of the things that resulted as -- as
24 -- as a function of the decline was -- was a -- a ban
25 on hunting. And Mr. Zoe, if you just click on the

1 button again, it should advance the animated slide
2 here. And this slide is showing the -- the need -- the
3 most recent management actions to develop a co-
4 management proposal between the Tlicho government and
5 the Government of the Northwest Territories and to
6 follow an adaptive co-management approach to managing
7 caribou during another time of -- of scarcity.

8 So let's advance to the next slide
9 please.

10 So this slide should show environmental
11 assessment and predicted impacts. And the intent of
12 this slide is to -- is to remind ourselves that the --
13 the comprehensive Environmental Impact Statement for
14 Gahcho Kue project submitted by De Beers provided --
15 provided an analysis of primary pathways that predicted
16 that the incremental and cumulative impacts from the
17 projects and other developments have a significant
18 negative influence on the resilience and persistence of
19 caribou populations. It was stated in the EIS that
20 most of the incremental cumulative impacts were
21 predicted to be negligible and low in magnitude and
22 reversible.

23 Advance to the next slide, please.

24 This is just another version of the
25 previous slide. But I -- I guess I'd just like to

1 remind the group that despite the conclusions in the
2 EIS, the Tlicho government remains very concerned that
3 the combined effects of changes in the environment and
4 climate, increased industrial activity on the land, and
5 changing hunting pressures can act to reduce the
6 ability of Bathurst caribou to recover.

7 And more importantly I think the -- the
8 Tlicho government would like to respectfully suggest
9 that despite the extensive work that De Beers has done
10 to pre -- to prepare its EIS, the binders are simply
11 words and -- and a lot of them, but these are words
12 used to describe the predicted potential or expected
13 impact of the mine and associated infrastructure.

14 So as a result the -- sorry, I -- I
15 thought I heard someone say something, so I'm just
16 pausing. Should I just continue on?

17 THE CHAIRPERSON: No. This is the
18 Chair. What we have is a bit of static every now and
19 then, but you're coming across very well. Thanks.

20 MR. JOHN NISHI: Okay. Thank you, Mr.
21 Chair.

22 So consequently, the Tlicho government
23 views the environmental review and application process
24 as really an initial, albeit very important,
25 preliminary exercise. And the real work and the

1 important work of mitigation, monitoring, and managing
2 caribou starts after the development proposal is
3 approved by the Mackenzie Valley Environmental Impact
4 Review Board, and then occurs throughout and beyond the
5 operational life of the project.

6 So can we advance to the next slide
7 please? So in reviewing the EIS and the proposed
8 mitigative measures and the proposed monitoring program
9 for caribou, the Tlicho government has highlighted
10 concerns in its technical report in the three (3)
11 areas. The first is monitoring roads, the associated
12 effects on hunting access and caribou. The second is
13 monitoring distribution of caribou and estimating a
14 zone of influence associated with the mine and -- and
15 access road. And the third was monitoring behaviour
16 and activity of caribou within a zone of influence.

17 So with respect to monitoring roads,
18 just a couple comments. De Beers's conclusion is based
19 on an underlying assumption that previous patterns of
20 hunting access by people and winter range use by
21 Bathurst caribou and other herds will be similar in the
22 future.

23 And with respect to considering
24 distribution of caribou and estimating a zone of
25 influence, this is a very key part of the EIA in that

1 the zone of influence was used to estimate the
2 likelihood and energetic consequences for adult female
3 caribou occurring within that zone of influence. So it
4 is a key assumption to estimate incremental and
5 cumulative effects of the project to Bathurst caribou.
6 And as a key assumption it needs to be tested and
7 monitored if the project is to proceed.

8 With the third consideration, monitoring
9 behaviour and activity of caribou within a zone of
10 influence, it appears that within the current version
11 of the wildlife monitoring plan, there's lacking -- it
12 -- it lacks detail with respect to how caribou will be
13 monitored, what specific monitoring or sampling designs
14 have or have not worked. And, in short, it does not
15 provide enough detail to understand how mitigative
16 measures will be monitored more effectively.

17 So I'd like to conclude with the next
18 few slides, just to provide an overview again of the
19 recommendations that were -- were written in the
20 technical reports. So this next slide should be the
21 slide titled "TG Recommendation." And there's two (2)
22 points here with respect to oversight and monitoring.

23 The first has to do with independent
24 oversight. And the reminder here is that the Tlicho
25 government views that the Proponent and respective

1 parties should collaboratively develop an agreement
2 that creates an independent oversight body.

3 With respect to a wildlife monitoring
4 plan, the Tlicho government believes that that plan
5 needs to be enforceable. And it should be undertaken
6 principally by De Beers, but under the purview of the
7 independent overview.

8 If we go to the next slide. With
9 respect to impacts to caribou, there are three (3) --
10 three (3) recommendations that the Tlicho government
11 would like the -- the panel to consider. The first has
12 to do with the winter access road and vehicle traffic.
13 And the recommendation is that monitoring should test
14 whether the access road and associated vehicular
15 traffic affects behaviour and impedes movement by
16 caribou.

17 The second recommendation with respect
18 to caribou impact is to -- to define and estimate --
19 estimate a zone of influence for the Gahcho Kue mine,
20 because it -- because it has been used as a very key
21 piece of the environmental impact statement. It needs
22 to be defined and monitored as the mine is developed
23 through to construction and closure.

24 And the third recommendation with
25 respect to caribou is -- is to monitor the effects of

1 the mine and mine activities on caribou be --
2 behaviour. And again, it refers back to the zone of
3 influence and estimating impacts of the mine and -- and
4 the associated activities to behaviour and activity of
5 caribou that may occur within the zone of influence.

6 So if we go to the second-last slide,
7 the recommendations are -- excuse me -- the
8 recommendations are to do with improving assessment and
9 how we -- we try to understand what the impacts to
10 caribou might be based on the current methods that we
11 use for conducting environmental impact sta -- reviews.

12 So this recommendation has to do with
13 regular and comprehensive analysis of monitoring
14 programs that are undertaken by De Beers should the
15 mine project be approved, and to update the cumulative
16 effects assessment. What we're suggesting here, Mr.
17 Chairman, is that there's a-- there's an important need
18 to do at least four (4) things.

19 One (1) is to advance the state of the
20 art in assessment methodologies, how cumulative impacts
21 are done with -- is an important and -- important area
22 for improvement. The other point is that we would like
23 to see the assumptions that have been used to build the
24 De Beers EIS, those assumptions need to be tested and
25 updated.

1 We would like to see a -- a regional
2 cumulative effects monitoring approach be applied.
3 This also integrates monitoring to --

4 THE CHAIRPERSON: It appears we've lost
5 the telephone connection. How long will it take to
6 reconnect? Who -- who is in charge of this? Two (2)
7 minutes? Okay.

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: Okay. I understand
12 that we're operational again. Are you there?

13 DR. GINGER GIBSON: Yes. I'll turn it
14 back over to John Nishi. We were just about done.

15 THE CHAIRPERSON: Okay, thank you.
16 Proceed.

17 MR. JOHN NISHI: Okay, thank you, Mr.
18 Chairman. This -- I'll just finish off with the last
19 two (2) points here. So there was -- I -- I think
20 where I left you guys was -- I was talking about the
21 thought of contributing to a regional cumulative
22 effects monitoring and management approach.

23 And what I just wanted to reiterate was
24 that -- was that this review and assessment should be
25 conducted so that it specifically contributes to and is

1 consistent with ongoing caribou management efforts that
2 are -- that consider the current caribou management
3 strategy by the territorial government, the cumulative
4 impact monitoring program by the federal government,
5 and the current initiative to develop a comprehensive
6 management proposal for the Bathurst herd as outlined
7 by the Tlicho Agreement.

8 And the final recommendation is a tacit
9 request to the Board to consider piloting an innovative
10 approach that respects and builds upon existing
11 territorial and federal government mandate -- the
12 Bathurst caribou initiative -- management initiatives
13 with the objective of linking project specific EIAs and
14 associated monitoring programs into a broader long-term
15 monitoring and management program that may be
16 undertaken at the geographic scale -- the herd's annual
17 range.

18 So with that, Mr. Chairman, I'd -- I'd
19 like to say thank you, and I'll turn it back to Mr.
20 Henry Zoe.

21 MR. HENRY ZOE: Thank you. Mr.
22 Chairman, that concludes the Tlicho government
23 presentation.

24

25 QUESTION PERIOD:

1 THE CHAIRPERSON: Thank you very much
2 to you, Henry Zoe, and your team for this presentation.
3 We will now go to questions of parties. So I'll go
4 through the list and the questions should be to the
5 Tlicho representatives.

6 And we will begin with Akaitcho IMA
7 Implementation Office. Do we have somebody from that
8 organization?

9
10 (BRIEF PAUSE)

11
12 THE CHAIRPERSON: Seeing none, we move
13 on. Dene Nation...?

14
15 (BRIEF PAUSE)

16
17 THE CHAIRPERSON: The next one is
18 Deninu Kue First Nation. Do we have a representative
19 from them?

20
21 (BRIEF PAUSE)

22
23 THE CHAIRPERSON: I don't see any.
24 Lutsel K'e Dene First Nation...?

25 MR. MIKE TOLLIS: Thank you, Mr.

1 Speaker. Mike Tollis, from Lutsel K'e. No questions
2 at this time. Thanks.

3 THE CHAIRPERSON: Thank you. NWT Metis
4 Nation...?

5

6 (BRIEF PAUSE)

7

8 THE CHAIRPERSON: Seeing none, moving
9 on. North Slave Metis Alliance...?

10

11 (BRIEF PAUSE)

12

13 MR. BILL ENGE: Thank you, Mr.

14 Chairman. Bill Enge here, President, North Slave Metis
15 Alliance. The Tlicho appear to have come up with some
16 innovative ideas in regard to monitoring the decline in
17 the caribou, the Bathurst caribou herd. And two (2) of
18 the recommendations that they are suggesting be put in
19 place, I'd like a little more information about.

20 The first question is: Could they
21 better describe for me what they mean by putting in
22 place an independent oversight, which is to be a -- a
23 collaborative approach? Thank you.

24 THE CHAIRPERSON: Thank you, Mr. Enge.
25 Mr. Zoe...?

1 MR. HENRY ZOE: Mr. Chairman, maybe
2 I'll refer this to my colleague, Dr. Ginger Gibson, who
3 is listening in. And then we'll go to Mr. Nishi right
4 after that.

5 DR. GINGER GIBSON: Thank you, Henry.
6 And good morning, Mr. Chair. We're -- we're grateful
7 to be presenting to the panel this morning. Thank you,
8 Mr. Enge, for your question. We have been working, as
9 you are aware from the presentations yesterday, on Ni
10 Hadi Yati, it -- which we believe can have -- has the
11 option of -- of being the independent monitoring body
12 that we're referring to.

13 We -- we feel like the -- a lot of work
14 has gone into this. And -- and we're hopeful that the
15 independent monitoring we're seeking, especially on
16 caribou, will be -- will be encompassed in that
17 organization. We believe that it needs to engage both
18 scientific world view as well as traditional knowledge
19 of the harvesters in the region. Thanks. I hope that
20 answers your questions and there won't be a response
21 from Mr. Nishi at this point.

22 THE CHAIRPERSON: Thank you. Mr.
23 Enge...?

24 MR. BILL ENGE: Thank you, Mr.
25 Chairman. Indeed, as I understand it, the -- the

1 Tlicho see this -- what appears to be a -- a new
2 creature that plays the role of an independent
3 monitoring agency, as opposed to the ones that are
4 currently in place that monitor the activities of the
5 three (3) current operating diamond mines.

6 And indeed, I -- I can't say for certain
7 if that -- if those three (3) other bodies are
8 monitoring caribou at this time. I believe so, but
9 indeed we don't have any issues with that, providing,
10 of course, that the North Slave Metis Alliance is -- is
11 a party to this.

12 THE CHAIRPERSON: Excuse me, we've got
13 to get to the question, please.

14 MR. BILL ENGE: Okay. Now, the second
15 question I have in regard to -- to this presentation,
16 the Tlicho recommend that there be an enforceable
17 wildlife monitoring plan.

18 And I would like for them to describe
19 for me what they mean by that. Thank you.

20 THE CHAIRPERSON: Thank you, Mr. Enge.
21 Mr. Zoe...?

22 MR. HENRY ZOE: I'll refer to Dr.
23 Gibson.

24 DR. GINGER GIBSON: Hi, I'm going to
25 ask John Nishi to re -- to refer to the wi -- the

1 wildlife effects monitoring plan vision. Thanks.

2 MR. JOHN NISHI: Thank you, Mr.

3 Chairman. Thank you, Ginger. Thank you for the

4 question, Mr. Enge. The -- the thought is that

5 "enforceable" means that if there's a wildlife

6 monitoring plan that is in place, that the

7 recommendations and actions that are required to be

8 done through this plan are enforceable through the

9 independent monitoring oversight body, that there is

10 some -- some way of making sure that the monitoring

11 plan is done in a -- and in an appropriate manner.

12 THE CHAIRPERSON: Thank you. Mr.

13 Enge...?

14 MR. BILL ENGE: Thank you, Mr.

15 Chairman. The -- as I understand the current wildlife

16 enforcement regime for this territory, as well as other

17 parts of Canada, is undertaken by and through

18 enforcement agencies such as the Department of

19 Environment and Natural Resources and the policing

20 sources.

21 Are they suggesting that a new wildlife

22 or -- officers of some sort be struck to -- to take on

23 that role? Thank you.

24 THE CHAIRPERSON: Thank you, Mr. Enge.

25 Mr. Zoe...?

1 MR. HENRY ZOE: I'll refer this to John
2 Nishi.

3 MR. JOHN NISHI: The -- the question
4 was whether the Tlicho government was suggesting that
5 wildlife officers or some type of officer person would
6 be required. And that -- that's not the suggestion,
7 Mr. Chairman. The suggestion is -- is to try and
8 ensure that the monitoring is done and in an effective
9 and timely manner.

10 I, myself, am not knowledgeable about
11 this specific enforcement or regulatory methods. The -
12 - the recommendation is -- is a bit more general than -
13 - than -- is a bit more general than saying, you know,
14 for example, a wildlife officer should be on site to
15 ensure that things are done in -- in a proper fashion.
16 The recommendation is more along the lines of -- of
17 saying that if a monitoring plan is -- is required then
18 it should be done in an effective manner.

19 THE CHAIRPERSON: Thank you. Mr.
20 Enge...?

21 MR. BILL ENGE: Thank you, Mr.
22 Chairman. I don't wish to belabour this point, but I
23 don't -- I didn't hear an answer to my question. And
24 perhaps I can put it another way.

25 What kind of enforcement provisions

1 would they see? Penalties of some sort? Some kind of
2 -- what -- what is the regime they would put in place
3 that would be an enforcement regime? Thank you.

4 THE CHAIRPERSON: Thank you, Mr. Enge.
5 Mr. Zoe...?

6 MR. HENRY ZOE: I'll refer this back to
7 John.

8 DR. GINGER GIBSON: Just before Mr.
9 Nishi responds. Thank you, Mr. Enge.

10 I think what we're seeing is an emergent
11 body. The -- the question of enforcement is something
12 -- it's -- it's a regulatory gap that we have -- we've
13 all seen, that we know that there's a regulatory gap on
14 picking up on these measures. We are trying our best
15 amongst the Aboriginal authorities, to which the North
16 Slave have been invited, to be creative in this time of
17 extreme crisis to the Bathurst caribou herd. And so we
18 would welcome your ideas, but we don't have a firm
19 answer on this question at this time.

20 We believe enforcement is important. We
21 believe that that's why we're asking for an enforceable
22 wed -- wildlife effects monitoring program. And we
23 believe that the -- the creativity that is emerging at
24 the table in creating Ni Hadi Yati will bring forward
25 these kinds of enforceable measures. And I don't think

1 Mr. Nishi has anything to add at this point. Thank
2 you.

3 THE CHAIRPERSON: Thank you. Mr. Enge,
4 I need to know how many questions you have now.

5 MR. BILL ENGE: I believe I have two
6 (2). Okay. Now just so I can try to get -- or wrap my
7 head around what I'm hearing so I understand it, first
8 of all, let me clear something up with regard to what I
9 just heard.

10 Firstly, the North Slave Metis Alliance
11 has not been invited to be a party to any kind of
12 Bathurst caribou herd consultation. So let's just get
13 that straightened out on the record firstly. Secondly,
14 we wish to be a part of any kinds of collaborative
15 efforts made by all of our First Nation counterparts,
16 but that hasn't been the case in the recent past or
17 currently.

18 Secondly, what comes to mind is just --
19 just take this to --

20 THE CHAIRPERSON: Mr. Enge, we need the
21 questions. This is the question period.

22 MR. BILL ENGE: I -- I'm getting to the
23 question, Mr. Chairman. It requires a little bit of
24 background so the answer can be clearly defined.

25 And in this respect what -- how does --

1 how does this enforcement regime effect the operations
2 at De Beers' mine should the caribou go in worse
3 decline? Thank you.

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

6 MR. HENRY ZOE: I'll refer this to Dr.
7 Gibson.

8 DR. GINGER GIBSON: Thanks for the
9 question. I think the level of detail that you're --
10 you're taking us in with respect to how this would
11 influence De Beers, I think it would be a question
12 better placed with De Beers.

13 And NSMA has been invited to the enga --
14 to be engaged with the Ni Hadi Yati as discussed
15 yesterday. And -- and so we're hopeful -- you know, if
16 you want to provide detail on this yourself in your own
17 presentation, or ideas, we'd be -- we'd be interested
18 to hear them. Thanks.

19 THE CHAIRPERSON: Thank you. Mr.
20 Enge...?

21 MR. BILL ENGE: Yeah, thank you, Mr.
22 Chairman. Indeed yesterday the North Slave Metis
23 Alliance was publicly invited to become part of the Ni
24 Hadi Yati group. Since we haven't been, we haven't had
25 any discussions with regard to any caribou measures,

1 caribou conservation measures since then.

2 But with that in mind, perhaps we are
3 getting a little too deep here because we don't know
4 exactly what this group is. It seems to me that a lot
5 of these details still need to be fleshed out with
6 regard to how this body would operate, and what it's
7 proposing to do.

8 So with that in mind that -- that's all
9 the questions I have for the presenter this morning.
10 Thank you.

11 THE CHAIRPERSON: Thank you very much,
12 Mr. Enge. The next on the list is Yellowknives Dene
13 First Nation.

14 MR. TODD SLACK: No questions, Mr.
15 Chair.

16 THE CHAIRPERSON: Thank you.
17 Aboriginal Affairs and Northern Development Canada...?

18 MR. ROBERT JENKINS: Thank you, Mr.
19 Chair. It's Robert Jenkins, Aboriginal Affairs. I
20 just want to thank the Tlicho for their presentation.
21 I have no questions.

22 THE CHAIRPERSON: Thank you.
23 Environment Canada...?

24 MR. ERIK ALLEN: Thank you, Mr. Chair.
25 It's Erik Allen, Environment Canada. We have no

1 questions at this time.

2 THE CHAIRPERSON: Thank you, sir.

3 Fisheries and Oceans Canada...?

4 MS. BEV ROSS: Thank you, Mr. Chair.

5 Fisheries and Oceans Canada, Bev Ross speaking. We

6 have no questions at this time.

7 THE CHAIRPERSON: Thank you.

8 Government of the Northwest Territories...?

9 MR. GAVIN MORE: Thank you, Mr. Chair.

10 Gavin More, Government of the Northwest Territories. I

11 have a couple of questions. I was going to ask

12 questions about recommendation number 6. But from what

13 I heard, the Tlicho government is withdrawing that as

14 being complete. So from -- I won't ask any questions

15 on that.

16 But -- but I -- I would like to -- to

17 affirm that that is -- I'm correct on that, that that

18 will not be a final recommendation by the Tlicho

19 government?

20 THE CHAIRPERSON: Thank you. Mr.

21 Zoe...

22 MR. HENRY ZOE: I'll refer this to Dr.

23 Gibson.

24 DR. GINGER GIBSON: Henry, thank you

25 for your question. That is correct. We -- we've

1 received the independent study by De Beers, and we have
2 taken a look at it, and we're satisfied with that --
3 that work. Thank you.

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

6 MR. GAVIN MORE: Gavin More, GNWT.
7 Thank you, Mr. Chair. The other questions I have, and
8 I won't go into them as quite the detail that -- that
9 have already been asked about recommendation number 11.

10 I would point out that the word
11 "enforceable" does cause real issues, in terms of
12 mechanisms and what that word really means. The key
13 for me was I heard, as people mentioned it, they
14 slipped into the phrasing "wildlife effects monitoring
15 program" versus "plan". And you'll see in the GNWT's
16 evidence that we've been purposely asking people to
17 separate the two (2) concepts.

18 And the reason for that is the -- the
19 WEMP idea, the wildlife effects monitoring program, is
20 a consistent approach being taken by the other diamond
21 mines, and it relates a little more to the broader
22 effects of -- of the project in relation to the bigger
23 cumulative effects.

24 And what I'd like to do is ask the
25 Tlicho government if they'd be willing to reconstruct

1 that recommendation so that they more clearly separate
2 the two (2) concepts. And it will likely make it
3 easier for people to understand then that concept of
4 enforceability of what takes place at the mine site and
5 -- and sort of the area of responsibility of the
6 Proponent versus that broader effects monitoring
7 program that's been talked about.

8 THE CHAIRPERSON: Thank you. Mr.
9 Zoe...?

10 MR. HENRY ZOE: And I'll refer to --
11 also to Dr. Gibson.

12 DR. GINGER GIBSON: Thanks. This is --
13 this is Ginger Gibson, for Tlicho government. We -- we
14 admit that -- that there was not clarity in there, and
15 we're thankful to Mr. More for pointing that out. And
16 we will reflect that in our closing -- in our approach
17 to the -- the closing. We will separate "program" and
18 "plan". And so we're grateful that you -- you pointed
19 that out so we can be more specific.

20 THE CHAIRPERSON: Thank you.

21 MR. GAVIN MORE: Gavin More, GNWT.
22 Thank you, Mr. Chair. And I would like to thank the
23 Tlicho government for an excellent presentation. Thank
24 you.

25 THE CHAIRPERSON: Thank you very much.

1 National Resources Canada...?

2 MR. JOHN KING: John King, Natural
3 Resources Canada. We have no questions. Thank you.

4 THE CHAIRPERSON: Thank you, sir.
5 Parks Canada...?

6 MS. ANN RONALD: Mr. Chair, Ann Ronald,
7 Parks Canada. We have no questions. Thank you.

8 THE CHAIRPERSON: Thank you. Transport
9 Canada...?

10 MR. MIKE MOLINSKI: Thank you, Mr.
11 Chair. Mike Molinski, Transport Canada. We have no
12 questions. Thank you.

13 THE CHAIRPERSON: Thank you. De Beers
14 Canada...?

15 MS. VERONICA CHISHOLM: Veronica
16 Chisholm, from De Beers. Thank you, that was a -- a
17 very good presentation. I just have three (3)
18 questions. I'm just wondering if the Tlicho government
19 or their con -- the consultants -- excuse me -- can
20 comment whether they had the opportunity to look at or
21 review the wildlife effects monitoring plan that we
22 submitted, De Beers submitted, on the record on October
23 4th that flowed from the working group and the workshop
24 that Mr. Nishi was a part of, as well as other reps
25 from the Tlicho Government?

1 THE CHAIRPERSON: Mr. Zoe...?

2 MR. HENRY ZOE: Mr. Chairman, I'll
3 refer that to either Dr. Gibson or Mr. Nishi.

4 MR. JOHN NISHI: Hello, this is John
5 Nishi. The question I heard was whether or not we had
6 the opportunity look at the wildlife effects monitoring
7 plan dated the 4th of October. And the answer to that
8 is yes.

9 THE CHAIRPERSON: Thank you. De
10 Beers...?

11

12 (BRIEF PAUSE)

13

14 MS. VERONICA CHISHOLM: Veronica
15 Chisholm, from De Beers. Thank you. Then I just have
16 a quick follow-up question on that. I'm just wondering
17 if you had the opportunity, if the Tlicho government
18 had the opportunity, Mr. Chair, to look at how the
19 studies presented in that document dealing with
20 behaviour, access, and zone of influence specific to
21 caribou, if they were considered as part, when the
22 Tlicho government made the recommendations, that these
23 appeared outstanding?

24 THE CHAIRMAN: Thank you. Mr. Zoe...?

25 MR. HENRY ZOE: I'll refer this to Mr.

1 Nishi.

2 MR. JOHN NISHI: Thank you, Mr.

3 Chairman. John Nishi here. Yes, I was able to look at
4 those sections. And I guess my -- my perspective was
5 that there was some detail in there but that there was
6 still much more work to be done in that regard. And so
7 I was hoping to try, in the present, to -- to
8 articulate some of that in -- in the context of saying
9 that when the monitoring plan is -- is -- we recognize
10 that the monitoring plan, there is a draft of it, but
11 that with respect to the issues of, you know, zone of
12 influence impacts on caribou, roads, and access, that
13 there's still much more work to be done. And, you
14 know, I don't know if I really want to get into some of
15 the details on that.

16 But just to reinforce to, I guess, to
17 the panel and to the group, that from the Tlicho
18 government's perspective, there's still much more work
19 to be done to link monitoring to mitigation and
20 management of those mitigative measures. Thank you.

21 THE CHAIRPERSON: Thank you. De
22 Beers...?

23 MS. VERONICA CHISHOLM: Thank you very
24 much for your responses. I just have one (1) more
25 question with respect to enforcement for the wildlife.

1 I'm just -- I'm just wondering if -- if the Tlicho
2 government had had an opportunity to review our
3 response in the technical reports to the GNWT,
4 recommendation number 2, and that the Premier spoke to
5 yesterday regarding a memorandum of understanding
6 between De Beers and the GNWT/ENR, regarding the review
7 of wildlife monitoring programs, including the wildlife
8 effects monitoring plan.

9 I'm just wondering if they had a chance
10 to have a look at that.

11 THE CHAIRPERSON: Thank you. Mr. Zoe?

12 MR. HENRY ZOE: I'll refer this to Dr.
13 Gibson.

14 DR. GINGER GIBSON: Thank you for
15 pointing it out to us, Ms. Chisholm. And we will -- we
16 will take a look at it and reflect on it in the -- in
17 our closing argument.

18 THE CHAIRPERSON: Thank you. Anything
19 else?

20 MS. VERONICA CHISHOLM: Veronica
21 Chisholm, from De Beers. No, thank you very much.

22 THE CHAIRPERSON: Thank you. Panel
23 staff?

24 MR. CHUCK HUBERT: To Terry Antoniuk.

25 MR. TERRY ANTONIUK: Thank you, Mr.

1 Chairman. Terry Antoniuk. I'd just like to -- to go
2 back for clarification to a -- a recommendation, Tlicho
3 recommendation number 11, for enforceable wildlife
4 monitoring plan. And the -- the additional wording
5 that's included in the technical report makes reference
6 to a -- to a reporting requirement similar to that of
7 the Wek'eezhii Aquatic Effects Monitoring Program.

8 And we're just wondering, is that
9 intended to refer to the response management framework,
10 or the adaptive management res -- response framework?

11 THE CHAIRPERSON: Thank you. Mr.
12 Zoe...?

13 MR. HENRY ZOE: Mr. Chairman, I'll
14 refer this to Dr. Gibson.

15 DR. GINGER GIBSON: Go ahead, John.

16 MR. JOHN NISHI: Thank you, Mr.
17 Chairman. The answer to the questions is, yes, the
18 intent was to refer to the adaptive management
19 component of -- of that plan.

20 THE CHAIRPERSON: Thank you.

21 MR. TERRY ANTONIUK: Thank you for
22 that. I'd -- I'd also, recognizing -- sorry, it's
23 Terry Antoniuk. Recognizing that -- that the Ni Hadi
24 Yati proposal is still in a conceptual form, just like
25 to understand a little bit more. There's -- there's

1 wil -- there's monitoring components, there's
2 management components that Da Beers will understand,
3 mitigation components, and then there's brotal --
4 broader regional work on both monitoring and
5 management.

6 So if -- if you could explain to me, at
7 least conceptually, how the Ni Hadi Yati proposal fits
8 into those -- those various pieces? Thank you.

9 THE CHAIRPERSON: Thank you. Mr.
10 Zoe...?

11 MR. HENRY ZOE: As you know, the Ni
12 Hadi Yati is -- is -- as you said, is conceptual, and
13 that group has a lot of work to do. And I think my
14 colleague, Ginger, may have other comments.

15 DR. GINGER GIBSON: Actually -- this is
16 Ginger, for -- Ginger Gibson, for Tlicho government. I
17 think that's a great answer, Henry. And -- and your
18 question will help, I think, the group of people that
19 are at the table to move forward. Thank you.

20 THE CHAIRPERSON: Thank you. Does that
21 -- is that it?

22 MR. TERRY ANTONIUK: Just -- just one
23 (1) more question, Mr. Chairman. Terry Antoniuk.

24 Do you have any specific recom --
25 recommendations for accumulative effects management and

1 oversight by Aboriginal Affairs, Northern Development,
2 or Government of the Northwest Territories, two (2) of
3 the bodies that you identified in your technical
4 report?

5 THE CHAIRPERSON: Thank you. Mr.
6 Zoe...?

7 MR. HENRY ZOE: I'll refer this
8 question to Dr. Gibson.

9 DR. GINGER GIBSON: Thank you. This is
10 Ginger Gibson, Tlicho government. I think the -- the
11 final recommendation that John Nishi referred, which is
12 that there be regular and comprehensive analysis that
13 deals with the full range of the Bathurst caribou, is
14 one that we'd like to see in place. And -- and I
15 think, other than that, we don't have specific
16 recommendations at this point for the federal
17 government and the GNWT. Thank you.

18 THE CHAIRPERSON: Thank you. Legal
19 counsel...?

20 MR. JOHN DONIHEE: John Donihee,
21 counsel. Yes, I -- I have a couple of questions. The -
22 - the first one really is -- is -- simply ask for a
23 confirmation, I guess. You know, a review of the
24 Tlicho government's technical report and presentation
25 this morning indicates that the only recommendations in

1 respect of independent oversight are -- are structured
2 in a way that refer to Ni Hadi Yati.

3 And I asked yesterday, the group that
4 made the presentation about it, and I -- I do want to
5 ask again specifically to Tlicho government, you know,
6 what -- what happens if this negotiation doesn't
7 succeed and you don't end up where you hope to be, in
8 terms of Tlicho government's expectations for oversight
9 and involvement in respect of the management of this
10 mine?

11 THE CHAIRPERSON: Thank you. Mr. Zoe..?

12 MR. HENRY ZOE: Thank you Mr. Chairman.
13 That's a difficult question to answer. But my
14 colleague, Ginger Gibson, if you have any comments
15 pertaining to that question?

16 DR. GINGER GIBSON: Ginger Gibson here.
17 You're right, Henry, it's a very tough question to
18 answer. I guess we have to move forward with the good
19 faith at the table and there's a great deal.

20 None of us invests the kind of time
21 we've invested in that kind of effort without believing
22 that we can achieve something. And we have seen
23 something really profound in terms of the engagement of
24 the Aboriginal authorities move -- leading on this --
25 on this issue, as well as De Beers coming in and

1 getting involved and -- and there's a been a tremendous
2 dedication of the staff effort.

3 So while I appreciate that there may not
4 be something -- you know, that there -- that there is
5 the possibility that it could fall apart. At the same
6 time, I don't think any of us would have invested the
7 amount of time that we have if we don't believe that --
8 that there will be a pen put to paper and an agreement
9 signed on this piece.

10 And we -- you know, it's -- it's an
11 initiative we'd really like to see the GNWT and -- and
12 AANDC engage with as well. Thank you, I hope that
13 answers your question, Mr. Donihee.

14 THE CHAIRPERSON: Thank you. Mr.
15 Donihee...?

16 MR. JOHN DONIHEE: Thank you, Mr.
17 Chairman. John Donihee again.

18 Dr. -- I'm sorry, to -- to the Tlicho
19 government. Dr. Gibson described the situation with
20 respect to the Bathurst caribou as a time of extreme
21 crisis. And I would simply observe that, you know, the
22 Tlicho government and -- and -- I mean, it -- this is
23 the Tlicho government's choice and believe me I'm not
24 challenging that. But that, you know, you seem to have
25 placed your hopes and -- and good intentions with

1 respect to the management and protection of the
2 Bathurst carib -- caribou in what was described and --
3 and agreed by the group presenting yesterday to be a
4 conceptual structure.

5 There have been some questions asked by
6 North Slave Metis and my colleague Mr. Antoniuk about
7 how your enforceable wildlife management plan might
8 work. And there really didn't seem to be much in the
9 way of answers to those questions.

10 I guess the con -- the concern that I
11 would just raise -- and if the Tlicho government is
12 willing to live with it then just tell us so, but the
13 concern is simply that if you're anticipating some kind
14 of recommendations from the panel with respect to the
15 way that all this is going to work I'd ask you, you
16 know, are you able in -- in your closing arguments to
17 present somewhat greater detail to the panel because at
18 the moment there's not very much to go on.

19 THE CHAIRPERSON: Thank you, Mr.
20 Donihee. Mr. Zoe...?

21 MR. HENRY ZOE: Thank you, Mr.
22 Chairman. We will take that under advisement and we
23 may -- may put it in our final arguments. Thank you.

24 THE CHAIRPERSON: Thank you.

25 MR. JOHN DONIHEE: Thank you, Mr.

1 Chairman. John Donihee. I think that's the end of my
2 questions, and I believe that's the end of the
3 questions from the tables over here.

4 THE CHAIRPERSON: Thank you very much.
5 We'll go now to the panel. Panel member, Rachel
6 Crapeau...?

7 MS. RACHEL CRAPEAU: My only one (1)
8 question is: If you took that question under
9 advisement and you say that you're going to have a
10 final answer in your final comments, is that to -- is
11 that -- is that going to be tomorrow? I just wanted to
12 know. Thank you.

13 THE CHAIRPERSON: Thank you. Mr.
14 Zoe...?

15 MR. HENRY ZOE: Mr. Chairman, if I
16 recall right, I think the registry close on the 21st of
17 December. And at that time -- we -- so we have some
18 time between now and then to incorporate if we any --
19 anything to incorporate into our final arguments, then
20 we will do that. Thank you.

21 THE CHAIRPERSON: Thank you, Mr. Zoe.
22 Panel member, Rachel Crapeau...?

23 MS. RACHEL CRAPEAU: Thank you, Mr.
24 Chair. No further questions. Thank you.

25 THE CHAIRPERSON: Thank you. Panel

1 member, James Wah-shee...?

2 MR. JAMES WAH-SHEE: Thank you, Mr.
3 Chairman. I'd just like to thank the Tlicho government
4 for their presentation. I have no questions. Thank
5 you.

6 THE CHAIRPERSON: Thank you. Panel
7 member, Peter Bannon...?

8 MR. PETER BANNON: Thank you, Mr.
9 Chairman. And thank you to -- for your presentation,
10 but I have no questions.

11 THE CHAIRPERSON: Thank you. Panel
12 member, Richard Mercredi...?

13 MR. RICHARD MERCREDI: Yeah, thank you,
14 Mr. Chair. And thanks for the presentation. No
15 questions at this time.

16 THE CHAIRPERSON: The Chair gets the
17 final word and the Chair does not have any more
18 questions.

19 So that concludes this part of the
20 agenda. We are shortly after ten o'clock, and
21 amazingly we're ahead of schedule. So I would say we -
22 - a little after 10:15, 10:16, 10:17, we'll be back.
23 So we'll adjourn until then and have coffee. Thank
24 you.

25

1 --- Upon recessing at 10:02 a.m.

2 --- Upon resuming at 10:16 a.m.

3

4 THE CHAIRPERSON: Okay, we'll begin
5 again. Aboriginal Affairs and Northern Development
6 Canada has a presentation, so I will turn it over to --
7 to you, sir.

8

9 PRESENTATION BY AANDC:

10 MR. ROBERT JENKINS: Thank you, Mr.
11 Chair, panel members. My name is Robert Jenkins. I'm
12 the acting director for Renewable Resources and
13 Environment with Aboriginal Affairs and Northern
14 Development Canada. With me today I have Mr. Nathen
15 Richea and Mr. Paul Green of the Water Resource
16 Division.

17 Mr. Chair, we appreciate the opportunity
18 to present to the panel today our technical report and
19 recommendations for the proposed Gahcho Kue project.
20 We hope that the information we provide is helpful to
21 the panel.

22 Our review and our technical report
23 focusses on the water-related aspects of the project.
24 And our repo -- our report focussed in on three (3)
25 topics. The first was site-specific water quality

1 objectives, and I'll refer to those as SSWQOs. The
2 second was aquatic effects monitoring program, as --
3 I'll refer to that in short as an AEMP. And the third
4 area was closure and reclamation.

5 I won't get into detail on our -- on our
6 legislative mandate or responsibilities other than we
7 do have legislative responsibilities for land and water
8 management in the NWT.

9 We hope that the recommendations which
10 we put forward today will be helpful for the Board in
11 their preparation of a report, and we request that our
12 recommendations be placed as measures within that
13 report.

14 Mr. Chair, the first area I will discuss
15 is in regards to water quality, more specifically with
16 respect to site-specific water quality objectives, or
17 SSWQOs. SSWQOs are the standard for water quality to
18 be met at the edge of a dilution zone ensuring that the
19 intended use of the downstream receiving environment is
20 protected now and into the future.

21 A number of national and NWT-specific
22 policy documents exist which are relevant to
23 establishing SSWQOs for a project. There are two (2)
24 statements that stand out that I would like to
25 highlight for the Board. The first is from the NWT

1 water stewardship strategy. And I quote:

2 "Residents of the NWT have expressed
3 a desire to lead in the area of water
4 stewardship. This means setting high
5 standards to hold residents and
6 others responsible and accountable."

7 The second statement is a guiding
8 principle of the Mackenzie Valley Land and Water
9 Board's water and effluent quality policy. Again I
10 quote:

11 "Pollution prevention: the use of
12 processes, practices, materials,
13 products, or energy that avoid or
14 minimize the creation of pollutants
15 and waste, and reduce overall risk to
16 human health and the environment."

17 The tar -- the department feels that
18 these points really set the general direction for the
19 establishment of SSWQOs for the Gahcho Kue project.

20 De Beers has proposed two (2) types of
21 water quality objectives. The first is narrative
22 objectives that articulate the water management goals
23 for the project. And the second are numerical
24 objectives that if met should ensure that the narrative
25 goals are achieved.

1 Two (2) sets of objectives are
2 presented: one (1) for Lake N11 that would apply during
3 construction and operations, and a second set that
4 would apply to Kennady Lake post-closure. And these
5 two (2) scenarios are slightly different, and I'll --
6 I'll talk about these in the upcoming slides.

7 De Beers has proposed that the
8 objectives for Lake N11 would apply at the edge of a
9 200-metre initial dilution zone, or IDZ. It's a bit
10 hard to see in this schematic, Mr. Chair, but
11 essentially this is Kennady Lake. And effluent will be
12 discharged from Kennady Lake and there will be effluent
13 quality criteria at, sort of, an end-of- pipe. So
14 that's a compliance point.

15 After the release of that -- and there
16 will be limits, it'd go through a mixing zone. So this
17 -- this area here represents that mixing zone, and the
18 Company has put forward 200 metres. At the edge of
19 that mixing zone is essentially where the site-specific
20 water quality objectives would be applied to protect
21 the intended use of the downstream receiving
22 environment.

23 We acknowledge that setting effluent
24 quality criteria is a regulatory requirement. But we
25 feel that establishing the SSWQOs, essentially the

1 level of protection for the standard or the standard of
2 water downstream of a project, should be determined in
3 the environmental impact review phase.

4 Water quality objective for Kennady Lake
5 is based on a whole lake mixed concentration and would
6 apply within Kennady Lake. So the previous diagram
7 discussed what is proposed, sort of, during operations.
8 Post-operation there would be some -- some sort of
9 objective which would apply to Kennady Lake. And when
10 that objective is met, essentially the Kennady Lake
11 would be reconnected to the downstream aquatic
12 environment.

13 While Aboriginal Affairs generally
14 agrees with the protocol used by De Beers for setting
15 site-specific water quality objectives, we remain
16 concerned with several elements of the protocol.

17 Overall, pollution prevention and waste
18 minimization principles must be maintained. These
19 principles speak to the practice of minimizing impacts
20 to the receiving aquatic ecosystem by limiting the
21 amount of waste discharged and, therefore, minimizing
22 the degradation of receiving-water quality. Smaller
23 changes in receiving-water quality provide greater
24 confidence that the important components of the
25 receiving aquatic ecosystem will be preserved.

1 Our specific concerns include De Beers'
2 use of regional baseline values for assessing potential
3 changes in water quality, De Beers's use of predicted
4 hardness values when deriving site-specific water
5 quality objectives, De Beers's proposal to default to
6 Canadian Council of the Ministers of the Environment
7 guideline levels in the event that projected parameter
8 concentrations exceed maximum background
9 concentrations, and De Beers' proposed water quality
10 objective for mercury.

11 This leads us to our first
12 recommendation. The Proponent has proposed narrative
13 statements that describe their overall goals for water
14 quality objectives for the proposed Gahcho Kue mine.
15 The Department believes that more detail is required to
16 -- to define the intended level of protection achieved
17 by these objectives.

18 Therefore, we recommend that the report
19 of EIR should include narrative statements that
20 describe the level of protection to be afforded the
21 aquatic receiving environment including water quality
22 changes -- and it's very important to highlight, due to
23 mining activities, will not significantly affect
24 benthic macro-invertebrate and plankton abundance,
25 taxonomic richness or diversity.

1 Water quality changes due to mining
2 activities will not significantly alter fish abundance,
3 or diversity, or fish consumption at current levels.
4 Water quality changes due to mining activities will not
5 negatively affect areas utilized as traditional
6 drinking water sources.

7 Water quality changes due to mining
8 activities will not significantly affect mammals or
9 wild fowl using the area as a drinking water, food
10 source, or habitat, or the ability for people to
11 harvest these animals.

12 And the last is, prior to reconnection
13 with the surrounding watershed, water and sediment
14 quality in Kennady Lake will be adequate to support a
15 viable and self-sustaining ecosystem that is compatible
16 with the regional watershed and maintains traditional
17 use of the area.

18 Mr. Chair, Aboriginal Affairs's review
19 of De Beers's proposed SSWQOs identify that the
20 baseline values appear to be generated using regional
21 watershed data. And it's led to our second
22 recommendation, that specific baseline values as
23 opposed to regional baseline values, should be used
24 when deriving SSWQOs for Kennady Lake and Lake N11.
25 We feel that this would provide more accuracy when

1 calculating SSWQOs moving forward for the project.

2 Our third recommendation relates to De
3 Beers proposed use of exposure and toxicity modifying
4 factors when determining SSWQOs. The hardness in Lake
5 N11 and Kennady Lake is predicted to increase above
6 current levels over the life of the project. Higher
7 hardness concentrations can reduce the ac -- the
8 aquatic toxicity of certain parameters and, in
9 principle, allow for more of these parameters to be
10 deposited without causing aquatic toxicity.

11 We understand that the CCME describes
12 the use of toxicity modifying factors when calculating
13 water objectives, but we also understand that toxicity
14 modifying factors should be representative of national
15 -- natural conditions.

16 The Department also remains concerned
17 that increasing hardness may cause unanticipated
18 changes to the ecosystem as a whole. Accordingly, our
19 preference is to minimize potential impacts by
20 eliminating the amount of waste discharged instead of
21 relying on project-related changes to the receiving
22 environment to buffer the effects of chemical loadings.

23 In keeping with this preference, we make
24 the following recommendation: that the hardness
25 concentration used for calculating hardness-dependent

1 water quality objectives should reflect the existing
2 baseline hardness concentration and not the altered
3 conditions predicted as a result of mining activities.
4 It should also be noted that we are willing to revisit
5 SSWQOs through the life of the project.

6 Our fourth recommendation also relates
7 to minimizing potential impacts by limiting the amount
8 of waste discharged. The Department is of the opinion
9 that if the Proponent can meet a higher standard
10 without undue hardship, in other words, considering
11 requirements for operational flexibility, then the
12 Proponent should make an effort to do so.

13 In their response to our intervention,
14 De Beers considered it unnecessary to create
15 conservative benchmarks that will offer no additional
16 environmental benefits. While we acknowledge De Beers
17 position, we note that both the CCME and the Mackenzie
18 Valley Land and Water Board guidance on effluent
19 discharge, support the principle of non-degradation.
20 In other words, the CCME guideline concentrations are
21 not intended as pollute-up-to limits.

22 Therefore, in the interest of minimizing
23 environmental impacts from the proposed project, we
24 recommend that when deriving site-specific water
25 quality objectives, the lowest level recently

1 achievable, considering requirements for operational
2 flexibility, should be selected, instead of defaulting
3 to existing generic guideline values.

4 Our last recommendation regarding water
5 quality objectives relates to the proposed value for
6 mercury. Mercury concentrations in fish tissue samples
7 from the project are already naturally exceeding US
8 Environmental Protection Agency screening criteria for
9 human consumption. As such, efforts should be made to
10 minimize the potential for increases to mercury in the
11 downstream receiving environment as a result of project
12 activities.

13 De Beers's proposed water quality
14 benchmark for mercury is based on the maximum measured
15 regional baseline concentration. This value is higher
16 than the CCME guideline for mercury. It is not clear
17 which regional water body is responsible for this
18 maximum concentration. It is important to note that
19 CCME guidelines are set to protect against aquatic
20 toxicity. They do not protect against other mechanisms
21 such as accumulation of mercury in the food chain.

22 It is apparent though that the median
23 regional baseline mercury concentration and the
24 predicted mercury concentrations in Lake N11 and
25 Kennady Lake are both less than the CCME guideline.

1 Therefore, we recommend that the objective for mercury
2 should either align with the maximum predicted mercury
3 concentrations as a result of the project and/or within
4 the range of naturally occurring background
5 concentrations in Kennady Lake and Lake N11.

6 The second area of our presentation is
7 in regards to aquatic effects monitoring plan. De
8 Beers has initiated discussions and has begun
9 developing an aquatic effects monitoring program. In
10 their response to our intervention they indicated they
11 would consider our guidelines.

12 Our guidelines were developed for
13 Northern projects, Mr. Chair, and they do take into
14 consideration Northern issues and -- and the
15 incorporation of traditional knowledge. So we believe
16 that our guidelines provide the most appropriate basis
17 for designing and implementing an AEMP at a Northern
18 mine site.

19 And we recommend that these should be
20 followed moving forward, in the development of an AEMP,
21 action levels, and related management response
22 framework for the Gahcho Kue diamond mine. We look
23 forward to working with the Proponent moving forward in
24 the development of that program.

25 Our last topic is in regards to closure

1 and reclamation. We understand that during operation
2 Kennady Lake will be disconnected from the surrounding
3 hydro -- hydrologic regime, and a portion of Kennady
4 Lake will be used as a water management pond.

5 At the end of operations, water from the
6 water management pond will be transferred to -- to Tuzo
7 pit where the poor water quality will settle at the
8 bottom. After the transfer of water from the water
9 management pond to Tuzo pit, the water management pond
10 will be allowed to refill and will be reconnected to
11 the surrounding water shed.

12 We do note that portions of the west and
13 south mine rock piles, and the coarse and fine
14 processed kimberlite containment facilities will be in
15 contact with the water at the refilled water management
16 pond, which is not typical practice at Northern mine
17 sites.

18 The departmental view on mine site
19 closure is based upon our mine site reclamation policy
20 developed in response to a number of instances where
21 the Crown has assumed environmental liability of a site
22 due to an insolvency and subsequent abandonment of a
23 mining property.

24 One (1) principle from our policy which
25 sets the direction for mine site closure and

1 reclamation in the Northwest Territories is as follows:

2 "Returning mine sites and affected
3 areas to viable and, wherever
4 practical, self-sustaining ecosystems
5 that compatible with a healthy
6 environment and with human
7 activities."

8 Our primary concerns related to the
9 closure of the proposed project are in regards to post-
10 closure water quality in the water management pond and
11 the time required for the water management pond to
12 reintegrate into the local ecosystem.

13 De Beers has predicted water management
14 pond post-closure water quality based upon: 1)
15 assumptions about the volume and quality of the
16 leachate from waste rock and processed kimberlite
17 storage piles, and 2) the stability of the chemocline,
18 essentially the differences in the deep versus the
19 shallow water chemistry that should develop in the
20 submerged pits.

21 Depending upon accuracy of the model
22 assumptions, final water quality in the water
23 management pond may differ from the predicted values.

24 We submit that final post-closure water
25 management pond water quality must support a viable and

1 self-sustaining ecosystem that is compatible with the
2 regional watershed, and maintains traditional use of
3 the area.

4 And this leads to our next
5 recommendation, that water quality be closely monitored
6 during the refilling process, and adaptive management
7 be implemented as required to ensure that the final
8 water quality is sufficient to support a viable and
9 self-sustaining ecosystem that is compatible with the
10 regional watershed and maintains traditional use of the
11 area prior to reconnecting the water management pond to
12 the downstream watersheds.

13 Mr. Chair, a key element of the water
14 quality in the water management pond post closure is
15 the successful establishment of the chemocline in the
16 pits. Failure of the chemocline would have negative
17 effects on overall water quality in the pond, so we
18 make the following recommendation: that a key element
19 of the closure planning process during operations
20 should be to identify potential mechanisms through
21 which full lake mixing could occur, and use the results
22 of ongoing investigations to study and implement
23 measures such that chemocline stability will be
24 enhanced.

25 De Beers agrees that the key element of

1 the clos -- closure planning process will be to
2 identify potential mechanisms through which full lake
3 mixing could occur and provide mitigations that enhance
4 chemocline stability during the refilling process.

5 The Proponent has identified that the
6 water management pond will recover to the point where
7 it forms a sustainable ecosystem over a period of
8 approximately seven (7) years from the end of
9 operations. In line with our mine site reclamation
10 policy, the Department feels that reclamation
11 liabilities should be addressed in as timely a manner
12 as possible. Therefore, we recommend that a key
13 element of the closure planning process during
14 operations should be to identify and develop methods to
15 reduce the period of time required for recovery of the
16 water management pond.

17 And further to our previous
18 recommendation, we recommend that closure goals and
19 objectives be developed for the water management pond
20 that must be met prior to and following reconnection
21 with the downstream environment. These closure goals
22 and objectives would be developed in consultation with
23 Aboriginal groups, interested parties, and regulators.

24 De Beers has responded that they will
25 develop closure and reclamation objectives that are

1 consistent with the draft guidelines for the closure
2 and reclamation of advanced mineral exploration and
3 mine sites in the Northwest Territories. Closure
4 objectives for the water management pond will be
5 developed as part of this process and De Beers
6 understands that the closure and reclamation planning
7 process requires engagement with Aboriginal groups,
8 interested parties, and regulators.

9 Mr. Chair, where possible Aboriginal
10 Affairs has provided recommendations to assist in the
11 Panel's decision-making process. We've provided recomme
12 -- recommendations today on three (3) subject areas:
13 site-specific water quality objective, aquatic effects
14 monitoring program, and closure and reclamation. These
15 recommendations are provided to help minimize both the
16 magnitude and temporal extent of potential effects from
17 the project and provide a higher level of confidence
18 that a downstream aquatic ecosystem will see minimal
19 impacts.

20 We thank the panel for providing us an
21 opportunity to speak today and present our
22 recommendations, and we're open to any questions.
23 Thank you.

24

25 QUESTION PERIOD:

1 THE CHAIRPERSON: Thank you very much,
2 Mr. Jenkins. We need some lights, thank you. Now
3 we'll turn to questions from parties, and we'll follow
4 the same list of parties as we used for the -- in the
5 past.

6 So we'll begin with Akaitcho IMA
7 Implementation Office.

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: I see none. I'll
12 move on. Dene Nation...? Deninu Kue First Nation?

13 MR. ROBERT SAYINE: Robert Sayine, from
14 Deninu Kue First Nation. No questions at this time,
15 Chairman.

16 THE CHAIRPERSON: Thank you. Lutsel
17 K'e Dene First Nation...?

18 MR. MIKE TOLLIS: No questions at this
19 time, Mr. Chair.

20 THE CHAIRPERSON: Thank you. NWT Metis
21 Nation...?

22 MR. CHUCK HUBERT: Could you state your
23 name, the last -- please?

24 MR. MIKE TOLLIS: Sorry, Chuck. Mike
25 Tollis, from Lutsel K'e Dene First Nation.

1 THE CHAIRPERSON: NWT Metis Nation, I
2 see none. We move on. North Slave Metis Alliance...?

3 MR. BILL ENGE: Yes, thank you, Mr.
4 Chairman. Bill Enge, President of the North Slave
5 Metis Alliance.

6 The first question I'd have for
7 Department of Aboriginal Affairs and Northern
8 Development Canada representative is: Did they do an
9 analysis of just how well the water treatment plan that
10 the Developer has put on the table to ensure that the
11 water quality used by the mine meets standards? In
12 other -- in -- in short, I didn't see in their
13 presentation an analysis of using ponds to cleanse the
14 water before it's ready for discharge back into the
15 water system.

16 Did the -- did the -- the Crown here, do
17 an analysis of that cleansing process? Thank you.

18 THE CHAIRPERSON: Thank you, President
19 Enge. Mr. Jenkins?

20 MR. ROBERT JENKINS: Thank you, Mr.
21 Chair. It's Robert Jenkins, Aboriginal Affairs. What
22 we assessed was the project as put forward by the
23 Proponent in its Environmental Impact Statement: the
24 use of Kennady Lake as a water management pond, the
25 discharge downstream into Lake N11, and the proposed

1 objectives that were put forward by the Proponent.

2 And today we presented, essentially,
3 recommendations to the Board on water quality
4 objectives, as well as the -- put forward to the Board
5 that we feel that pollution prevention principles
6 should be applied and that the highest standard should
7 be achieved.

8 THE CHAIRPERSON: Thank you. President
9 Bill Enge...?

10 MR. BILL ENGE: Yes, thank you, Mr.
11 Chairman. Mr. Chairman, yesterday during the hearing,
12 the Developer put on the table that they plan -- or,
13 they wish to put in place a water cleansing system by
14 cleansing water through different ponds and then
15 discharging it back into the water system. And they
16 also pointed out they do not wish to put in a water
17 treatment plant.

18 That, now, I under -- now, did the Crown
19 do any kind of an assessment of that proposal that the
20 Developer put on the table? Thank you.

21 THE CHAIRPERSON: Thank you. Mr.
22 Jenkins...?

23

24 (BRIEF PAUSE)

25

1 MR. ROBERT JENKINS: Thank you, Mr.
2 Chair. It's Robert Jenkins, with Aboriginal Affairs.
3 The Proponent put forward the use of Kennady Lake and
4 the discharge into N11 and the establishment of
5 objectives, water quality objectives. And as I
6 mentioned in our presentation, we consider water
7 quality objectives the standard for water that will
8 protect the downstream use. And we provided a number
9 of recommendations to you today, Mr. Chair. And I -- I
10 won't go over those again.

11 So in reality, if those objectives are
12 achieved, then the water downstream is being protected.
13 The manner in which that is conducted -- we heard
14 yesterday that if those objectives aren't achieved,
15 water treatment is a contingency option.

16 THE CHAIRPERSON: Thank you. Bill
17 Enge...?

18 MR. BILL ENGE: Yes, thank you, Mr.
19 Chairman. What -- what puzzles me, Mr. Chairman, is
20 how are -- how are we to know whether or not the
21 Developer's system of cleansing the water is going to
22 work until it goes into operation? And by the time it
23 goes into operation, it'll be too late to put in the
24 water treatment plant.

25 So I want to know if the Crown has taken

1 into consideration the practicalities of having a plan
2 B, a water treatment plant in place, before allow --
3 approving or -- this water cleansing system, should
4 something go haywire? Thank you, Mr. Chairman.

5 THE CHAIRPERSON: Thank you. Mr.
6 Jenkins...?

7 MR. ROBERT JENKINS: Thank you, Mr.
8 Chair. It's Robert Jenkins, with Aboriginal Affairs.
9 So as I described in our presentation, water quality
10 objectives that are standard for water that will
11 protect downstream use, those numbers -- and those
12 numbers will be defined when this project reaches the
13 regulatory phase -- will be back-calculated through the
14 mixing zone, as I described in my presentation, to come
15 up with the effluent quality criteria. Those are legal
16 limits. So those legal limits will have to be met
17 before water is discharged downstream.

18 And by doing that type of analysis and
19 that type of calculation, you will have your effluent
20 cri -- quality criteria set such that you will
21 inherently always meet your objectives downstream.

22 THE CHAIRPERSON: Thank you. President
23 Enge...?

24 MR. BILL ENGE: Yes, thank you, Mr.
25 Chairman. I -- I still am befuddled by the Crown's

1 response, because I'm not hearing whether or not
2 they've taken into account any contingency plans,
3 should the water quality not reach its objectives.

4 So that being said, again, is the Crown
5 pre -- supportive of the model that the Developer
6 wishes to put in place before -- or -- and not -- and
7 not support having a water treatment plant put in place
8 as a plan B to ensure that, should something go wrong,
9 there's a way to ensure that the water quality
10 objectives are met? Thank you.

11 THE CHAIRPERSON: Thank you, Mr. Enge.
12 Mr. Jenkins...?

13 MR. ROBERT JENKINS: Thank you, Mr.
14 Chair. It's Robert Jenkins, Aboriginal Affairs. To --
15 to hopefully provide a bit more context, the Proponent
16 will have legal limits, and they will not be allowed to
17 discharge effluent unless they meet those limits.

18 And so there's a num -- so the approach
19 that they put forward is to have a water management
20 pond and -- and to not discharge from that wat -- water
21 management pond until those criteria are met. So for
22 us, I mean, they will then be allowed to discharge.
23 They will meet their downstream objective. And so if -
24 - if their downstream objective is met and their
25 criteria are met, then -- then that's good with us.

1 THE CHAIRPERSON: Thank you. President
2 Enge...?

3 MR. BILL ENGE: Thank you, Mr.
4 Chairman. The -- the understanding I've -- I've come
5 away with, from what I just heard, is that they haven't
6 taken into account the need for a plan B, that the only
7 plan that the Crown is considering is letting the water
8 sit in a holding pond until it settles enough to -- to
9 -- for them to say it's okay to discharge.

10 Now, having said that, I have another
11 question for the -- the Crown here. The Developer
12 plans to flood the -- the pits as -- on a kind of a
13 progressive basis. Once the -- the Developer has
14 finished mining one pipe, they're going to backfill it
15 not only with the blast rock, but then cover it over
16 with -- cover it up -- or -- or flood it with water.

17 And during the blasting period, the
18 blast residue will actually remain in the pit. The
19 water will then drain into -- the water will then --
20 may release this -- these chemicals that are in the
21 pits.

22 Has the -- has the Crown determined that
23 the residue, chemical residues, that are going to be in
24 the pit when they're flooded are not going to be
25 released into the water system? Thank you.

1 THE CHAIRPERSON: Thank you. Mr.

2 Jenkins...?

3 MR. ROBERT JENKINS: Thank you, Mr.

4 Chair. It's Robert Jenkins, with Aboriginal Affairs.

5 The Company, I think, will -- will put forward a lot of

6 things about their ammonia nitrate and their use. And

7 -- and I'm sure that they will put forward that they

8 will consider that -- or, the use of -- of the product

9 that they use will -- will not dissolve readily into

10 water. And there's -- there's materials that can be

11 used for that.

12 Again, I think that this is something

13 that we do need to monitor through the project. There

14 will be objectives for this. There will potentially be

15 criteria for this. And so I think that the management

16 system is set up to see if blast residues are getting

17 into the water. And what you do then through an

18 adaptive management process is if you're seeing that,

19 you implement mitigations.

20 THE CHAIRPERSON: Thank you. President

21 Enge...?

22 MR. BILL ENGE: Thank you, Mr.

23 Chairman. I guess in my simple language, "adaptive

24 measures approaches" is a euphemism for, We'll try and

25 figure it out as we go along.

1 I'd like to know from the Crown exactly
2 what they would do in light of an ammonia nitrate
3 problem. How would they put in a mitigation regime
4 that would stop that poison from getting into the water
5 system? Thank you.

6 THE CHAIRPERSON: Thank you. Mr.
7 Jenkins...?

8 MR. ROBERT JENKINS: Thank you, Mr.
9 Chair. It's Robert Jenkins, Aboriginal Affairs.
10 Generally, these are addressed in blast management
11 plans in water licences in a level of detail. And
12 there are a number of contingencies evaluated,
13 assessed, and -- and put forward, step-wise process.

14 THE CHAIRPERSON: Thank you. President
15 Enge...?

16 MR. BILL ENGE: Thank you, Mr.
17 Chairman. Has the Crown done that assessment and
18 analysis? And if so, why isn't it on the table today?
19 Thank you.

20 THE CHAIRPERSON: Thank you. Mr.
21 Jenkins...?

22 MR. ROBERT JENKINS: Thank you, Mr.
23 Chair. It's Robert Jenkins, Aboriginal Affairs. The
24 blast management plan, in that level of detail,
25 generally gets a -- addressed as you move into the --

1 the water licensing phase of the project. And so we're
2 -- it's -- it's a little premature at this point to
3 have that level of detail.

4 THE CHAIRPERSON: Thank you. President
5 Enge...?

6 MR. BILL ENGE: Thank you. Thank you,
7 Mr. Chairman. I'm -- I -- I guess I'm rather taken
8 aback by that response, because here we are in the --
9 in a -- in an adjudicated forum, trying to figure out
10 the pros and cons of approving this mine. And what the
11 Crown is coming up with is, Trust us, we'll figure it
12 out later. Trust us, we'll talk to you about it in the
13 water licence phase and, you know, don't worry about
14 it. All of that -- this is not the forum for it, you
15 know.

16 Mr. Chairman, I -- I'm really taken
17 aback by what I am hearing. But nonetheless, I -- I
18 think it speaks for itself, so I don't have any more
19 questions for the Crown.

20 THE CHAIRPERSON: Thank you, President
21 Bill Enge. Next on the list is Tlicho government.

22 MR. HENRY ZOE: Henry Zoe, Tlicho
23 government. No questions at this time.

24 THE CHAIRPERSON: Thank you.
25 Yellowknives Dene First Nation...?

1 MR. TODD SLACK: Todd Slack, for the
2 Yellowknives Dene. I just have a -- a couple of
3 questions here, and I'll try to phrase them as easy as
4 I can.

5 The -- is it fair to say that AANDC has
6 an important role within cumulative effects assessment
7 and monitoring?

8 THE CHAIRPERSON: Thank you. Mr.
9 Jenkins...?

10 MR. ROBERT JENKINS: Thank you, Mr.
11 Chair. It's Robert Jenkins. Yes, certainly in
12 monitoring, yes.

13 THE CHAIRPERSON: Thank you.

14 MR. TODD SLACK: So with that in mind,
15 can you tell us what regional studies and monitoring
16 that AANDC has undertaken for the Bathurst caribou
17 herd, in light of all the concern that you've heard
18 over the last years? Say, since the imposition of the
19 harvesting restrictions?

20 THE CHAIRPERSON: Thank you. Mr.
21 Jenkins...?

22

23 (BRIEF PAUSE)

24

25 MR. ROBERT JENKINS: Thank you, Mr.

1 Chair. It's Robert Jenkins, Aboriginal Affairs. My
2 understanding is that we funded five (5) or six (6)
3 studies through the cumulative impact monitoring
4 program to -- to look at aspects of this. If it
5 pleases the panel, we could submit details on that
6 through an undertaking.

7 MR. JOHN DONIHEE: It's John Donihee,
8 Board counsel. That's -- that's really up to Mr.
9 Slack; it was his question. If he wants the material
10 filed, if he'd like to indicate so, then we can
11 identify that as Undertaking number 1.

12 THE CHAIRPERSON: Mr. Slack, what is
13 your desire?

14 MR. TODD SLACK: Thanks, Mr. Chair.
15 And if it's okay with the Proponent, if he could just
16 submit the titles of that, perhaps by tomorrow morning?

17 THE CHAIRPERSON: Is the -- the deadline
18 for undertakings, what is the time frame?

19 MR. JOHN DONIHEE: It's John Donihee,
20 Board counsel. For anything that might take a while,
21 we had anticipated 14th of December. But if all we're
22 talking about it a list, I -- I assume Mr. Slack wants
23 it for other purposes during the hearing.

24 And so I guess the question for AANDC
25 would be: Can you produce a -- a simple list of these

1 studies by tomorrow morning, because why wait till the
2 middle of December?

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

5 MR. ROBERT JENKINS: Thank you, Mr.
6 Chair. It's Robert Jenkins, Aboriginal Affairs. We
7 could very quickly provide the entire list of the
8 studies, which would include those, if that -- that
9 would meet this goal. I just want to note Mr. Slack
10 referred to us as the Proponent. I just want to make
11 it clear, we're not.

12 THE CHAIRPERSON: Thank you. So that's
13 Undertaking number 1, then? Thank you.

14

15 --- UNDERTAKING NO. 1: AANDC to provide, by
16 December 7, 2012, a list of
17 CIMP projects related to
18 Bathurst caribou herd

19

20 THE CHAIRPERSON: Mr. -- Mr. Slack...?

21 MR. TODD SLACK: Thanks. I guess
22 that's a carryover from when you guys were speaking
23 from -- for -- on behalf of Fortune. It's in the --
24 it's in the re -- or, the record. And then, just as my
25 last question, has AANDC developed an approach --

1 because the caribou aren't just NWT, has AANDC
2 developed any kind of cumulative effects approach to
3 help the GNWT and Nunavut work towards a cumulative
4 effects assessment and analysis?

5 THE CHAIRPERSON: Thank you, Mr. Slack.
6 Mr. Jenkins...?

7

8 (BRIEF PAUSE)

9

10 MR. MARC LANGE: Mr. Chairman, my name
11 is Marc Lange. I'm before you on my knees here to
12 answer this question for Mr. Slack, for the record. I
13 think Mr. Slack's question, Mr. Chairman, had to do
14 with an approach for a cumulative impact assessment and
15 monitoring for both the Northwest Territories and
16 Nunavut.

17 So as part of the cumulative impact
18 monitoring program, we're -- one (1) of our goals over
19 the next two (2), three (3) years is to have common
20 monitoring approaches for a lot of the priority valued
21 components; caribou, fish, and -- and water are our
22 three (3) priorities. And we are working with Nunavut
23 with their -- on a general monitoring program to
24 develop these common monitoring approaches. Thank you.

25 THE CHAIRPERSON: Thank you. Mr.

1 Slack...?

2 MR. TODD SLACK: That's the end of my
3 questions. Thank you.

4 THE CHAIRPERSON: Thank you very much.
5 We move on to Environment Canada.

6

7 (BRIEF PAUSE)

8

9 MR. ERIK ALLEN: Thank you, Mr. Chair.
10 It's Erik Allen, Environment Canada. We have no
11 questions at this time.

12 THE CHAIRPERSON: Thank you. Fisheries
13 and Oceans Canada...?

14 MS. BEV ROSS: Thank you, Mr. Chair.
15 Bev Ross, Fisheries and Oceans Canada. We have no
16 questions.

17 THE CHAIRPERSON: Thank you. Next is
18 the Government of the Northwest Territories.

19 MR. JOEL HOLDER: Good morning. Joel
20 Holder, with the Government of the Northwest
21 Territories. No questions at this time.

22 THE CHAIRPERSON: Thank you. Natural
23 Resources Canada...?

24 MR. JOHN KING: John King, Natural
25 Resources Canada. We have no questions. Thank you.

1 THE CHAIRPERSON: Thank you. Parks
2 Canada...?

3 MS. ANN RONALD: Mr. Chair, Ann Ronald,
4 Parks Canada. No questions. Thank you.

5 THE CHAIRPERSON: Thank you. Transport
6 Canada...?

7 MR. MIKE MOLINSKI: Thank you, Mr.
8 Chair. Mike Molinski, Transport Canada. No questions.

9 THE CHAIRPERSON: Thank you. De Beers
10 Canada...?

11 MS. VERONICA CHISHOLM: Veronica
12 Chisholm, from De Beers. I just have a couple of
13 questions, and I think they'll be -- be fairly simple.
14 I -- I am hoping, Mr. Chair, that the representatives
15 from Aboriginal Affairs might be able to show me where,
16 or perhaps point me to the -- the location or show you,
17 where in the CCME guidelines it says that the -- the
18 use of baseline hardness, the exposure toxicity
19 modifying factors and -- and -- specifically, should be
20 based on historic rather than current water quality.

21 I'm just wondering if they could point
22 me in the right direction there, where it says that in
23 CCME?

24 THE CHAIRPERSON: Thank you. Mr.
25 Jenkins...?

1 (BRIEF PAUSE)

2

3 MR. NATHEN RICHEA: Thank you, Mr.

4 Chair. It's Nathen Richea, with the Water Resources

5 Division, Aboriginal Affairs and Northern Development

6 Canada. There's a number of areas within CCME guidance

7 that talk about using ambient water quality conditions

8 when deriving site-specific water quality objectives.

9 I can name a couple quickly for the record.

10 Looking at CCME "Guidelines for the
11 Site-specific Application of Water Quality Guidelines
12 in Canada: Procedures for Deriving Numerical Water
13 Quality Guideline Objectives."

14 "Once the contaminants of potential
15 concern are identified, the available
16 water quality guidelines for each
17 substance and each water use are
18 compiled and modified to account for
19 the ambient water quality
20 characteristics of the water body.
21 Example: pH, water hardness, et
22 cetera."

23 That's page 17. Further, looking at
24 specific fact sheets for parameters of concern -- or
25 contaminants, I guess -- for cadmium there is a formula

1 that's used. If you go onto the website, it actually
2 asks for the input of the water body, the local water
3 body hardness. So those are two (2) examples.

4 THE CHAIRPERSON: Thank you. De Beers
5 Canada...?

6 MS. VERONICA CHISHOLM: Veronica
7 Chisholm, from De Beers. Thank you for that response.
8 I didn't quite get the answer to my question, but I'm -
9 - I'm not going to pursue it. I was looking for where,
10 within CCME, or the Canadian Council for Ministers of
11 Environment, it indicates that a hardness value needed
12 to be a historic rather than a current water quality as
13 part of the -- the exposure toxicity modifying factors.

14 But that's okay, I'm not going to pursue
15 it. I just didn't quite hear that, but that's fine.
16 So I just have a couple of other questions. Just one
17 second.

18

19 (BRIEF PAUSE)

20

21 MR. ROBERT JENKINS: Mr. Chair, it's
22 Robert Jenkins. If I could just add maybe something
23 while they're -- they're...

24 THE CHAIRPERSON: Sure, go ahead.

25 MR. ROBERT JENKINS: I think another

1 thing that the guidance documents talk about a lot is -
2 - is when you apply these modifying factors, you talk
3 about the local receiving environment. So you talk
4 about the chemistry that is. And what the Proponent
5 has put forward is sort of predicted -- essentially the
6 project will change hardness through time.

7 So what we're saying is that the
8 guidance documents refers to when you do those
9 calculations you refer to the local receiving waters,
10 and so we shouldn't be relying on the -- the
11 predictions of change through time.

12 THE CHAIRPERSON: I'm getting a little
13 confused now, and so you're going to have to help me
14 out a little bit.

15 The question was CCME guidelines, and
16 you're referring to guidance documents that are
17 supporting the CCME main policy?

18 MR. ROBERT JENKINS: Yes, Mr. Chair.
19 Sorry, it's Robert Jenkins again. We are -- we are
20 talking about CCME guidance. There's a number of
21 documents put out by the CCME, including right down to
22 specific parameters, and a parameter being, just for
23 example, say, cadmium or mercury or lead, or something
24 like that. So each -- we're just saying in those
25 documents it often refers to local receiving waters.

1 THE CHAIRPERSON: Thank you. De Beers
2 Canada...?

3 MS. VERONICA CHISHOLM: Veronica
4 Chisholm, from De Beers. That's fine. I mean, mostly
5 I was looking for the time frame by which you would
6 consider the hardness, and -- and it may not exist
7 within CCME guidelines. But anyways, I'll -- I'll
8 carry on. I just have another -- another very quick
9 question. Just a point of clarification for Aboriginal
10 Affairs, Mr. Chair.

11 They -- they mentioned that the site-
12 specific water quality objectives would need to be
13 reviewed over the life of the project, and I believe
14 I've heard in there that it would be important perhaps
15 to consider those objectives as part of the aquatic
16 effects -- or, the development of the aquatic effects
17 monitoring program that we'll be developing during the
18 licensing phase.

19 So I'm just wondering if Aboriginal
20 Affairs could acknowledge that might be a key point to
21 finalize those objectives, since they are matched with
22 the monitoring program.

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

25 MR. ROBERT JENKINS: Thank you, Mr.

1 Chair. It's Robert Jenkins, Aboriginal Affairs. The
2 objectives will need to be finalized at some point
3 before you establish your effluent quality criteria,
4 because we will be working backwards through a mixing
5 zone. So -- and that is your legislative limit. So
6 that needs to be set such that you will meet your
7 downstream objective.

8 So once those are met, or -- or, sorry,
9 set, you will have your monitoring program. And what
10 you will do is you will essentially be monitoring and
11 have some sort of adaptive management framework that --
12 that -- you know, if you proceed towards your
13 objectives, what are you seeing. Are you seeing any
14 changes? Do you need to implement anything different?

15 So I would think that, yes, you would --
16 you would have your objectives set in advance of -- you
17 know, you'd develop your margin program to ensure that
18 those objectives are doing what you want them to do and
19 they're providing the level of protection you wanted to
20 provide.

21 THE CHAIRPERSON: Thank you. De Beers
22 Canada...?

23 MS. VERONICA CHISHOLM: Veronica
24 Chisholm, from De Beers. Thank you. I think I -- we
25 did receive a bit of clarity there.

1 THE CHAIRPERSON: Thank you very much.

2 I will now go to panel staff and technical advisers.

3 MR. CHUCK HUBERT: Mr. Chair, I'd like
4 to turn the mic over to Dr. Kathy Racher.

5 THE CHAIRPERSON: Thank you. Proceed.

6 DR. KATHY RACHER: Kathy Racher, for
7 the panel. On page 5 of your technical report, it
8 states that:

9 "AANDC is in general agreement with
10 the protocol used by De Beers to set
11 water quality objectives. However,
12 AANDC's concerned with several of the
13 assumptions used when implementing
14 the pro -- protocol. AANDC maintains
15 that increases in contaminant
16 concentrations in the receiving
17 environment should be minimized in
18 order to provide the greatest
19 confidence that impacts from the
20 project will also be minimized."

21 And I understand all the points on which
22 you -- you disagree with the -- the protocol for
23 setting site-specific quality objectives for this
24 project. But I'm wondering, do you agree -- despite
25 that disagreement on that particular issue, do you

1 agree with De Beers's conclusions regarding no
2 significant effects as a result of mine related changes
3 to water quality?

4 THE CHAIRPERSON: Thank you. Before I
5 turn it over to Mr. Jenkins, we got to slow down a
6 little bit for translation. Thank you.

7 Mr. Jenkins...?

8 MR. ROBERT JENKINS: Thank you, Mr.
9 Chair. It's Robert Jenkins. If the narrative
10 statements that we put forward are met through
11 numerical objectives -- and I think that there still
12 needs to be some work done on what the actual amount
13 number falls upon -- then we feel that significant
14 adverse effects will not occur.

15 THE CHAIRPERSON: Thank you.

16 DR. KATHY RACHER: Kathy Racher, for
17 the panel. Okay. Well, that brings me to your
18 narrative statements; in recommendation number 1 you
19 had a number of narrative statements. I am -- what I
20 didn't see in the report is where these narrative
21 statements, objectives, were meant to be applied.
22 Because an objective needs a value or -- which could be
23 a narrative value, but it also needs a location. And
24 I'm thinking, you know, obviously a number of these
25 wouldn't apply to Kennady Lake when it's being

1 dewatered, for example.

2 And could you provide some more clarity
3 on that?

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

6

7 (BRIEF PAUSE)

8

9 MR. ROBERT JENKINS: Thank you, Mr.
10 Chair. It's Robert Jenkins, Abor -- Aboriginal
11 Affairs. So just to be clear, you're asking us where
12 our statements would be applied, correct?

13 THE CHAIRPERSON: Go ahead.

14 DR. KATHY RACHER: Kathy Racher, for
15 the panel. Yes. So what lakes, and I guess, for this
16 particular project, what phase of the project. Because
17 it's gonna depend on whether it's operations, closure,
18 post-closure. If -- I don't -- I don't know if you
19 know that answer today, and if you don't then I would
20 like to see some more clarity in your closing
21 statements on that. Because at the moment it's -- I
22 mean, the proponent is already predicted that there
23 will be changes to fish abundance, et cetera, so. Go
24 ahead.

25 THE CHAIRPERSON: Thank you. Mr.

1 Jenkins...?

2 MR. ROBERT JENKINS: Thank you, Mr.
3 Chair. It's Robert Jenkins. So, yeah, we had five (5)
4 statements, and I would think that the first four (4)
5 would apply to N11 at the edge of the initial dilution
6 zone during operations.

7 The last one, obviously very clearly,
8 speaks to reconnection of Kennady Lake, so that would
9 be at that point in time. But I would that, in
10 reality, once Kennady Lake is reconnected, that all
11 these statements could then apply in essence
12 downstream.

13 THE CHAIRPERSON: Thank you. Kathy
14 Racher...?

15 DR. KATHY RACHER: Kathy Racher, for
16 the panel. Okay. Well, that's helpful. Again, I
17 would ask you in your closing statements to be more
18 specific on that, noting the changes to the trophic
19 levels that are anticipated and predicted for some of
20 the lakes downstream of Kennady -- Kennady itself and
21 then some of the lakes up to Lake 410, I guess, post-
22 closure. So, clarity on where they're supposed to
23 apply and what phases of the project specifically would
24 be very helpful.

25 Also, I mean, it -- it's confusing

1 because the effects on benthics, et cetera, are you --
2 are you talking about existing benthics or are you
3 talking about in -- in Kennady Lake post-closure, so
4 that kind of clarity would be helpful.

5 THE CHAIRPERSON: Thank you. Mr.
6 Jenkins...?

7 MR. ROBERT JENKINS: Thank you, Mr.
8 Chair. It's Robert Jenkins. Yes, I think --
9 acknowledged.

10 THE CHAIRPERSON: Thank you. Anything
11 more?

12 DR. KATHY RACHER: Kathy Racher, for
13 the panel. Yes, I have two (2) more questions.

14 In your technical report section on
15 closure and reclamation you -- and -- and today you've
16 discussed a number of uncertainties in a number of De
17 Beers's predictions, including final water quality in
18 the water management pond and the formation of the
19 chemocline in the pits. And your recommendations talk
20 mostly about ensuring ongoing monitoring and -- and
21 research during the project life to reduce these
22 uncertainties prior to closure.

23 What -- but what is left unsaid is
24 whether you at least feel that the predictions that
25 have been made by the Proponent are reasonable based on

1 the information we have at this time. And therefore,
2 at least in respect to this particular issue, that it's
3 reasonable to go forward with the project based on the
4 predictions of being able to close the site and -- and
5 restore a self-sustaining ecosystem.

6 THE CHAIRPERSON: Thank you. Mr.
7 Jenkins...?

8 MR. ROBERT JENKINS: Thank you, Mr.
9 Chair. It's Robert Jenkins, Aboriginal Affairs. I
10 would say that what's put forward right now by the
11 Proponent is reasonable, but I think that we've got to
12 do quite a bit of work.

13 We've got to ensure that reclamation and
14 research is done early on in the mine life to try to
15 solidify these, so that if things come up and the
16 predictions aren't as -- as, you know, what we thought
17 was going to turn out, that essentially there's time to
18 implement mitigation, implement adaptive management
19 early on so that you could deal with that.

20 THE CHAIRPERSON: Thank you.

21 DR. KATHY RACHER: Kathy Racher, for
22 the panel. I've been warned to speak slower. I have
23 one (1) more question and -- and it's possibly for Mr.
24 Lange.

25 In the Tlicho government presentation

1 this morning they -- one (1) of the recommendations was
2 to advance the state-of-art assessment methodologies
3 for caribou. And earlier in another response to
4 another question Mr. Lange spoke about developing
5 protocols for monitoring with Nunavut, et cetera, as
6 part of the cumulative impact monitoring program goals.

7 And I'm just wondering if -- if that
8 program, the CIMP program, will be developing these
9 state-of-the-art assessment methodologies for caribou
10 and what kind of timeline you would be looking at if
11 that -- if that is in fact true?

12 THE CHAIRPERSON: Thank you. Mr.
13 Jenkins...?

14 MR. MARC LANGE: Marc Lange, for
15 Aboriginal Affairs, on his knees again, Mr. Chair.

16 Yeah, in fact, we are going to be
17 working over the next couple of years to work on -- on
18 common approaches to monitoring, particularly in the
19 context of cumulative effects, and caribou will be one
20 of the priority areas that we're working with -- with
21 communities and GNWT.

22 But I'm -- I'm drawing a distinction
23 between a common approach for monitoring separate from
24 common approach to assessment. So the way we've carved
25 the cumulative impact monitoring program objectives

1 over the next five (5) years is to focus on monitoring
2 and let the good work of the boards and proponents do
3 the assessments, so the mashing of this monitoring
4 information to come up with a conclusion as to whether
5 or not there are impacts. So over the next little
6 while we'll be focussing on the monitoring approach.

7 THE CHAIRPERSON: Thank you.

8 DR. KATHY RACHER: Kathy Racher, for
9 the panel. Thank you, that's -- that's all of my
10 questions. I think we'll pass it to -- to Terry.
11 Thanks.

12 MR. TERRY ANTONIUK: Terry Antoniuk.
13 Just to -- just to follow up on that. I -- I guess I
14 would suggest that there's actually at least three (3)
15 components to cumulative effects assessment and
16 management. You identified two (2) of them, which was
17 assessment and monitoring. So my question is -- is
18 specifically in terms of whether Aboriginal Affairs
19 Northern Development more broadly, or CIMP -- sorry,
20 cumulative impact monitoring program more specifically,
21 have anything -- have any initiatives planned to take a
22 look at the management objective or management
23 mitigation aspects of cumulative effects.

24 THE CHAIRPERSON: Thank you. Mr.
25 Jenkins...?

1 MR. ROBERT JENKINS: Just a moment, we
2 want to get him a chair this time.

3 MR. MARC LANGE: Marc Lange. No, I'd -
4 - I would agree Mr. Chairman with -- with the basis of
5 the question, that there's assessment, there's
6 monitoring, and then you've got to do something about
7 it, mitigating. And again, to be clear, for the next
8 five (5) years, our focus is on monitoring for the
9 cumulative impact monitoring program.

10 At some point -- so you may ask, why --
11 why are we cherry-picking and -- a very specific area
12 like a -- like a laser pointer. One -- there's a
13 couple reasons; we're not a very rich program, Mr.
14 Chairman. We don't have an -- an abun -- a huge
15 abundance of resources so we need to st -- to become
16 more strategic about how we spend our dollars. So --
17 so that's the one (1) aspect.

18 The other aspect is, AANDC doesn't make
19 all decisions as to where the -- the program -- the
20 CIMP program goes. We -- we are governed a -- a --
21 with -- by a working group that advises on where we go.
22 So, we arrived at a five (5) year strategic plan
23 basically, and said, well, why don't we try to achieve
24 something we think we can achieve in five (5) years.
25 And that's focussing on monitoring at this point.

1 THE CHAIRPERSON: Thank you.

2 MR. TERRY ANTONIUK: Terry Antoniuk.

3 Just one (1) last question. We've heard in the last
4 couple of days about a -- a collaborative proposal
5 called Ni Hadi Yati, and there's a -- the intent of
6 that, as -- as we understand it at a very conceptual
7 level, is to -- to contribute to cumulative effects
8 monitoring and management within -- for De Beers
9 specifically and -- and I sense more broadly in the
10 diamond mining area.

11 Is a -- if there's a role identified for
12 Aboriginal Affairs and Northern Development as part of
13 this initiative, would you be willing to participate?

14 THE CHAIRPERSON: Thank you. Mr.
15 Jenkins...?

16 MR. ROBERT JENKINS: Thank you, Mr.
17 Chair, it's Robert Jenkins, Aboriginal Affairs. I mean
18 I -- what was put forward yesterday I think is -- is
19 something we are really interested in. It's not very
20 often that you see agreement on -- on -- on a framework
21 moving forward, so, but it's still conceptual and that
22 was brought up again this morning by the Tlicho
23 government.

24 So I think right now it's still unclear
25 what our role is. We're definitely interested in, you

1 know, participating moving forward in -- in discussions
2 on -- on what our -- our role could be. And if there
3 is a role ultimately then -- then, you know, dependent
4 on resources and ensuring that it doesn't avoid
5 duplication with other mechanisms. We -- we're
6 definitely interested.

7 THE CHAIRPERSON: Thank you.

8 MR. TERRY ANTONIUK: No further
9 questions.

10 THE CHAIRPERSON: Legal counsel...?

11 MR. JOHN DONIHEE: Thank you, Mr.
12 Chairman. John Donihee, for the panel. I think I
13 have a couple of -- one (1) follow-up question and then
14 one (1) other. Mr. Lange, you said that the cumulative
15 impact monitoring program, CIMP, is going to be
16 focussing on monitoring over the next five (5) years.

17 I guess, I -- I just want to be clear
18 about what you're saying. Does that mean that the
19 program is going to be attempting to identify more
20 effective techniques for conducting monitoring of
21 caribou and water? You know, is it -- is it that kind
22 of an exercise or are you actually going to be out --
23 or spending program dollars out on the ground
24 monitoring caribou, for example, either regionally or
25 locally in association with mines?

1 THE CHAIRPERSON: Thank you. Mr.
2 Jenkins...?

3 MR. MARC LANGE: Mr. Chairman, the
4 answer I think would be yes to -- to both. So we're --
5 we're -- and -- and maybe I'll add a little bit more
6 about monitoring right after. So, yeah, we are --

7 THE CHAIRPERSON: Excuse me, we're
8 slipping away from -- I asked Mr. Jenkins, and you --
9 you've got to identify yourself, for the -- for the
10 trans -- the transcriber, sorry.

11 MR. MARC LANGE: Sorry, Marc Lange is
12 answering the question. So we're -- we're focussing on
13 eve -- on effective techniques and on -- on the ground
14 monitoring. You'll get a glimpse of the kind of
15 monitoring activities on the ground that we've been
16 involved in when we file our undertaking. We're going
17 to actually show you what we've been doing for the last
18 ten (10) years or so with the titles list. But the
19 effective techniques is also what we're focussing on,
20 mostly to try to get common approaches between
21 proponents, between those who monitor.

22 I -- I probably overemphasized the CIMP
23 goal over the next five (5) years to focus only on
24 monitoring. We -- we have two (2) other aspects that
25 we're going to be focussing on. And that's monitoring

1 -- the ess -- analysis of this monitoring information
2 when we can, start putting it together. And then the
3 reporting of this information to decision makers like -
4 - like this Board.

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

7 MR. JOHN DONIHEE: Thank you, Mr.
8 Chairman. John Donihee. I -- I wonder if you can just
9 help, because we had the presentation yesterday about
10 the Ni Hadi Yati initiative. And certainly this
11 morning's presentation prior to yours from Tlicho
12 government gave every indication that they're going to
13 be depending on that initiative to address their
14 concerns about monitoring.

15 So the -- the question I have is
16 whether, really, the kinds of monitoring being
17 suggested so far. And -- and we'll hear more, I
18 believe, later today and tomorrow from Lutsel K'e and
19 the Yellowknives Dene whe -- whether in fact CIMP's
20 resources -- by "CIMP", I mean the cumulative impact
21 monitoring program -- resources, are -- you know, are -
22 - are they sufficient to be making a -- even a
23 substantial contribution to the kinds of monitoring
24 that's being proposed here? Or will the participants
25 in the Ni Hadi Yati initiative have to be looking else

1 -- elsewhere?

2 So what -- you know, how -- how much of
3 the load, I guess, can -- or do you think that your
4 program might be picking up?

5 THE CHAIRPERSON: Thank you, Mr.
6 Donihee. Marc, you -- who has got the question? Oh,
7 okay. Mr. Jenkins...?

8 MR. ROBERT JENKINS: Thank you, Mr.
9 Chair. It's Robert Jenkins, Aboriginal Affairs. What
10 we heard in the presentation -- and again, I think
11 there's a lot of details that need to be worked out,
12 but what we heard was that what was being requested of
13 government was not financial resources, rather in-kind
14 support.

15 So if -- if technical advisors are
16 available and -- and in the subject area of concern,
17 whatever it be -- they listed several plans that they
18 would be looking at through that initiative, that they
19 hoped that we would participate.

20 And so I think as I, you know,
21 previously mentioned that we're definitely interested
22 in discussions on what our role could be. We're still
23 thinking about what our role really could be in this
24 and -- and how that's not achieved through other, you
25 know, regulatory mechanisms. But we're definitely

1 interested in continuing those discussions.

2 THE CHAIRPERSON: Thank you. Mr.

3 Donihee...?

4 MR. JOHN DONIHEE: Thank you, Mr.

5 Chairman. John Donihee. I wonder if you could tell me

6 what the annual budget for the CIMP program is?

7 THE CHAIRPERSON: Thank you. Mr.

8 Jenkins...?

9

10 (BRIEF PAUSE)

11

12 MR. ROBERT JENKINS: Thank you, Mr.

13 Chair. It's Robert Jenkins, Aboriginal Affairs. I'm

14 told it's about 2 million a year.

15 THE CHAIRPERSON: Thank you.

16 MR. JOHN DONIHEE: John Donihee. Thank

17 you, Mr. Chairman. Those are my questions.

18 THE CHAIRPERSON: Okay. Now we're

19 going to turn to the panel members. I'll start on this

20 side. Panel member, Richard Mercredi...?

21 MR. RICHARD MERCREDI: Thank you, Mr.

22 Chair. And thank you for your presentation. No

23 questions.

24 THE CHAIRPERSON: Thank you. Peter

25 Bannon...?

1 MR. PETER BANNON: Thank you, Mr.
2 Chair. I - - I do have a couple questions. The first
3 one relates -- the -- they both actually relate to
4 water quality objectives but the first one is in
5 reference to some of the phrases, the, you know, lowest
6 possible and non-derogation (sic). And as an example,
7 I -- you object to the use of a regional background as
8 opposed to a local background.

9 My -- the question for the -- AANDC is
10 have -- have they identified any adverse impacts that
11 may occur or are likely to occur if the Proponent
12 should follow the protocol that they've suggested?

13 THE CHAIRPERSON: Thank you. Mr.
14 Jenkins...?

15

16 (BRIEF PAUSE)

17

18 MR. ROBERT JENKINS: Thank you, Mr.
19 Chair. It's Robert Jenkins, with Aboriginal Affairs.
20 What we assessed was the protocol put forward by the
21 Company. And so in many instances the Company did have
22 a default to CCME guidance values.

23 And, you know, that -- that may in the
24 end be appropriate but those same guidance documents do
25 talk to principles of non-degradation. They do talk

1 about not -- you know, they talk about pristine waters
2 and -- and sort of in light of that non-degradation
3 principle.

4 So what we saw was that several
5 instances where maximum predicted -- predicted
6 concentrations were actually less than CCME, they were
7 above background but they were less than CCME. And
8 there was a default up. And so -- so I can't really
9 say whether or not they -- you know, we haven't
10 identified anything that the use of CCME would --
11 wouldn't -- would not prevent significant adverse
12 effects.

13 But we've added another level of
14 conservatism to it in line with those guidance
15 documents that the -- the Proponent is using.

16 THE CHAIRPERSON: Thank you. Panel
17 member, Peter Bannon...?

18 MR. PETER BANNON: Thank you. That is
19 a good lead into my next question, and that -- in
20 relation to the CCME guidelines. And I acknowledge
21 that the government officials and others are probably
22 far more knowledgeable than I am about that, but I seem
23 to have a recollection that the use of noth -- the non-
24 derogation (sic) caution is more an exception rather
25 than the rule. And it's intended for special sensitive

1 areas and not the -- to be applied everywhere.

2 And am I mistaken in that regard, I'm
3 wondering?

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

6 MR. ROBERT JENKINS: Thank you, Mr.
7 Chair. It's Robert Jenkins, of Aboriginal Affairs.
8 The -- the actual quote from -- from the guidelines
9 themselves talk about for waters of superior quality
10 that support valuable biological resources the CCME
11 non-degradation policy states that the degradation of
12 the existing water quality should always be avoided or
13 minimized.

14 And so -- so we look at it as though in
15 essence the waters up here are pristine in nature.
16 There have been policy statements sent -- you know,
17 that have been released, that I quoted in my
18 presentation, which also talk about keeping the water
19 to the highest quality possible. So we feel that the -
20 - the non-degradation policy would -- would apply here.

21 THE CHAIRPERSON: Thank you. Panel
22 member, Peter Bannon...?

23 MR. PETER BANNON: I have one (1) last
24 question in that regard. Has a policy direction been
25 given from your Minister, or is there one (1) planned

1 for -- to the Land and Water Board just to adopt the
2 non-derogation rather than the -- the conventional use
3 of the CCME?

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

6 MR. ROBERT JENKINS: Thank you, Mr.
7 Chair. It's Robert Jenkins, Aboriginal Affairs. One
8 thing the Department is working on is -- is in response
9 to an Auditor General report. And the Auditor General
10 talked about how the Department should develop
11 standards for water.

12 And what they talked about in the sense
13 of standards was what we inferred as objectives. And
14 so we started doing some work on defining water quality
15 objectives throughout the North and how those will be
16 defined, in response to the Auditor General report.

17 One mechanism to -- actually, the report
18 actually talked about that the Minister should do this
19 and -- and then they should -- he should -- he should
20 put this back to the boards. So right now we're --
21 we're working on that document. And I think mechanisms
22 of implementing it, policy direction is one. There's
23 really no -- there's really no -- nothing planned in
24 that regard right now, but essentially we're hoping to
25 have that guidance document to provide more clarity to

1 the boards, moving forward.

2 THE CHAIRPERSON: Thank you. Panel
3 member, Peter Bannon...?

4 MR. PETER BANNON: Thank you. No more
5 questions.

6 THE CHAIRPERSON: Panel member, James
7 Wah-shee...?

8 MR. JAMES WAH-SHEE: Thank you, Mr. --
9 I'd like to thank you for your presentation. I have no
10 questions. Thank you.

11 THE CHAIRPERSON: Thank you. Panel
12 member, Rachel Crapeau...?

13 MS. RACHEL CRAPEAU: Thank -- thank you
14 for your presentation. Masi cho. No question.

15 THE CHAIRPERSON: Thank you. And the
16 Chair doesn't have any questions, so that concludes
17 this portion of the agenda. Thank you very much for
18 your presentation.

19 We will move now to a dual presentation,
20 according to the agenda. I'm going to ask Transport
21 Canada and NRCan to come up to the front table. Thank
22 you.

23

24 (BRIEF PAUSE)

25

1 THE CHAIRPERSON: Okay. Panel members
2 are in the room. So we can begin the presentation.
3 And Transportation, I understand, is leading.

4

5 PRESENTATION BY TRANSPORT CANADA AND NRCAN:

6 MR. DALE KIRKLAND: Good morning, panel
7 Chair, Elders, ladies and gentlemen. My name is Dale
8 Kirkland, and I'm the Regional Manager of Environmental
9 Affairs for Transport Canada in the Prairie and
10 Northern region. Seated to my left is Ms. Shannon
11 Vollema. She is a regional officer with the Navigable
12 Waters Protection Program. Seated to my right is Mr.
13 Mike Molinski, and he's an environmental officer as
14 well within our Prairie and Northern region.

15 We'd like to thank you for the
16 opportunity here today. Should it help with the flow
17 and timing, sir, we'd be more than willing to take
18 questions immediately following our presentation. Our
19 presentation is brief, and it will cover three (3) key
20 areas of interest to Transport Canada, noted by number
21 one (1), two (2) and three (3) there, following by some
22 closing remarks.

23 With respect to the water and access
24 roadway watercourse crossings, the Proponent has
25 identified several areas of the mine site where they

1 will need to use water management works as a part of
2 the development. These include, but are not limited
3 to, the encroachment on the Lake H1A outfall at the
4 east side of the air st -- east end of the air strip, a
5 freshwater intake located on the northwestern shore of
6 Area 8, and access roadways with watercourse crossings.

7 To this end, Transport Canada will be
8 able to fully assess potential impacts to navigation
9 once final design plans have been finalized and
10 applications are submitted for approval under the NWPA.
11 To this end, Transport Canada has made a recommendation
12 that De Beers submit application for approvals under
13 the NWPA as soon as final design details for these
14 components are completed.

15 Since filing this presentation to the
16 Board, Mr. Chair, De Beers has written to Transport
17 Canada on November 27th, of 2012, and has committed to
18 submit applications for these works once final designs
19 are completed.

20 With respect to Kennady Lake, Transport
21 Canada has identified that De Beers is proposing to
22 dewater a portion of the lake in order to deposit
23 tailings. As well, there's a number of works
24 associated with this proposal here, listed on the
25 slide.

1 In addition, we have determined that
2 Kennady Lake is navigable and can -- we consider that
3 the deposit of tailings in that lake to be subject to
4 Section 22 of the NWPA. And, very briefly, Section 22
5 prohibits a person from depositing any material or
6 rubbish that is liable to sink in the bottom of any
7 water, any part of which is navigable or that flows
8 into any navigable water, where there are not at least
9 20 fathoms of water depth at all times.

10 In addition, Section 23 of the NWPA
11 provides that the Governor in Council, when it's shown
12 to be su -- shown to its satisfaction that the public
13 interest will not be injuriously affected, may by
14 proclamation declare that any reams -- any rivers,
15 streams, or waters in respect of which twenty-two (22)
16 of the NWT -- NWPA apply, or any parts that are exempt
17 in whole or in part from the operation of Section 22.

18 To this end, Transport Canada has made a
19 recommendation to De Beers that they submit an
20 application if it wishes to seek to a proclamation
21 exemption under Section 23 of the NWPA. In addition,
22 De Beers should inform Transport Canada of this as soon
23 as possible. And I'd like to emphasize in bullet
24 number 3 there on the slide that the proclamation of
25 exemption process and the EA process can run

1 concurrently.

2 And in -- again, as I noted before,
3 since we filed this presentation, sir, De Beers has
4 written to Transport Canada on November 27th and has --
5 informing their intention, advising us that they intend
6 to submit an application for a proclamation of exempt -
7 - of exemption under Section 23.

8 On this slide number 9 here, aerodrome
9 safety, I'd like to point out to the panel and to our
10 participants here that this was not included within our
11 technical report. Nonetheless, I wanted to point out
12 that De Beers is proposing the construction of a
13 private airstrip. And we just wanted to make the
14 comment and recommendation here that De Beers should
15 adhere to the Aerodrome Standards and Recommended
16 Practices, TP312.

17 In conclusion, Transport Canada looks
18 forward to continued dialogue and cooperation with the
19 Board, other federal and territorial government
20 departments, stakeholders in the ongoing review of this
21 project.

22 Two (2) other points I'd like to make
23 here is that on November 8th, De Beers provided a
24 response that's posted on the registry. And in that
25 response, De Beers has agreed to meet the

1 recommendations outlined in TC's technical submission.
2 And for the tird -- third time, I'm noting De Beers did
3 write to Transport Canada last week and did commit to
4 filing NWP applications as soon as the final plans are
5 completed and their intent to submit for a proclamation
6 of exemption under Section 23.

7 That's our presentation, sir. We'd be
8 happy to answer any questions in advance of our friends
9 from NR Canada, should it help your flow.

10 THE CHAIRPERSON: Thank you very much.
11 We -- I think we're going to stay with the agenda and
12 have the NRCan presentation next, and then we'll break
13 for lunch.

14

15 (BRIEF PAUSE)

16

17 THE CHAIRPERSON: If you're ready,
18 please proceed.

19 MR. JOHN KING: John King, Natural
20 Resources Canada. Thank you, Chairperson and panel
21 members.

22 This presentation provides a summary of
23 NRCan's technical review for the Gahcho Kue project.
24 NRCan's permafrost expert, Dr. Sharon Smith, is here on
25 my right today and will present permafrost and terrain

1 stability results of NRCan's Gahcho Kue technical
2 review, which we submitted to the panel in October of
3 2012. And at any moment, Rob Johnstone will be on my
4 left.

5 I am also hoping -- I don't have
6 confirmation of this; Dr. Nan Dave, I'm hoping, is on
7 the phone with us now and -- and that he would be
8 available to answer any questions that may -- if
9 required, that may arise relating to groundwater.

10 NRCan reviewers in the minerals and
11 metal sectors -- minerals and metals sciences focussed
12 on issues related to mine waste management, including
13 acid rock and mine drainage and metal leeching;
14 environmental hy -- hydro geochemistry; and mine
15 reclamation, decommissioning, and closure. NRCan
16 reviewers in the earth sciences focussed on issues in
17 the physical environment, including permafrost and
18 terrain sensitivity, geotechnical science, and bedrock
19 geology.

20 NRCan's technical participation -- I
21 don't need to go through this whole slide. It's just -
22 - its purpose -- its purpose was to illustrate that
23 NRCan has been involved in all aspects of this review
24 from the review of the draft and final terms of
25 reference to the submission of the NRCan technical

1 report and -- and participation in the panel hearing
2 today.

3 NRCan's recommendations. During our
4 initial review of the Environmental Impact Statement
5 last year, NRCan indicated that additional information
6 was required to complete our technical review. NRCan
7 is appreciate of the additional information and
8 clarifications provided by the proponent in response to
9 our Information Requests and also during the
10 discussions at the May 2012 technical meeting.

11 NRCan's October technical report offers
12 recommendations for the panel's consideration that
13 provide guidance on factors that should be considered
14 in detailed and final project design and in subsequent
15 monitoring plans. These relate to two (2) issues.
16 Number 1, groundwater management from open-pit
17 developments, in particular monitoring, and number 2,
18 permafrost and terrain conditions, and stability of
19 project components; that is mine waste facilities and
20 water management facilities.

21 Groundwater from open-pit developments,
22 monitoring for dissolved radionuclides. Why is this
23 important? During pit dewatering operations,
24 groundwater flowing into open pits is expecting to
25 range from 770,000 metres cube -- cubed metres per year

1 at the end of construction in year 1, to about 1.5
2 million cubic metres per year in year 3 when total
3 inflow to the open pits reaches maximum.

4 While a majority of the incoming
5 groundwater would be managed through the waste --
6 sorry, through the water management pond and recycled,
7 a portion of it would be to start -- discharged to Lake
8 N11. Kimberlite pipes and their contact rock may
9 contain uranium and thorium decay series radionuclides.
10 It is important to know the level of radionuclides
11 present. Monitoring groundwater for radionuclides is a
12 good management practice to verify that there is no
13 leaching and that concentrations remain at natural
14 background levels.

15 NRCan's views. NRCan had asked in an
16 information request, the First Round of information
17 requests, whether the deep formation groundwater had
18 been or would be tested for dissolved radionuclide's
19 components including uranium, thorium, and their decay
20 product such as radon gas. The Proponent responded
21 that while radionuclides were not analyzed in samples
22 collected during the 2010 EIS geochemical baseline data
23 provided in the 2012 EIS supplement, indicated that
24 uranium and thorium concentrations of processed
25 kimberlite in mine rock were close to normal or typical

1 crustal abundance levels.

2 Geochemical testing further indicated
3 that leaching of uranium and thorium from processed
4 kimberlite and mine rock was low and near or below
5 detection levels. In other words, uranium and thorium
6 are not readily leachable from various rock units or
7 the project.

8 The Proponent also responded that to
9 confirm radionuclides -- radionuclides are not
10 leachable in groundwater that could include monitoring
11 of those elements in their ongoing groundwater quality
12 monitoring programs. NRCan agrees with the Proponent's
13 commitment to confirm through monitoring that
14 radionuclides are not leachable in groundwater.

15 Therefore, we're -- as a recommendation,
16 in our technical report in October, we recommended that
17 the proponent include uranium, thorium ,and possibly
18 radium-226 as screening parameters as part of their
19 ongoing groundwater quality monitoring program. And
20 the proponent has indicated in their -- in their
21 response of November 7th that these parameters will be
22 included in their groundwater quality monitoring
23 program. And NRCan is satisfied with this response.

24 I will now, at this -- at this stage --
25 the next slide, please -- I'll pass it over to Dr.

1 Sharon Smith who will cover the remainder of this
2 presentation. Thank you.

3 DR. SHARON SMITH: Hi. Good morning,
4 Mr. Chair and members of the panel. My name is Sharon
5 Smith. I'm a research scientist at the Geological
6 Survey of Canada, which is part of the Earth Science
7 sector of Natural Resources Canada.

8 So we reviewed the EIS from a geoscience
9 perspective, and today I'm going to give you a brief
10 summary of our submission that dealt with the stability
11 of project components, in particular, the mine waste
12 management fac -- facilities and the dams and dikes.
13 So I'll just say a little bit about what the issue is
14 that we looked at.

15 The stability of engineered structures
16 including the processed kimberlite facilities, the
17 waste rock pile, and the dams and dikes, will depend on
18 the properties of the underlying foundation materials,
19 the design of these fac -- facilities and the
20 construction materials that are used. So we do need to
21 know something about the engineering properties of the
22 foundation materials on which these facilities will be
23 built. And in northern environments, where we can have
24 frozen ground or permafrost, we also have to be aware
25 of the thermal condition of the subsurface materials,

1 the ground ice conditions; and these all have to be
2 taken into consideration in the design.

3 And this is important that we have good
4 information about the foundation materials that we're
5 building on, so that we can ensure that the design of
6 these structures is appropriate, that the integrity of
7 these facilities will be maintained to ensure that they
8 perform as intended with minimal impacts on the
9 environment including impacts on water quality.

10 And as Mr. King mentioned, when we
11 conducted our review, we did find that we needed
12 further information and we did ask a number of
13 questions during the information request rounds, and
14 also during the technical session we had, I believe it
15 was last May. And I just want to say that the
16 information that was provided by De Beers, the detailed
17 responses, were very helpful in us understanding how
18 they came to their conclusions about environmental
19 impacts, and also gave us a better idea of the approach
20 that they are taking to their design.

21 So I'll just summerize briefly our main
22 -- the main points from our review. The -- now we do
23 agree with the proponent that the engineering -- that
24 these facilities can be designed appropriately to
25 ensure that there are no impacts on the environment;

1 and that the information that's been collected so far,
2 during the initial geotechnical investigations, is
3 sufficient at this stage, which would be the conceptual
4 and preliminary design stage, for both the processed
5 kimberlite and the various water management dams and
6 dikes.

7 The engineers from De Burs -- De Beers
8 have -- have recommended that further site specific
9 geotechnical investigations will be required to support
10 final design. And we support the approach that the
11 proponent is taking to the final design to do these
12 further investigations.

13 Now, I mentioned earlier that we do have
14 to be concerned with the ground thermal conditions.
15 And in this area -- or -- wait, go back a little bit
16 here -- you can use the -- the strong frozen ground
17 conditions to make a strong foundation, and frozen
18 conditions may be used to limit seepage. However, in
19 this area, we have fairly warm permafrost conditions;
20 permafrost is about minus 2 1/2 degrees.

21 So the Proponent has decided to not rely
22 solely on frozen conditions to ensure the integrity of
23 dams and dikes and to prevent seepage. And we would
24 agree with that approach, to not rely solely on frozen
25 conditions.

1 However, frozen conditions do exist and
2 there is a potential for changing thermal conditions,
3 so that still must be considered in the design. So,
4 for example, some of the dams and dikes will be founded
5 on frozen ground, and the liners will be keyed into
6 permafrost. But it's important to -- to take into
7 account in the design, that those thermal conditions
8 may change. And we support the Proponent's proposed
9 approach for detailed design to evaluate further the
10 thermal performance of those permafrost foundations.

11 With respect to the processed kimberlite
12 facility, the kimberlite is going to be deposited in
13 layers. You can have frozen and unfrozen layers within
14 the pile. You can have freezing and thawing of the
15 material. And that can lead to things such as poor
16 water expulsion, frost heave, or thaw settlement which
17 can have implications for seepage and stability of the
18 kimberlite facilities.

19 Now, the Proponent has indicated that
20 they don't expect this to be an issue. However, we
21 would suggest that monitoring would be required to
22 ensure that there's no excessive deformation of the
23 pile and no issues with instability.

24 And that leads us to our
25 recommendations. So we've made some recommendations

1 for the panel's consideration, and these are for the
2 detailed and final design stage of the project.

3 So with respect to the dams and dikes,
4 particularly for those that are remaining at closure
5 such as Dike A1 and D, we would recommend that the
6 proponent conduct further geotechnical investigations
7 along the dike alignments so that they can better
8 characterize the foundation materials including their
9 thermal conditions. We also recommend that analysis be
10 conducted to evaluate the long-term thermal pro --
11 thermal behaviour of the permafrost foundations. And,
12 finally, that plans be developed to monitor the
13 stability of the dike foundations including their
14 thermal performance to determine if mitigation is
15 required.

16 For the processed kimberlite facility we
17 have one (1) recommendation. And this is -- that we
18 recommend that the Proponent develop monitoring plans
19 to assess the -- the condition of the processed
20 kimberlite pile and its stability to determine the need
21 for mitigation should there be any issues with
22 instability or deformation of the cover that might
23 affect its performance.

24 In early November we received a response
25 from De Beers and they have indicated that they would

1 incorporate our recommendations into the further
2 geotechnical investigations, and analysis, and
3 monitoring plans that they will develop.

4 And, Mr. Chair, that concludes our
5 presentation. And we'd just like to say thank you. We
6 appreciate the opportunity of -- to be and speak to you
7 today.

8 THE CHAIRPERSON: Thank you very much.
9 Your timing is impeccable. It is noon -- noon hour.
10 And we will break until 1:15 and then we'll proceed
11 with questions to -- to the two (2) parties. So have a
12 good lunch and we'll see you back here at 1:15.

13

14 --- Upon recessing at 11:58 a.m.

15 --- Upon resuming at 1:15 p.m.

16

17 QUESTION PERIOD:

18 THE CHAIRPERSON: Good afternoon,
19 everyone. I hope everybody had a good lunch, a good
20 break. The panel is here. Rachel is at the back, so
21 she's in the room. And that -- that means we can get
22 started.

23 We're at questioning from parties to
24 Transport Canada or NRCan. And we've allocated thirty-
25 five (35) minutes, so we'll see how we make out. And

1 I'll begin working my way down the list. So Akaitcho
2 IMA Implementation Office...?

3

4 (BRIEF PAUSE)

5

6 THE CHAIRPERSON: I don't see anybody.
7 The Dene Nation...?

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: Deninu Kue First
12 Nations, do you have any comments on the last
13 presentation?

14

15 (BRIEF PAUSE)

16

17 THE CHAIRPERSON: Okay. I'm going to
18 move on. Lutsel K'e Dene First Nation...?

19

20 (BRIEF PAUSE)

21

22 THE CHAIRPERSON: NWT -- oh, sorry.

23 MS. TERRY ENZOE: Hello. No comment.

24 THE CHAIRPERSON: Thank you very much.

25 MR. CHUCK HUBERT: Can you state your

1 name, please?

2 MS. TERRY ENZOE: Terry Enzoe, Lutsel

3 K'e Dene First Nation.

4 THE CHAIRPERSON: Thank you. NWT Metis

5 Nation...?

6

7 (BRIEF PAUSE)

8

9 THE CHAIRPERSON: North Slave Metis

10 Alliance...?

11 MR. BILL ENGE: Yes, thank you, Mr.

12 Chairman. Bill Enge, President, North Slave Metis

13 Alliance. We have no questions of these presenters.

14 Thank you.

15 THE CHAIRPERSON: Thank you. Tlicho

16 government...?

17 MR. HENRY ZOE: Good afternoon, Mr.

18 Chair. Henry Zoe, Tlicho government. No comments at

19 this time.

20 THE CHAIRPERSON: Thank you.

21 Yellowknives Dene First Nation...?

22 MR. RANDY FREEMAN: Randy Freeman,

23 Yellowknives Dene First Nation. We have no questions.

24 THE CHAIRPERSON: Thank you.

25 Aboriginal Affairs and Northern Development...?

1 MR. FRANCIS JACKSON: Francis Jackson,
2 Aboriginal Affairs. No questions.

3 THE CHAIRPERSON: Thank you.
4 Environment Canada...?

5 MR. ERIK ALLEN: Erik Allen,
6 Environment Canada. We have no questions at this time.

7 THE CHAIRPERSON: Thank you. Fisheries
8 and Oceans...?

9

10 (BRIEF PAUSE)

11

12 THE CHAIRPERSON: Government of the
13 Northwest Territories...?

14 MR. GAVIN MORE: Gavin More, GNWT. No
15 questions. Thank you.

16 THE CHAIRPERSON: Thank you. Parks
17 Canada...?

18 MS. ANN RONALD: Mr. Chair, Ann Ronald,
19 Parks Canada. We have no questions. Thank you.

20 THE CHAIRPERSON: Thank you. I'm just
21 going through my list and checking it twice, like
22 Santa. De Beers Canada...?

23 MS. VERONICA CHISHOLM: Veronica
24 Chisholm, from De Beers Canada. We'd like to thank
25 Transport Canada and Natural Resources Canada for their

1 presentations, and we have no questions. Thank you.

2 THE CHAIRPERSON: Thank you. Panel
3 staff and technical advisors...?

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

6 THE CHAIRPERSON: Thank you. Legal
7 counsel...?

8 MR. JOHN DONIHEE: John Donihee, for
9 the panel. I have no questions, Mr. Chairman.

10 THE CHAIRPERSON: Thank you. Panel
11 members, Rachel Crapeau...?

12 MS. RACHEL CRAPEAU: Thank you for your
13 presentation before the lunch hour. I have no
14 questions at the moment. Thank you, Mr. Chair.

15 THE CHAIRPERSON: Thank you. Panel
16 member, James Wah-shee...?

17 MR. JAMES WAH-SHEE: Thank you, Mr.
18 Chair. Thank you for the presentation, both
19 departments. It came pretty clear, so I really have no
20 questions. Thank you.

21 THE CHAIRPERSON: Thank you. Panel
22 member, Peter Bannon...?

23 MR. PETER BANNON: Thank you, Mr.
24 Chair. I have no questions.

25 THE CHAIRPERSON: Panel member, Richard

1 Mercredi...?

2 MR. RICHARD MERCREDI: Thank you, Mr.
3 Chair. Thanks for the presentation from both parties.
4 No questions.

5 THE CHAIRPERSON: And the Chair has no
6 questions. So that concludes this section of the
7 agenda, and there's a chance you guys might catch a
8 plane. Good travels.

9 Next up on the agenda is Deninu Kue
10 presentation. So can we have the Deninu Kue
11 representatives come up and do the presentation,
12 please? Thank you.

13

14 (BRIEF PAUSE)

15

16 THE CHAIRPERSON: Good afternoon,
17 Patrick Simon. The floor is yours.

18

19 PRESENTATION BY DENINU KUE FIRST NATION:

20 MR. PATRICK SIMON: Thank you Mr.
21 Chairperson of the panel. I would like to begin by
22 thanking you for giving me this opportunity, thanking
23 the company for their time, and also the people in the
24 room for -- for being here. And it's only through us
25 all working together can we do good work and leave

1 great legacies.

2 So with that, I'd like to start by first
3 of all introducing myself. Good afternoon, my name is
4 Patrick Simon. I'm the Environment Manager with the
5 Deninu Kue First Nation. And this is my job and this
6 is what I have to do in -- in the Dene way and Dene
7 spirit. So I take that serious and hopefully my
8 presentation to you will be dignified, clear,
9 respectful, and helpful.

10 The people I have with me are Councillor
11 Robert Sayine, as well as Councillor David Pierrot, and
12 of course, my Chief, Chief Louis Balsillie. Robert
13 will be sitting with me here this afternoon, and my
14 other leaders will just be a members of the -- the
15 public in show of support, not only for myself but for
16 everybody that has a vested interest here and potential
17 to avert anything that we don't want negatively
18 happening.

19 I also have with me on the -- the phone,
20 who will -- who will finish off my presentation, Dr.
21 Elmar Plate. He's a technical adviser from LGL
22 Limited. And he'll finish off my presentation and
23 speak to the technical water iss -- issues.

24 So the people that we have assembled
25 before you are very aware of the people in this room.

1 We're very aware of our place and our purpose in this
2 room. And we're -- we're hoping that -- that when we
3 do finish, that you can find things that are useful to
4 be able to do a good job here.

5 But we are people, and I myself am a
6 direct descendant of a treaty signatory, treaty -- and
7 Robert is also -- of Chief Snoff (phonetic). My Chief
8 and my council who are present are direct descendants
9 to Chief Edjericon. And -- and of course, we're --
10 we're related to the other signatory on the -- on the
11 other side of the lake that -- that signed the treaty
12 that I'm speaking about, Treaty 8 Adhesion 1900.

13 So I will begin. I'm here because of
14 two (2) things: because the people of Deninu Kue First
15 Nation has an ancient, holistic, old and modern
16 relationship with this area where this project is
17 proposed to be developed. We have the majority of the
18 signatures in Treaty 8 of 1900. In fact, we have a
19 relationship with all of the lands, waters, and air
20 that we are blessed with and have responsibility for to
21 our people -- in fact, all people -- and to our
22 Creator.

23 This is known as the traditional
24 territory and duty of the Dene of the Deninu Kue First
25 Nation. This is why we are here. For us, if you come

1 to our territory, you have to understand a couple of
2 concepts, that our definitions are different and it
3 takes a while to understand us. So if you come to an
4 area that we occupy and live on, and we're there, well,
5 it's pretty obvious that we're there.

6 But if you come to the territories and
7 you don't see us there, I can see where you can assume
8 that we're not there, so it's not us and we'll never be
9 there. But my people are an old and ancient people.
10 We're -- we're really old. We are part of this thing
11 called the Athabascan Dene tribes. And -- and I'm very
12 much aware of that. Because I am the ancestor of
13 Geronimo, to be honest with you. Geronimo comes from
14 our people. That's how ancient we are.

15 And we understand these concepts, these
16 ways of living in the land. And we understand it in
17 the Dene way, in an old, ancient way. We know about
18 such things as the Mayan effect. I'm not sure if
19 that's a word. I may have just made it up. But this
20 Mayan effect where, when I look at the history and
21 study peoples, I found that certain people have grown
22 so big and used so many resources that they practically
23 ate themselves to death. And that's what I call the
24 Mayan effect.

25 Well, my people have been here from the

1 beginning. We're here now. We plan to be here
2 forever, because we understand these basic concepts and
3 we live accordingly. And that's why it's important to
4 understand us and understand that if I'm not here, it
5 doesn't mean that I -- I don't use this area. It
6 doesn't mean that I don't have use of this area. And
7 it doesn't mean that this area isn't important to
8 sustain me, because of the basic understanding of the
9 Mayan concept.

10 So there'll be no lost tribes like the
11 Mayan people here. The Dene people are here. They'll
12 be here forever, because we understand how to live in a
13 cycle and in balance with this land. And it's a
14 challenge to articulate so people could understand and
15 perhaps incorporate it when we begin to develop this
16 territory.

17 So the ethno-history report that we will
18 have completed by the end of December will clearly
19 demonstrate this by using our traditional knowledge and
20 long-standing history; also church documents, Indian
21 Affair documents, trading company reports, academic
22 reports, and personal written accounts of earlier
23 travellers.

24 In fact, a lot of things I learned from
25 reading. I love to read. And -- and to be honest, I

1 always see these kinds of people they say in those
2 written accounts. And -- and as I began to learn they
3 were talking about me, I'm those persons. So it's
4 pretty obvious when you look at those things, this is
5 known within the written documentation of the Canadian
6 way.

7 But the Dene people of this area that we
8 have had histories with -- the traditional users, the
9 First Nation users of this area and around it
10 throughout history -- they know us. They know us
11 through their traditional knowledge, they know us
12 through their personal history, and they know us
13 through their relationships.

14 As a matter of fact, I was in Deline.
15 And just by standing at the commissary at the arena,
16 the Elders there could pick my grandfather out by the
17 back and shape of my head. And then I went on to Fort
18 Rae, and I was told by the Fort Rae Elders that my
19 uncle and my grandfather hunted, trapped, and travelled
20 with them all the way up. This is how I know. I don't
21 need to make a big study to know that, because we know
22 each other and we talk to each other. We treat each
23 other in such -- that way, so I expect to be treated by
24 everybody in this room that way.

25 This is a primary area of the Chipewyan

1 Yellowknives Dene. We honour that Dene. We are that
2 caribou eater. We are that Yellowknives. We are the
3 Dene who live in Yellowknife. We are the Dene who live
4 in Lutsel K'e. We are the Dene who not only live in
5 Fort Resolution, but we consider ourselves from all
6 these areas, as well as Little and Big Buffalo River,
7 Jean River, Rush River, Taltson River, Simpson Islands,
8 and points northeast of the Big Lake, all the way to
9 the barren lands.

10 That is why we are here today, because
11 of our relationship, our expertise, our responsibility,
12 and our concerns we have for this project and all
13 diamond mining in general. This mine will impact the
14 Dene of the Deninu Kue environmentally, spiritually,
15 culturally, and economically. Environmentally, what is
16 the impact of air emissions and diamond mine loads on
17 caribou food and movement?

18 You know, as I look at this thing, I'm
19 envisioning mines from the lake all the way to the
20 ocean, straight across. We are caribou eaters. We
21 used to live with caribou. We sustain ourselves.
22 Caribou used to come right to the bay in Fort Res.
23 That's the stories I grew up with. And ever since we
24 have this thing we called modern development, the
25 caribou have been moving away.

1 I signed my treaty so I can have that
2 caribou. And if I'm impacted, that treaty speaks to
3 dealing with me in a certain manner. And we have not
4 been dealt that way.

5 Am I going to have any more caribou? I
6 get it less now, and nobody is even thinking about it.
7 It's time to think about it. We're serious, ancient,
8 old people, and sooner or later our patience is going
9 to run out. If you think the liability issue now is
10 great, wait until my patience run out.

11 What is the cumulative impact? This is
12 what we need to know and monitor when it comes to
13 caribou. You know, we -- like I said, we've lost a lot
14 of access to caribou, and we feel that these -- these
15 projects impact us that way.

16 We can -- we are concerned about taking
17 a big lake and completely using it all - completely
18 using it all. Fish and water quality and quantity will
19 definitely be impacted. There will be some mitigation,
20 compensation, and reclamation. But really, it will be
21 forever changed in that area. And if something big or
22 bad was to happen, then our main lake is threatened.

23 Because we're old people, we know how
24 things relate around here. And that's a real
25 possibility if we don't do these things right. And

1 that's why we support things such as this monitoring
2 presentation. That's why we want to work together in
3 the spirit of doing things the right way the first
4 time, and not being so proud that we can't own up to
5 our mistakes, change our mind, and do it better.

6 So we are concerned about water
7 treatment plant or no water treatment plant. What does
8 that really mean, in terms of making sure there's
9 safety? You know, sure we're just talking about
10 sediments in the -- in water, and them underground.
11 But we're also blasting. We're also running fuel.
12 There's dust, emissions. It's all going to fall in
13 that water.

14 And just holding it there -- when I was
15 a kid dilution was a solution to pollution. But I grew
16 up reading that book, "Silent Spring", so I know that
17 dilution is not the solution. I know that we have to
18 take steps, we have to recognize that science is now
19 beginning to recognize that it's not only physical and
20 chemical; it's biological. It's a living, real,
21 breathing relationship of everything.

22

23 (BRIEF PAUSE)

24

25 MR. PATRICK SIMON: We are concerned

1 about how you handle the fish, about how much fish is
2 there, and the compenproach -- the compensation
3 approaches. And the method to do that must reflect our
4 needs, our views, our values.

5 I was raised never to -- to hit animals,
6 or kick them, or touch them. I was raised in a way
7 that we had to treat animals in a proper way. And
8 that's why it's important. And if we don't, the
9 animals will go away because we don't deserve to have
10 them. And that's why it's important. And that's why
11 it's important.

12 It's just not about counting fish and
13 giving it to people. It's about how you deal with that
14 lake, how you handle that fish, how you treat it, what
15 do you talk about, what do you think about when you're
16 doing, because it's a very important, sacred
17 relationship we have. And like I said, we know about
18 the Mayan effect.

19 We get less caribou now. Will we get
20 less water? Will we get less fish? That is why it's
21 important for us to be involved in the whole life of
22 the mine in a monitoring way that will all together
23 approach this. It's how we can be assured that our
24 concerns and accommodations are proper and respectful
25 to our treaty.

1 Our environmental concerns also range
2 from: How come, as we discuss a lot about these mines,
3 we just, in fact, consider the road a given. The
4 road's not a given. It's a big factor to the impact.
5 And that's something that, you know, you'd think the
6 more mines, the more discussion on the road.

7 But I'm seeing the more mines, the less
8 discussion on the road. So you just figure, Well, that
9 road just -- that road is important, and we need to
10 have a serious discussion about it. And people just
11 can't say, Well, it's there, I could use it, and -- you
12 know.

13 Every time it's going to be used for a
14 different way, we have to have serious discussions
15 about it because I don't get caribou anymore. And I'm
16 getting tired of travelling far distances, you know.
17 Nobody's paying -- the Minister didn't give us any
18 caribou. It gave us a little bit money to go and
19 access caribou, but that didn't compensate nothing. So
20 we have to have some serious discussions.

21 Spiritually, we have a spiritual
22 connection and relationship to this area. Our
23 documents will show it when we present it in December.
24 Spiritually, we recognize that other people have
25 connections, so we travel with them, we celebrate. You

1 know, whenever we get the chance, we're up by Lady by
2 the Falls or on the east arm, with the people of
3 Snowdrift, the people of Yellowknives, and even
4 sometimes the people of Tlicho. And -- and we love
5 that. We have some in our area, and sometimes they
6 come down to our area.

7 So it's a spiritual way. This project
8 is close to a sacred area, so you'll have to understand
9 that. And people, such as the people of Lutsel K'e,
10 they take that serious, and so do we.

11 Culturally, we have stories and past
12 histories of the area. We have and current --
13 currently still use the area for travelling to get
14 caribou, for fish, for water, for berries, for
15 medicine, for fur. Every mine proposed, if done wrong,
16 doesn't consider us, seems to flatten this topic, this
17 very relationship here.

18 Economically -- economically, I'm not
19 going to cover that too much, because I get a little
20 emotional. And it's -- you know, I'm an environment
21 guy, so I shouldn't be too emotional with economy. But
22 money runs the world. And economically, our tradition,
23 our history, your history, your courts, our treaty
24 speaks to us as Dene living off the land, water, and
25 air. It speaks about and guards our primary needs, our

1 concerns, our duties, and our rights of this area.

2 There will be impact. So therefore,
3 there will have to be reasonable consultation,
4 reasonable involvement, and reasonable benefits for the
5 life of the mine. We will not have access to that
6 area. We will not have the fish of the area, and our
7 main lake may even been in danger.

8 We look to government, the Company,
9 other First Nations to recognize us, to accept us,
10 involve us, and share in all the benefits of this
11 project can give the Dene of this area. We will be
12 assertive -- I should, like -- we'll be assertive when
13 it comes to this, but we will be respectful, we will be
14 helpful, and we will be dignified when we deal with the
15 whole issue from beginning to end.

16 Now, I'd like to introduce on the phone
17 Dr. Elmar Plate, who will cover some of our technical
18 aspects and concerns and issues and some of our helpful
19 hints.

20 So, Elmar, if you're there?

21 DR. ELMAR PLATE: Yes, I am there.
22 Thank you very much for the introduction, Patrick. So,
23 good afternoon, Mr. Chair; good afternoon, listeners.
24 I'm going to give a quick presentation about a subject
25 that has gone back and forth between De Beers Canada

1 and the Deninu Kue for a while now. And that's about
2 the -- if you -- I don't know whether you actually have
3 the slide show, the PowerPoint right in front of you.

4 If you could please let me know that,
5 Mr. Chair?

6 THE CHAIRPERSON: Yes, this is the
7 Chair with a mouthful. We do.

8 DR. ELMAR PLATE: Good, thank you, Mr.
9 Chair. So Elmar Plate from LGL again. So if you can
10 go to the first slide, titled "Reason For
11 Presentation," that would be great.

12 What happened is between De Beers and --
13 and us and LGL is that we ran into this issue that we
14 saw that the fish population wasn't quite properly
15 assessed. And in regard to that, we came up with an
16 information request.

17 De Beers answered, and we had to go a
18 little deeper and had another information request. De
19 Beers answered again. We had to go a little bit deeper
20 again. And I think now we're to the bottom of this,
21 down to the nitty-gritty stuff. And that's a summary,
22 basically, of the nitty-gritty stuff that I'm giving
23 you now.

24 In summary, we still think that the fish
25 population of Kennady Lake has not been properly

1 enumerated. And, therefore, we think that the baseline
2 fish population data has not been provided. And we
3 think that's an important part of this EIS process.

4 If you can please go to the next slide.

5 MR. BILL ENGE: Mr. Chair, can I
6 interrupt for a minute, please? Can you have that
7 slide clarified, because we can't see it. It needs to
8 be focussed.

9 THE CHAIRPERSON: Okay, just a -- a
10 second. Who ha -- who has the projector? Who can
11 focus that projector?

12

13 (BRIEF PAUSE)

14

15 THE CHAIRPERSON: Mr. Enge's comment is
16 exactly right. I can't -- I can't read it.

17

18 (BRIEF PAUSE)

19

20 MR. BILL ENGE: Mr. Chairman, I'm
21 wondering if you could also ask the technician to
22 enlarge the slide so that the bullets can be seen?
23 Thank you.

24 THE CHAIRPERSON: Thank you, Mr. Enge.
25 Who -- who is looking after this part? Who -- who can

1 handle this? Can we make it bigger?

2 MR. CHUCK HUBERT: Chuck Hubert, Mr.

3 Chair. We don't have the PowerPoint presentation. We

4 only have a PDF. So we're not able to enlarge or --

5 or, yeah, make it -- make it bigger, unfortunately.

6 THE CHAIRPERSON: Can we get copies and

7 make it available to --

8 MR. CHUCK HUBERT: Well, I lied. There

9 you go.

10 THE CHAIRPERSON: Okay, it look...

11

12 (BRIEF PAUSE)

13

14 THE CHAIRPERSON: Okay, thank you,

15 Patrick. Elmar, you're on the phone. We could -- can

16 you hear us? We've got --

17 DR. ELMAR PLATE: I can hear you, yeah.

18 THE CHAIRPERSON: We've got a better

19 slide now. Can you please talk a little slower so that

20 the translators can keep up? Thank you.

21 DR. ELMAR PLATE: Yeah, Elmar Plate,

22 from LGL. I will do that. I will talk slower.

23 So the slide that you should be looking

24 at, that I'm looking at, is the slide titled, "Reason

25 for Presentation." And I can repeat one (1) more time.

1 The -- we still think that the fish population of
2 Kennady Lake has not been properly enumerated. And we
3 also think that, therefore, the baseline fish
4 population for the whole project has not been provided.

5 And I'm now going to the next slide.

6 And it's called "Hydroacoustic Settings." And now I'm
7 going right into the nitty-gritty stuff. And what I'm
8 referring to here as a source is the Addendum JJ,
9 JJ3.4-1, page JJ3-21, titled "Table of Parameters."

10 And this shows the settings of the
11 hydroacoustic setup while the hydroacoustic service
12 were carried out. And what you can see there was that
13 the ping rate was set to five (5) pings a second. This
14 is highly technical, but I think you will see in a
15 minute why I'm bringing this up.

16 At a speed of 1.5 metres per second,
17 that means distance travelled between each ping is .3
18 metres. And there's a formula that you can put those
19 variables into and then arrive at a depth where you
20 would reliably be able to detect fish. And if we use
21 this formula, we see that from depth of greater than 7
22 metres on, there's enough overlap between two (2) pings
23 to reliably detect fish. We call it a reliable
24 detection if you get three (3) pings onto one (1) fish.

25 If the ping rate at this would be --

1 would have been higher, which is technically easily
2 doable, then the depth that the fish could have been
3 detected at would have been much shallower, much closer
4 to the boat. So that's point number 1.

5 Then I looked at the pulse width, and
6 it's set to .4 metre -- milliseconds. And again,
7 there's a formula for that. And if you calculate, that
8 means that the separation between individual fish at
9 this setting would be .4 metres, or 40 centimetres.
10 That means, usually, small fish, a school, or quite
11 often a school. And you would only be able to detect
12 them as single fish if they would be further than 40
13 centimetres away from each other. Okay, so those are
14 the hydroacoustic settings that we reviewed.

15 Go to the next slide, it's titled
16 "Hydroacoustics: Nighttime Versus Daytime, Number 1."
17 What you can see here is a figure out of a paper that
18 was published in 2007. And this is the outline of a
19 lake and those lines with circles on them are the
20 transects that were used to conduct the hydroacoustic
21 survey in this study.

22 And the upper two (2) lake outlines show
23 the results at night. And the bigger the circle, the
24 more fish were detected. The lower four (4) outlines
25 of the lake show the nighttime results. The left

1 panels all show the shallower water, from 1 to 12
2 metre; the right panel show the deeper water, from 12
3 to 30 metres.

4 If you take a second to just take a
5 closer look, you can see that during daytime way less
6 fish are detected than during nighttime. This is
7 particular true -- well, it's actually true for all
8 depths, for shallow water and for deep water.

9 So now I'm going to go to the next
10 slide. It's titled "Hydroacoustics: Nighttime Versus
11 Daytime, Number 2." And in the table that you see you
12 can see a few more examples out of the literature.
13 It's a bit biassed; some of the literature is studies
14 that we did ourselves. But then below the table I'm
15 citing studies from people that have way more
16 experience than I have.

17 But let's just look quickly at the
18 table. What you can see here are a comparison between
19 daytime densities and nighttime densities during
20 hydroacoustic surveys. And I chose particularly lakes
21 that have very, very low density of fish and lakes that
22 have very, very low productivity. Quite similar to con
23 -- conditions in Kennady Lake.

24 So in each example you can see that the
25 daytime, twenty (20) fish per hectare; nighttime, a

1 hundred and three (103) fish per hectare. Same day,
2 just during the day and during the night. The next
3 example: twelve (12) fish per hectare during the day;
4 next -- the same night, following night, sixty (60)
5 fish per hectare. Next one: thirteen (13) fish per
6 hectare during the day; nighttime density, eighty-five
7 (85) fish per hectare.

8 In one (1) example it was only about two
9 and a half ($2 \frac{1}{2}$) times more to three (3) times, a
10 hundred and sixteen (116) fish per hectare, two hundred
11 and eighty-nine (289) fish at nighttime. So this shows
12 you the last paper. All those examples show you that
13 nighttime densities are regularly much higher than
14 daytime densities if you use hydroacoustics as a
15 technique.

16 I also want to quote from a paper from
17 two (2) authors that have thirty-four (34) years of
18 hydroacoustic experience. And that's all they do
19 basically; they work for the Department of Fisheries
20 and Oceans, MacLellan and Hume. And they published a
21 manual for hydroacoustic surveys that's widely
22 acknowledge as the manual that everybody goes by,
23 because it's based on hundreds of hydroacoustic
24 surveys.

25 And in this manual they say:

1 "All hydroacoustic sampling and
2 trawling for estimate -- estimating
3 abundance was done at night, after
4 fish schools had dispersed and fish
5 tended to be closer to the surface
6 and more accessible to both
7 hydroacoustics and trawling."

8 And besides their own experience,
9 they're also quoting two (2) more papers. A little bit
10 further in the same paragraph, they say:

11 "Even suggested -- we even suggested
12 against partial moonlight during
13 surveys."

14 That shows you the importance that's
15 posed here on any kind of light biasing hydroacoustics
16 surveys.

17 Okay, I'm going to the next slide. It's
18 titled "Hydroacoustics: Nighttime Versus Daytime,
19 Number 3." In the response to our information request
20 -- request, Golder Associates referred to a peer-
21 reviewed paper that justified that daylight
22 hydroacoustics surveys are suitable to describe fish
23 populations, especially in high-latitude lakes.

24 So we looked into the lake that was
25 actually used in this paper as an example. And Hole

1 Lake, that's the lake they're talking about here.
2 It's, number 1, very small. So it's only about 1
3 kilometre by 0.5 kilometres wide. And it has fish
4 densities up to nine thousand eight hundred and thirty-
5 five (9,835) -- four (4) fish per hectares. That's
6 extremely high. I have done quite a few surveys. I've
7 read about lots of surveys. I've never seen a fish
8 density this high in my life.

9 So that was the comparison lake chosen
10 to be compared to Kennady Lake. And we think that the
11 fish densities are so different between the two (2)
12 lakes that this comparison should probably not be made.

13 In -- in summary, for the nighttime
14 versus daytime, I want to say then that a large body of
15 literature is showing that daytime hydroacoustics
16 surveys are only detecting a fraction of fish in the
17 lake when compared with nighttime hydroacoustics
18 surveys; and it is easily, technically feasible to
19 conduct such nighttime surveys; and that they should be
20 simply be carried out. Okay, I go --

21 THE CHAIRPERSON: Excuse me, Mr. --

22 DR. ELMAR PLATE: Yeah.

23 THE CHAIRPERSON: -- Elmar Plate. I'm
24 looking at the slide presentation, and it looks to me
25 like you're on slide number 5 of 17 --

1 DR. ELMAR PLATE: Yeah.

2 THE CHAIRPERSON: -- and I need a time
3 check. We allocated half an hour for the Deninu Kue
4 First Nation's presentation, and my time says there's
5 five (5) minutes left. Are you able to complete the
6 presentation within that time, or do you require more
7 time?

8 DR. ELMAR PLATE: If I could probably
9 have another five (5) minutes, I think then I could
10 finish it orderly.

11 THE CHAIRPERSON: Yeah. Thank you very
12 much.

13 DR. ELMAR PLATE: Thank you. Okay.
14 Next slide is just showing a graph comparing four (4)
15 plegs -- lengths of fish that you're expect to -- to
16 catch with mesh sizes of the net that you have to use.

17 And what it shows is if you use mesh
18 sizes 25 millimetres or larger, you get fish bigger
19 than 120 millimetres. If you use -- and so on. So the
20 bigger the mesh size, the bigger the fish. To catch
21 fish that are actually very small, you have to go down
22 to mesh sizes around 10 millimetres.

23 Okay. The next slide that I'm going to
24 is "Gillnetting Number 2." And those -- the
25 information on here is again taken from the addenda.

1 You can read them there on the slide, and I think you
2 have a printout.

3 And look at the gillnetting done by
4 Golder Associates 2010, 2007, 2004, and 1996. And in
5 all -- all those examples, minimum mesh size were
6 either 38 millimetres, which would catch fish bigger
7 than 180 millimetres, or mesh sizes of 25 millimetres
8 on one (1) study a long, long time ago that would catch
9 fish bigger than 120 to 130 millimetres.

10 I added a picture to this page to show
11 you that small mesh sizes catch small fish. In studies
12 that we conducted over the last few years, we caught
13 fish down to 38 millimetres, 60 millimetres -- and 60
14 millimetres, depending on the different species.

15 I'm going to slide titled "Gillnetting
16 Number 3." It's again out of the addenda from the
17 Golder Associates report. And you see a typical length
18 distribution for the fish caught with the net that they
19 were used -- that were used in those studies. What you
20 can see is the fish basically cut off at lengths
21 smaller than 250 millimetres. That does not mean there
22 is no fish shorter than 250 millimetres in this lake.

23 Now I'm going to the slide, "Gillnetting
24 Number 4." And it shows the gillnetting sets that were
25 made in 2010 and 2007, the most recent ones in Kennady

1 Lake, I actually made a mistake. I said there was one
2 (1) gillnet location in Kennady Lake in 2007. But
3 there actually wasn't. I'm just looking now at this
4 map here. So neither in 2007 nor in 2010, there was
5 actually a lot of gillnetting conducted in Kennady Lake
6 itself. Where a lot of gillnetting was conducted was
7 in all of the surrounding lakes.

8 I'm going to the next slide; it's
9 titled, "Mark and Recapture, Number 1." And what this
10 slide basically shows in summary -- I'll just take the
11 examples here, those are all statements directly cut
12 and pasted out of the Golden Associate reports. In
13 2000 and 2001, due to the limited number of tagged fish
14 re -- recaptured in both years, population estimates
15 were not possible.

16 So here another technique was used, the
17 mark and recapture experiment, trying to figure out how
18 many fish are in this lake. But as you can see, 2000
19 and 2001, as reported by Golden Associates, this was
20 not successful. It happens very often to us too, so I
21 can relate very well.

22 And below there, you'll see a table that
23 shows for the next study, where again an -- another
24 mark and recapture was attempted, how many fish were
25 tagged, how many were examined and how many were

1 recaptured. With those numbers -- very, very low
2 recapture numbers -- you shouldn't really draw any
3 population conclusions. But then, Northern pike, the
4 only species where a few more fish were recaptured.
5 But then I wanted to point out the statement below,
6 which says:

7 "As a result, the minimum population
8 estimate calculated from the mark and
9 recapture experiment is more likely
10 an estimate of the Northern pike
11 population in Basin K3 and K4 rather
12 than for Kenned -- Kennady Lake as a
13 whole."

14 So that did not work so well either, and that sometimes
15 happens. I'm going to the next slide.

16 So the overall verification assumptions
17 by Golder/De Beers was:

18 "It was concluded that if the
19 distribution
20 of fish lengths from gillnetting
21 differed from that of hydroacoustics,
22 either
23 the target strength equations were
24 inaccurate or the technique sampled
25 different components of the fish

1 assemblage."

2 In order to stick to this verification
3 assumption, fish in hydroacoustics were only sampled
4 when they were bigger than, I would say about 17, 18
5 centimetres, and fish in the nets were only sampled
6 when they were bigger than about 17, 18 centimetres.
7 The only problem with that is, we still don't know how
8 many fish are in Kennady Lake, because there is quite a
9 few usually below 17, 18 centimetres.

10 So the conclusion for my whole
11 presentation is hydroacoustics should be carried out at
12 night. The settings of the echosounder and transducer
13 should be changed. Gillnetting should be carried out
14 in the Pelagic fish layer, based on hydroacoustic
15 results, with small-mesh nets. And I think a reliable
16 fish population estimate can be produced as a baseline.
17 And that's the end of my slides and my presentation.

18 THE CHAIRPERSON: Thank you. I'll turn
19 it back to Patrick. Do you have a closing remarks?

20 MR. PATRICK SIMON: Yeah.

21 THE CHAIRPERSON: Or a wrap-up?

22 MR. PATRICK SIMON: Yeah.

23 THE CHAIRPERSON: Thank you.

24 MR. PATRICK SIMON: Thank you, Dr.

25 Elmar Plate. And I just want to conclude my remarks

1 by, first of all, thanking my Chief and council members
2 present for their support, and especially Robert, who,
3 you know, has helped me a lot. And he has a lot of
4 experience and knowledge in this -- this manner. And
5 I'd like to thank you, sir, Mr. Chairperson of the
6 panel, and the panel members, ladies and gentlemen, for
7 this opportunity and for the way you have treated me.

8 I'd like to thank your staff for all
9 their assistance. And I'd like to thank the company of
10 De Beers Canada for setting off a good way of beginning
11 to work together, and we encourage you to -- to do so.
12 And -- and I'd like to thank the people that have
13 presented: the government, both governments; the people
14 of Lutsel K'e; the people of the Yellowknives; and the
15 people of Tlicho.

16 And I think it's pretty obvious that we
17 all come here in a spirit of working together and
18 working through issues and trying to come into
19 conclusion so everyone in this room can benefit. And I
20 -- I want to recognize that, and I want to thank
21 everybody, I guess, for promoting it and for carrying
22 it out. Because it -- it'll make for a -- a better
23 project, better monitoring stuff, better data, better
24 whatever we need to do to make proper decisions.

25 In the end, you know, we -- we -- we're

1 not foreign to these concepts of using resources.

2 We're not foreign to the concepts of using resources

3 wis -- wisely. And we're not foreign to the concepts

4 of our relationships before, during, and after the use

5 of these resources. We're always mindful and thankful.

6 In the end, when we speak of ownership,

7 when we speak of the boss in rooms such as this, I was

8 always reminded by Elders, the Elders that have set the

9 path of the Dene Nation, the Elders that have set the

10 path of all the nations here that have -- have deals,

11 or will have deals when it comes to land claims. They

12 were the ones that set the spirit, and they were the

13 ones that told me that the boss is up there, that water

14 is life, and that air is important, too. And the land

15 is important. It all has to work together.

16 And everybody's important. So,

17 specifically, I'd like to thank all the other people

18 that come here that sometimes may not be understood, or

19 sometimes may not -- well, find it tough. You know,

20 the -- the NGOs, or so to speak, the people such as

21 Parks Canada and all these kind of -- you know, there's

22 a bunch of other people that presented. We're very

23 grateful and thankful for that. Everything we add to

24 this could only -- could only enhance what we want to

25 do here.

1 But in the end -- in the end, I do
2 welcome you to my territory. You are welcome. We do
3 encourage you. And when you leave, don't expect to
4 shake hands; just see you later, because we -- we
5 always hope to see each other again. We never -- we
6 never say goodbye forever. And that's why I -- I tried
7 to explain to you guys that we know the proper ways and
8 uses of land, so that we don't go through any kind of
9 Mayan effect.

10 So I'm hoping that I've spoken to you in
11 the proper manner: dignified, clear, respectful and
12 honest. And I thank you, Mr. Chair. Masi cho.

13

14 QUESTION PERIOD:

15 THE CHAIRPERSON: Thank you very much,
16 Patrick Simon and -- and your team for your
17 presentation.

18 We will go into questions from parties
19 now. And I'm getting so familiar with this list, I
20 might be able to memorize it before -- before tomorrow.

21 So I will begin. Akaitcho IMA
22 Implementation Office...? Seeing none, I move on.

23 Dene Nation...?

24 Next one is Lutsel K'e Dene First
25 Nation.

1 MR. MIKE TOLLIS: Mike Tollis, from
2 Lutsel K'e Dene First Nation. No questions at this
3 time. Thank you.

4 THE CHAIRPERSON: Thank you. NWT Metis
5 Nation...? Seeing none, move on.

6 North Slave Metis Alliance...?

7 MR. BILL ENGE: Yes, thank you, Mr.
8 Chairman. Bill Enge, President, North Slave Metis
9 Alliance. I just wish to extend my appreciation for
10 the presentation here today by the Dene Kue Nation.
11 And the Metis are very much interested in embracing
12 partnerships in cooperation with our -- our First
13 Nation counterparts. And that being said, I have no
14 questions for the presenter. Thank you.

15 THE CHAIRPERSON: Thank you very much,
16 President Bill Enge.

17 Tlicho government...?

18 MR. HENRY ZOE: Henry Zoe, with Tlicho
19 government. I'd like to thank the presenter for making
20 an eloquent presentation this afternoon. The Tlicho
21 government doesn't have any questions. Thank you.

22 THE CHAIRPERSON: Thank you very much,
23 Henry Zoe.

24 The Yellowknives Dene First Nation...?

25

1 (BRIEF PAUSE)

2

3 MR. RANDY FREEMAN: Randy Freeman, with
4 the Yellowknives Dene. I have one (1) question of the
5 technical es -- expert for the Deninu Kue. Hopefully
6 he's still on the line. It was a fascinating
7 presentation, but I -- I was still waiting for the
8 punch line.

9 Is -- in his learned opinion, is the
10 estimate that De Beers -- Golder has come up with for
11 the fish population, is it extremely low or extremely
12 high in his opinion? Is it -- is it so far out that we
13 can't work with that, or are they -- you know, is their
14 methodology so flawed that we -- we may be looking at a
15 lake that hundreds of times more fish in it?

16 THE CHAIRPERSON: Okay, thank you. Mr.
17 Elmar Plate...?

18 DR. ELMAR PLATE: Yeah, thank you, Mr.
19 Chair. It's Elmer Plate from LGL. To answer, I would
20 say if I would have carried out this hydroacoustic
21 survey I wouldn't know really how many fish are in the
22 lake. That's the only answer I can give.

23 There's really no estimate that I think
24 can be made based on the data there. I think it's just
25 unknown at this point, so I think it should just be

1 either taken as is with the number that's been provided
2 by De Beers, or if you want to know the real number
3 then it probably has to be redone. But it's -- you
4 know, that's not my decision or -- but that's all I can
5 say with regards to that.

6 THE CHAIRPERSON: Thank you.

7 MR. RANDY FREEMAN: Thank you. That --
8 that answers my question. Thanks.

9 THE CHAIRPERSON: Next on the list is
10 Aboriginal Affairs and Northern Development Canada. I
11 bel --

12 MS. MICHELE CULHANE: Michele Culhane,
13 with Aboriginal Affairs. Thanks for the presentation,
14 and we have no questions.

15 THE CHAIRPERSON: Thank -- thank you.
16 Environment Canada...?

17 MR. ERIK ALLEN: Erik Allen, with
18 Environment Canada. We have no questions at this time.

19 THE CHAIRPERSON: Thank you. Fisheries
20 and Oceans Canada...?

21 MS. BEV ROSS: Bev Ross, Fisheries and
22 Oceans Canada. Thanks very much for the presentation.
23 We have no questions at this time.

24 THE CHAIRPERSON: Thank you. The
25 Government of the Northwest Territories...?

1 MR. GAVIN MORE: Gavin More, GNWT. We
2 have no questions.

3 THE CHAIRPERSON: Thank you. Natural
4 Resources Canada...?

5 MR. JOHN KING: John King, Natural
6 Resources Canada. We have no questions. Thank you.

7 THE CHAIRPERSON: Thank you. Parks
8 Canada...?

9 MS. ANN RONALD: Mr. Chair, Ann Ronald,
10 Parks Canada. We have no questions. Thank you.

11 THE CHAIRPERSON: Thank you. Transport
12 Canada...?

13 MR. DALE KIRKLAND: Dale Kirkland,
14 Transport Canada. No questions, Mr. Chair.

15 THE CHAIRPERSON: Thank you. De Beers
16 Canada...?

17 MS. VERONICA CHISHOLM: Veronica
18 Chisholm, from De Beers. I'd like to thank the Deninu
19 Kue for their presentation, it was much appreciated.
20 And I just have -- I have one (1) very easy simple
21 question for Dr. Plate, I think.

22 So De Beers has been sampling in Kennady
23 Lake for about sixteen (16) years, on and off, with
24 different consultants and taking field-based
25 measurements over that period of time that we've

1 assembled. And my question to Dr. Plate is: Has he
2 actually done any sampling in Kennady Lake?

3 THE CHAIRPERSON: Thank you. Dr.
4 Plate...?

5 DR. ELMAR PLATE: Yeah, thank you, Mr.
6 Chair. Obviously, you know the answer to that
7 question: No, I have not. But as a scientist, I think
8 certain ways of doing certain methods are very well
9 accepted in the scientific realm, and those are the
10 methods and -- that I'm pointing out. And I think
11 they're very widely accepted, not only by me, so -- but
12 by the whole scientific community. And you can either
13 chose to use those or you cannot, and that's all I can
14 say with regards to that.

15 And to answer your last question one
16 more time: No, I've never been to Kennady Lake. I
17 would love to see it, I would love to do work on it,
18 and I would love to get to know it, but I haven't been
19 so fortunate. Thank you, Mr. Chair.

20 THE CHAIRPERSON: Thank you. De
21 Beers...?

22 MS. VERONICA CHISHOLM: Veronica
23 Chisholm, from De Beers. Thank you, Dr. Plate, for
24 your response. I appreciate it.

25 THE CHAIRPERSON: We now turn to panel

1 staff and technical advisors.

2 DR. KATHY RACHER: Hi. Kathy Racher,
3 for the panel. I just have one (1) question.

4 So you said in your technical report
5 that:

6 "It is essential to properly describe
7 the baseline fish population as a
8 benchmark for the desired status and
9 habitat compensation following
10 closure of the mine."

11 And I'm just a little confused as to how
12 the current population can be used as a benchmark,
13 given that De Beers has already predicted that the fish
14 community and the relative abundance of fish will be
15 different in Kennady Lake post closure.

16 So how do -- how does the Board use this
17 information in evaluating effects, I guess?

18 THE CHAIRPERSON: Thank you. Patrick,
19 I think, is it to the -- to -- to Elmar? Mr. Plate,
20 can you respond?

21 DR. ELMAR PLATE: Yeah, thanks, Mr.
22 Chair. Yeah, I -- I -- it's hard to answer this
23 question. I don't think there is a good reliable
24 baseline for the fish population of Kennady Lake.
25 That's all I can say. From there on it's politics and

1 environmental impact statement process, I think. But
2 that's all I can say. Thank you.

3 THE CHAIRPERSON: Thank you. No
4 further questions.

5 Legal counsel...?

6 MR. JOHN DONIHEE: Thank you, Mr.
7 Chairman. John Donihee, coun -- counsel to the panel.
8 Just one (1) question for Mr. Simon.

9 The PowerPoint that -- that we showed
10 upon the screen, that was filed with the Board, had
11 about twenty (20) slides at the back of it that deal
12 with the -- what's entitled, "The Summary of the Deninu
13 Kue Ethno-History Report." You did speak, I -- I
14 believe to this -- the contents of that report, and so
15 I -- I just want to confirm -- I understood you to say
16 that report would be filed later this month, and that
17 the panel will get the opportunity to review the
18 results of this Ethno-History work in -- in writing
19 their report.

20 So is that -- is that the way that the
21 DKFN is intending to proceed?

22 THE CHAIRPERSON: Thank you. Patrick
23 Simon...?

24 MR. PATRICK SIMON: I think my -- right
25 now we're just in the process of just cleaning it up

1 and -- and finishing it up, making sure it's in a
2 formal presentable manner, then by the end of December
3 it should be ready to be presented and used as a tool
4 for the people of Deninu Kue, and for all the people
5 that need to use it, too, I guess, because we build
6 these tools so we can live together and help each other
7 and live good lives.

8 THE CHAIRPERSON: Thank you.

9 MR. JOHN DONIHEE: Thank you, Mr.
10 Chairman. John Donihee again. Just -- just to be
11 clear, you -- you are intending to file that report
12 with the panel? I guess that's what I'm trying to find
13 out.

14 THE CHAIRPERSON: Thank you.

15 MR. PATRICK SIMON: Okay. Yes. I
16 guess my boss said to say "yes", so yes.

17 THE CHAIRPERSON: Thank you very much.
18 Any further questions?

19 Okay. We'll turn to panel members.
20 Rachel Crapeau, panel member...?

21 MS. RACHEL CRAPEAU: Thank you, Mr.
22 Chair. Rachel Crapeau, for the panel.

23 For Elmar -- Dr. Elmar Plate, my -- one
24 (1) question that I have is about the methodology. I
25 know that Elders will look at methods and think about

1 methods for counting and observing fish in a lake,
2 because I recall some years ago when Isadore Tsetta
3 advised a group of people who were taking young
4 children out in the wintertime, and they were going to
5 be setting nets for fish.

6 He advised them to set a net at the end
7 of a lake, and when they did that they got lots of
8 fish, more than they expected. And so the next time
9 they set the net they took the net out and reset it in
10 a different place so that they wouldn't get that much.
11 They only needed so much.

12 So my question has to do with hearing
13 yesterday that there was approximately maybe twenty
14 thousand (20,000) fish. And this was from information
15 -- information from De Beers. How they arrived at that
16 number, I don't really know.

17 But is -- is the acoustic --
18 hydroacoustics a lot more better than how De Beers
19 arrive at their numbers? I don't really know. Did you
20 -- did you see how they did arrive at their numbers,
21 what method they used? Thank you.

22 THE CHAIRPERSON: Thank you. Dr.
23 Plate...?

24 DR. ELMAR PLATE: Yeah, thank you, Mr.
25 Chair. And Elmar will do, by the way.

1 Thank you for the question. De Beers
2 used hydroacoustics as the method to count the fish. I
3 just didn't repeat that. I'm sorry about that, that I
4 didn't go too much into the results and how they -- De
5 Beers arrived at the results of twenty thousand
6 (20,000) fish.

7 But that was done by hydroacoustics.
8 And hydroacoustics is a very good method. Golder
9 Associates, I think, is quite experienced with it. I
10 think that just the settings sometimes have to be just
11 right for the right environment. It is sometimes a
12 trial and error process.

13 Just to give you one (1) example: I was
14 just on the lake recently. I did hydroacoustics for
15 two (2) nights. I had to disregard all the results,
16 because after checking it with one (1) of the best
17 specialists in North America, I realized there was one
18 (1) of the settings wrong. And that's just a process
19 you sometimes go through. So De Beers used
20 hydroacoustics. I just think that the settings were
21 slightly off and, therefore, the small fish could not
22 be detected. Thank you.

23 THE CHAIRPERSON: Thank you. Any more
24 questions?

25 MS. RACHEL CRAPEAU: Thank you for the

1 answer, Mr. -- Dr. Plate. And no more questions, Mr.
2 Chair.

3 THE CHAIRPERSON: Thank you. Panel
4 member James Wah-Shee...?

5 MR. JAMES WAH-SHEE: I'd like to thank
6 you, Patrick, and your Elder for giving a presentation
7 on the history of your people and your interests and
8 your concerns that you have. And I thank you for --
9 for that. And I have no questions. Masi cho.

10 THE CHAIRPERSON: Thank you. Panel
11 member Peter Bannon...?

12 MR. PETER BANNON: Thank you for the
13 presentation, but I have no questions.

14 THE CHAIRPERSON: Panel member Richard
15 Mercredi...?

16 MR. RICHARD MERCREDI: Yeah, thank you
17 for the presentation, both of you, and no questions.

18 THE CHAIRPERSON: The Chair has no
19 questions. I really want to thank you for your
20 presentation. It's obvious that you have a real
21 passion and -- and it was a very respectful
22 presentation, so we very much appreciate it. And
23 almost within time, as well. So thanks again.

24 We -- we have time now to do the North
25 Slave Metis Alliance presentation. We've allocated

1 forty (40) minutes, and that would take us to a nice
2 break and then we can go to questions from parties
3 after that.

4 So Mr. Bill Enge, would you be prepared
5 to -- to do it now?

6 MR. BILL ENGE: Yes.

7

8 (BRIEF PAUSE)

9

10 THE CHAIRPERSON: Whenever you're
11 ready, President Bill Enge, you can proceed.

12

13 PRESENTATION BY NORTH SLAVE METIS ALLIANCE:

14 MR. BILL ENGE: Yes, thank you, Mr.
15 Chairman. Bill Enge, President of the North Slave
16 Metis Alliance. I wish to -- on behalf of the North
17 Slave Metis Alliance, I wish to thank the Mackenzie Val
18 -- the Mackenzie Valley panel for this opportunity to
19 present the North Slave Metis Alliances views in regard
20 to the De Beers Gahcho Kue project.

21 In the way of format of our -- of our
22 presentation, I will be allotting time to two (2) of
23 our North Slave Metis Alliance Elders to speak in
24 regard to their views on -- on this project. I have
25 to my left, Ed Jones, Elder, and to my right, Wayne

1 Langenhan, and I will be sure to allow them an
2 opportunity to speak their truth, from their heart
3 about our attachment to the lands and how this project
4 will be affecting the North Slave Metis, as they have a
5 very long history.

6 And I think I'm permitted to tell you
7 that Elder Ed Jones is eighty (80) years old as of last
8 May -- I know -- and he's not too vain for me to tell
9 people that, and in pretty good shape for -- for his
10 age and still doing well in terms of participating in
11 the life of the Metis community.

12 Now, I wish to set the context of the
13 North Slave Metis. We are the Section 35 Aboriginal
14 rights Metis who reside in this part of the Northwest
15 Territories, the area called the North Slave Region.
16 We -- we heard on a few occasions about the history, or
17 the ethno -- ethno-history of the First Nations in
18 regards to this area, and I think it's worth noting
19 that the North Slave Metis people are related both to
20 the Yellowknives, the Chipewyan, and the Tlicho
21 peoples.

22 The Metis emerged as a separate and
23 distinct Aboriginal people as a consequence of
24 colonization that took place in this area over 200
25 years ago. The Metis are the mixed blood Aboriginal

1 peoples of Canada. They are the results of the
2 liaisons between the colonists and the First Nations'
3 people, mostly the First Nation women, who were then
4 known as "country wives".

5 The Metis have played a significant role
6 in the development of this area for over 200 years and
7 were major players during the fur trade. The Metis in
8 Canada have had their Aboriginal rights affirmed under
9 Section 35, under two (2) landmark Supreme Court of
10 Canada cases, Powley (phonetic) and Cunningham cases.

11 The Powley case was essentially a
12 harvesting rights case, and it affirmed in law that
13 Metis have a right to harvest. And in the Cunningham
14 case, it defines how to determine who is a Metis in
15 light of chan -- demographic changes brought on by the
16 Crown. Namely, that the Crown saw fit to reinstate the
17 -- the Indian status of Indian women who had their
18 Indian status removed because they married non-
19 Aboriginal men.

20 We now know that the Metis are not
21 registered Indians under the Indian Act. None of the
22 North Slave Metis Alliance members are registered
23 Indians under the Indian Act; we are Metis. But we
24 recognize and respect and affirm our close ties to our
25 First Nation counterparts, as we have been sharing

1 these lands with them since our emergence over two-
2 hundred (200) years ago.

3 With that in mind, I wish to go to the
4 first slide. And you can see here what the four (4)
5 points are that we are -- that we wish to discuss with
6 this panel and the members here: consultation,
7 traditional harvesting impacts, lessons learned from
8 the Snap Lake De Beers project, and the North Slave
9 Metis recommendations with respect to the Gahcho Kue
10 project.

11 As you can see, the North Slave members
12 are satisfied with the consultation De Beers has thus
13 far provided. Some of the comments that have been
14 extracted from a workshop that De Beers paid for
15 exemplify what a good job we feel that De Beers did in
16 informing us as to what we can expect from this mine.

17 On two (2) separate occasions De Beers
18 brought North Slave Metis Alliance members to the
19 Gahcho Kue mine site and provided us with, not only a
20 helicopter surveillance of the area of the impact zone
21 for the mine, where sixteen (16) dikes are going to be
22 built and dewatering to take place, but they also took
23 us on a boat ride around the area where the dewatering
24 is going to take place. And we had very informed
25 discussions as to what we can expect in terms of the

1 impact on the water and the fish.

2 Now, we come here today in support of
3 this mine, because overall we think that De Beers's
4 model is one that we can support. However, we do have
5 some concerns that we are going to express here today
6 in regard to what we would like to see put in place as
7 additional mitigation measures than the ones that are
8 being planned by De Beers.

9 In that respect -- so we'll -- we'll
10 move on to the next slide. What we are going -- what
11 the North Slave Metis Alliance are concerned about,
12 with respect to this particular slide, is that with the
13 advent of another diamond mine, or more mining in this
14 area, and the construction of another ice road to get
15 from the main ice road to the Gahcho Kue site would
16 allow for greater access to additional harvesting.
17 We're very concerned about the impact of the fishing as
18 we experience it day to day right here in Yellowknife.
19 I think I mentioned this in -- to this Board a day ago
20 or so, that if you go out on Ingraham Trail to some of
21 the lakes here the impact of the fishing on the -- on
22 the lakes are so bad that it takes you -- like, three
23 (3) days to catch a jackfish anymore.

24 Now, with advent of -- of additional
25 roads and access to the wildlife we -- we are concerned

1 that -- that the wildlife will be under greater stress
2 than they can -- than they can -- than they -- wildlife
3 can -- can handle; and especially in this case the
4 Bathurst caribou herd. It's -- it's quite well known,
5 common knowledge here that the Government of the
6 Northwest Territories has placed a restricted
7 harvesting ban on the Bathurst caribou herd because the
8 numbers have dropped so drastically that the herd is in
9 danger of extirpation. And right now, only the
10 Yellowknives Dene and the Tlicho are allowed to harvest
11 from that herd a hundred and fifty (150) head each, and
12 much to our dissatisfaction, zero for the Metis.

13 So, we -- we're looking to ensure that
14 mitigative measures are taken to ensure that the
15 caribou not only recovers, but thrives to the point it
16 was in the past. Not but a short ten (10) years ago,
17 it was at two hundred thousand (200,000) head.

18 The Developer informed this forum
19 yesterday that they do not see the need for putting a
20 water treatment plant at the Gahcho Kue mine site. I
21 expressed our concern about that yesterday, and I
22 incorrectly stated that in -- oh, excuse me, I wasn't
23 incorrect. I said in the last ten (10) years, none of
24 the mines have been able to go into operation without a
25 water treatment plant at their mine sites. I was

1 correct on that.

2 However, where I was -- to clarify the
3 matter, there is a mine, that's the BHP Billiton Ekati
4 mine, that does not have a water treatment plant
5 treating the water at its mine site. And we know,
6 based on that -- on that experience and the data that
7 is flowing back from what's going on at Ekati, they are
8 having an extremely difficult time discharging the
9 water from their mine back into the water system,
10 because it's not cleaning fast enough and properly.

11 So that method that the Developer is
12 proposing to put in place has a model to look at and
13 it's not acceptable. So it's not an experiment. That
14 is what -- where I was wrong, when I said yesterday
15 it's a experiment. This experiment is currently
16 underway and it's not working. So the North Slave
17 Metis people say that this mine needs a water treatment
18 plant to ensure the safety and the quality of the
19 water.

20 There is one (1) qualifier that we would
21 say to the Developer and that is this: We're sat --
22 we're comfortable with the water treatment plant being
23 in place as a back-up, as a fail-safe to the method
24 that they're proposing. If it's not working, then they
25 can use the water treatment plant. I guess the analogy

1 we could use here in Yellowknife, as Yellowknifers all
2 know, the power goes out enough times that we all pray
3 that Jackfish comes back on line, so at least we can
4 get our power back on. So we have some experience with
5 utility failure.

6 And so the Developer tells us that they
7 do not wish to have a water treatment plant in
8 operation twenty-four (24) hours a day because it costs
9 too much money to run. We do not support that
10 position. It's going to cost us way more, as they
11 impact people, to have dirty water going into our --
12 our -- into our water system. And, therefore, we say
13 we want that water treatment plant in place as a back-
14 up to the -- the primary system which they want to put
15 in, which is some kind of cleansing ponds and then
16 discharge.

17 They don't have to run the water
18 treatment twenty-four (24) hours a day, but they have
19 to have one (1) ready to use in case things go wrong.
20 And so that -- that is the position of the North Slave
21 Metis Alliance in regard to that water treatment and
22 how we want to see the water treated.

23 Now, there's no question that De Beers
24 has experience with the water treatment plants already,
25 because they have one (1) in operation at the Snap Lake

1 mine. And this water treatment has -- water treatment
2 plant has proven to be a necessary part of their
3 infrastructure. There are water problems at Snap Lake,
4 we know, and De Beers is forthright about the
5 challenges they face. We know that just today, as
6 reported, they had a leak in their pipe that -- an
7 effluent pipe that transports nitrates. A few
8 thousands litres of nitrate effluent -- effluent water
9 leaked at Snap Lake yesterday. So we know that it's a
10 mine, and things happen.

11 Now -- so we'll move to the next bullet,
12 the third bullet. It has come to light that De Beers
13 has been invited by four (4) of the First Nation
14 parties that are participating in these hearings to
15 form an oversight agency to monitor the mine's
16 compliance with their commitments.

17 And because we -- we were only just
18 informed about this initiative on November 19th the
19 North Slave Metis haven't had time to properly consider
20 this oversight organization. However, we're open to
21 innovations. We're open to new ideas. And we are
22 willing to embrace new initiatives.

23 We very much wish to work cooperatively
24 with our First Nation counterparts. And as we -- we
25 see ourselves all in the same boat. First Nation

1 concerns are Metis concerns. We have -- we share this
2 land with our First Nation counterparts. We are
3 descendants of First Nations. Know -- you know, there
4 was -- there was a lot of love going on apparently when
5 the colonists came around. Otherwise, we wouldn't be
6 here. So we share the love.

7 And we want -- we want to be
8 cooperative, and we want to embrace our First Nations
9 counterparts' initiatives. And we also feel that De
10 Beers has been acting as a good corporate citizen when
11 you take into account they've already spent \$200
12 million to get this far, and they have been very open
13 and transparent with us with regard to this proposal.

14 So we -- what we are going to propose,
15 and De Beers is going to be informed of this shortly,
16 is that we want them to come and show us what the
17 spirit and intent of this initiative is so that we can
18 make an informed decision, and have one available for
19 the public record as expeditiously as we can make it
20 and get through the process of being informed, as we
21 wish to make informed decisions about something as
22 important as this is going to be.

23 This is going to be the substitute for
24 an independent monitoring agency, the kind that we're
25 used to seeing and operating from. And if we can see

1 the merit -- and already we're leaning towards it,
2 supporting it because a lot of work went into it and a
3 lot of cooperation went into it with our First Nations
4 counterparts. And if it works, we are very much
5 interested in endorsing it and being a part of it.

6 So we just wanted to put that on the
7 record to let everyone know that, you know, if -- if
8 this initiative has the kind of legs that we think it
9 does, we'll prob -- we'll be signing onto it and -- and
10 working in concert with our First Nation counterparts
11 and the -- and the -- the Developer with regard to
12 ensuring that a good, balanced method of monitoring the
13 -- De Beers's operations is in place.

14 Load me the next slide, please.

15 The North Slave Metis, as I mentioned
16 earlier, have concerns about the planned dewatering of
17 Kennady Lake in order for De Beers to gain access to
18 the kimberlite pipe that -- where the diamonds are
19 located.

20 When Diavik Diamond Mine dewatered Lac
21 de Gras, where the area where the -- where they had to
22 gain access to their pipe, unfortunately a lot of the
23 fish were not used -- were not used for -- for cons --
24 consumer purposes. They couldn't get the fish to
25 market fast enough or get somebody to eat them. And De

1 Beers yesterday has come up with some good ideas about
2 how to ensure that when they do remove the fish, that
3 it's going to be used properly.

4 And, of course, I have to say that De
5 Beers has been a significant -- probably the most
6 significant contributor to our annual Aboriginal Day
7 fish fry, and they appear to have thought about us when
8 they decided that National Aboriginal Day would
9 something you'd be thinking about when all this fish is
10 ready to go to market somewhere. Of course, we'll have
11 -- this whole town will have a yawning mouth open for
12 that fish, because it's all free of charge and we
13 always get a good turnout. So we'll be very happy to -
14 - to take that fish when it becomes available.

15 Now the other aspect of Kennady Lake
16 and, of course, of -- of the dewatering is that there's
17 going to be loss of fish habitat, because that's where
18 the pit is going to be. And we said this again, and I
19 think it's worth reiterating, that De Beers asked us
20 what we would like to see, in terms of compensation for
21 the loss of the fish habitat and the fish. And our
22 response has been, If you could find the ways and means
23 to do this, we'd very much appreciate it if you would
24 restock some of the lakes around Ingraham Trail so that
25 our people can go back fishing there. And we're hoping

1 that this is a doable consideration.

2 Now, of course, there's always some
3 wrinkles in every pond. And in this case one of the
4 issues that we've been dealing with, not only with De
5 Beers at the -- their Snap Lake Mine, but also at Ekati
6 and Diavik, and that is verification of who is working
7 at the mine.

8 The North Slave Metis Alliance is not
9 interested in ascertaining who every person is working
10 at the mine. We're interested in ascertaining who
11 amongst our members are working at the mine, because De
12 Beers, like the other mining companies, are coming
13 forward with impact benefit agreements, socioeconomic
14 agreements. And part of what makes this mines
15 attractive for Northerners and Aboriginal/non-
16 Aboriginal alike is the promise of prosperity, some
17 benefit. And what comes with that is employment and
18 training opportunities. People have to work; that's --
19 that's the reality.

20 So when they come to a forum like this,
21 asking us to support their development and we say,
22 Yeah, we very much wish for this to happen because our
23 people need jobs. But the problem we're running into
24 is in terms of the red tape of so-called access to
25 information, laws, and no way for us to verify which

1 amongst our members are working at the mine. We -- we
2 are very interested in coming up with a solution to
3 that problem.

4 And as I understand it, and I've
5 listened to other Aboriginal presenters to this panel,
6 they are experiencing the same problem: access to
7 information blockades. Now in my way of thinking,
8 access to information was put in place to be helpful to
9 Canadians from government intrusion into their lives,
10 but in this case it's having a reverse effect where
11 it's actually detrimental to the interest of
12 Aboriginals and Northerners alike, because these mining
13 companies are saying that they cannot verify who's
14 working at the mine because they would be in violation
15 of Canadian law.

16 This has to be remedied because the
17 promises of jobs and employment and training are only
18 hollow words if we can't substantiate and put them into
19 -- into good effect. That's another concern we have.

20 In bullet number 3, I've already touched
21 on it; I've already said that we want the water
22 treatment plant built and put in place as a plan B,
23 kind of like the fail-safe system. I -- I think we all
24 know that when you get something like a -- a nuclear
25 power plant being built anywhere in the world, there's

1 not any peoples who live next door to them that would
2 allow a nuclear power plant to be built if it didn't
3 have a -- a back-up spill system in case the first one
4 went down. This is the same sort of thing. And so I
5 think my point has been made in that regard, so I won't
6 belabour it. So we'll just move on.

7 Okay, that -- that concludes our
8 PowerPoint presentation. And now I would like an
9 opportunity for our Elder Ed Jones to address this
10 forum for a minute.

11 ELDER ED JONES: Good afternoon. My
12 name is Ed Jones. I'm an Elder member of the North
13 Slave Metis Alliance.

14 My main concern about the project is the
15 water. We don't want another mess like they have at
16 Giant mines and Colomac; and especially BHP, who do not
17 have a water treatment plant and now they're
18 experiencing water problems, dirty water entering Lac
19 de Gras. We don't want to see that at Gahcho Kue. We
20 don't want dirty water entering the watershed.

21 The Lockhart River flows into the
22 northeast arm of Great Slave Lake. And we're -- I'm
23 quite concerned, personally, about that. And what our
24 -- what my president, Bill Enge, just voiced before me
25 is that it would be a -- a good idea to put a --

1 install a water treatment plant in case the -- the
2 proposed water management plan should fail. I think
3 that's a great idea.

4 And that is my main and only concern at
5 this time. Thank you.

6 MR. BILL ENGE: Thank -- thank you, Mr.
7 Chairman. Now I would like another Elder, Wayne
8 Langenhan, to address the -- the panel. Thank you.

9 ELDER WAYNE LANGENHAN: Good afternoon.
10 My name is Wayne Langenhan. I'm with the North Slave
11 Metis Alliance.

12 I've spent a lot of time in the North.
13 I grew up here. I was born right here in Yellowknife.
14 And I been around mining and exploration most of my
15 life. So I -- I have worked in the various mines
16 around the Northwest Territories and elsewhere, both on
17 surface and underground, so I do know a little bit
18 about the mining racket. Aft -- my mining experiences
19 have also included both Con and Giant mine here on
20 either side of Yellowknife.

21 These mines here were mineral mines:
22 gold. And when you have a mineral mine like gold and
23 silver, you have a big tailings's pond and you have a
24 totally different system of pulling the mineral out of
25 the ground and separating it from the ore. And it --

1 it's a very messy procedure. You need flotation -- you
2 know, crushers, flotation.

3 They -- it has big tailing ponds, all --
4 all of these mines around here from back to the 1930s.
5 There are many mines that have been opened and
6 abandoned all around this Great Slave Lake.

7 The rules that those mines ran by and
8 were opened and closed by were very slim. We're in a
9 whole new ball game these days, and the process for
10 extracting diamonds from the ground now are -- leaves
11 very little imprint on the land, as compared with years
12 ago when the copper, gold, silver mines were in place
13 doing -- doing their thing.

14 But I have been out to the diamond
15 mines, all of them, quite a number of times. I've seen
16 their operations. Some are -- need a little bit
17 finetuning, but all in all they're -- they are nothing
18 -- they aren't anything compared to the destruction of
19 the land, and the poisoning of the land and the waters
20 that the old-type mines did to this country.

21 So, in my mind, with the gold mines on
22 the downswing here -- well, there aren't -- there
23 aren't very many left to talk about but we come into
24 the diamond mines, which sort of saved the economy of
25 the Northwest Territories and did a lot for the younger

1 people for getting them trained into different jobs,
2 and stimulated the economy of the city of Yellowknife
3 plus many communities, because there were a lot of
4 young people out there being trained, working at these
5 mines. So, from what I've seen throughout -- so far,
6 from these three (3) mines that have been operating,
7 and the fourth one of Gahcho Kue, which I was invited
8 to a couple times, they were very accommodating, very
9 open to any questions that we put forward to them.

10 So, therefore, I have to say that I am
11 in favour of this mine, and what it can do for the
12 people and for the communities, and I would like to see
13 it go ahead as long as there are a few little quirks
14 straightened out. So I thank you for your time.

15 MR. BILL ENGE: Yes, thank you, Wayne.
16 Mr. Chairman, that concludes the North Slave Metis
17 Alliance's presentation, and we would be happy to
18 answer any questions that the parties wish to ask us.
19 Thank you.

20 THE CHAIRPERSON: Thank you, President
21 Bill Enge, Elders Ed Jones, and Wayne Langenhan. A
22 very good presentation. And I'm particularly pleased
23 that you're well within your time that you asked. So
24 thank you very much, Bill.

25 I recognize the clock; it's very close

1 to 3:00. I'm suggesting that we break for -- until
2 quarter after 3:00, and then we'll go through
3 questions. Thank you.

4

5 --- Upon recessing at 2:58 p.m.

6 --- Upon resuming at 3:16 p.m.

7

8 QUESTION PERIOD:

9 THE CHAIRPERSON: Thank you for your
10 attention. We will now go through questions for the
11 parties and from parties. And I'll go through this
12 list again.

13 Akaitcho IMA Implementation Office Dene
14 Nation...?

15 Deninu Kue First Nations...?

16 Lutsel K'e First Nation...?

17 MR. MIKE TOLLIS: Mike Tollis, from
18 Lutsel K'e Dene First Nation. We have no questions at
19 this time. Thank you.

20 THE CHAIRPERSON: Thank you. NWT Metis
21 Nation...?

22 Tlicho Government...?

23 MR. HENRY ZOE: Henry Zoe, Tlicho
24 Government. We have no questions at this time.

25 THE CHAIRPERSON: Thank you.

1 Yellowknives Dene First Nation...?

2 MR. RANDY FREEMAN: Randy Freeman,
3 Yellowknives Dene First Nation. We have no questions.

4 THE CHAIRPERSON: Thank you.
5 Aboriginal Affairs and Northern Development...?

6 MS. MICHELE CULHANE: Michele Culhane,
7 Aboriginal Affairs. We have no questions.

8 THE CHAIRPERSON: Thank you.
9 Environment Canada...?

10 MR. ERIK ALLEN: Erik Allen,
11 Environment Canada. We have no questions.

12 THE CHAIRPERSON: Thank you. Fisheries
13 and Oceans Canada...?

14 MS. JULIE DAHL: Julie Dahl, Fisheries
15 and Oceans. We have no questions.

16 THE CHAIRPERSON: Thank you.
17 Government of the NWT...?

18 MR. GAVIN MORE: Gavin More, GNWT. No
19 questions, Mr. Chair.

20 THE CHAIRPERSON: Thank you. Natural
21 Resources Canada...?

22 MR. JOHN KING: John King, Natural
23 Resources Canada. No questions. Thank you.

24 THE CHAIRPERSON: Thank you. Parks
25 Canada...?

1 MS. ANN RONALD: Ann Ronald, Parks
2 Canada. We have no questions. Thank you.

3 THE CHAIRPERSON: Thank you. Transport
4 Canada...?

5 MR. MIKE MOLINSKI: Mike Molinski,
6 Transport Canada. We have no question.

7 THE CHAIRPERSON: Thank you. De Beers
8 Canada...?

9 MS. VERONICA CHISHOLM: Veronica
10 Chisholm, from De Beers. I'd like to thank the North
11 Slave Metis Alliance for their presentation. It was
12 very helpful today. And we have no questions.

13 THE CHAIRPERSON: Thank you. Now we
14 turn to the panel staff and technical advisors.

15 MR. CHUCK HUBERT: Chuck Hubert. No
16 questions, Mr. Chair.

17 THE CHAIRPERSON: Thank you. Panel
18 counsel...?

19 MR. JOHN DONIHEE: John Donihee, for
20 the panel. I have no questions, Mr. Chairman.

21 THE CHAIRPERSON: Thank you. It's hard
22 to remember which way I started. I will try to go back
23 and forth. I'll just start with Richard.

24 Richard Mercredi, panel member...?

25 MR. RICHARD MERCREDI: Thank you for

1 your presentation. No comments -- questions.

2 THE CHAIRPERSON: Thank you. Panel
3 member, Peter Bannon...?

4 MR. PETER BANNON: Thank you. I have
5 no questions. Thanks for the presentation.

6 THE CHAIRPERSON: Thank you. Panel
7 member, James Wah-Shee...?

8 MR. JAMES WAH-SHEE: Thank you, Mr. --
9 I just want to thank the North Slave Metis Alliance for
10 their presentation. Thank you, Bill. Thank you, the
11 two (2) Metis Elders. Masi cho.

12 THE CHAIRPERSON: Thank you. Panel
13 member, Rachel Crapeau...?

14 MS. RACHEL CRAPEAU: Masi cho to the
15 Metis Elders. I understand that the concerns are the
16 same as our Elders would have, but I have no questions.
17 Thank you.

18 THE CHAIRPERSON: Thank you. And the
19 Chair doesn't have any questions. I want to compliment
20 you on your presentation. Thank you very much for your
21 time, much appreciated.

22 So that closes this portion of the
23 agenda. I asked some presenters for -- for tomorrow
24 whether they would be willing and able to help us out
25 to fill the time today and that was impossible, so I'm

1 pleased to tell you that you have an early day and so
2 we will break soon.

3 I need to also advise you that
4 Undertaking number 1 has been submitted and will be on
5 the register tonight.

6 So have a good evening and we look
7 forward to seeing you tomorrow. Those -- at nine
8 o'clock tomorrow morning. Thank you very much.

9
10 --- Upon adjourning at 3:21 p.m.

11

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14 Certified correct,

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20 Lorraine Douglas, Ms.

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