



MACKENZIE VALLEY ENVIRONMENTAL

IMPACT AND REVIEW PANEL

GAHCHO KUE PROJECT

ENVIRONMENTAL IMPACT REVIEW HEARING

Mackenzie Valley Review Panel:

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

HELD AT:

Yellowknife, NT

December 7, 2012

Day 5 of 6

(DAY 6 WAS NOT REQUIRED)

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1	LIST OF UNDERTAKINGS		
2	Number	Description	Page No.
3	2	De Beers to submit final table	
4		of commitments (no date)	
5	3	GNWT to submit to the panel by	
6		December 14, 2012, two documents:	
7		1. Demonstration Project on	
8		Cumulative Effects. Authors: Nishi	
9		and Gunn	
10		2. 2008 Workshop Report for	
11		Cumulative Effects Manuscript	
12		Report 233.	
13		Author: Adamczewski et al.	
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1 --- Upon commencing at 9:00 a.m.

2

3 THE CHAIRPERSON: Good morning  
4 everyone. We will start with a prayer, and we've asked  
5 Peter Husky to help us with the prayer. And they want  
6 to make special note that yesterday Arthur Pape died; a  
7 real key advisor to the Tlicho Nation. So, Peter  
8 Husky.

9

10 (OPENING PRAYER)

11

12 THE CHAIRPERSON: Thank you very much.  
13 We're now on our final day. We're going to try to  
14 complete the agenda today. So, again, the request is  
15 for presenters and questioners to try to respect the  
16 agenda and work within those time frames.

17 And now is the time to begin, so I'll  
18 turn to the YK Dene First Nation for their  
19 presentation. And who is in the lead?

20

21 PRESENTATION BY YKDFN:

22 MR. RANDY FREEMAN: I -- I'll do the  
23 lead. Todd -- Todd will follow, if he ever returns.

24 My name is Randy Freeman. I'm the  
25 traditional knowledge specialist with the Yellowknives

1 Dene First Nation. And my portion of this presentation  
2 involves a -- a traditional knowledge project that is  
3 currently underway. So it's very much a progress  
4 report, not a final report.

5                   The first slide is the -- a map of the  
6 Chief Drygeese Territory. Now, this is more than  
7 88,000 square kilometres of land on the north shore of  
8 -- extending northward from the north shore of Great  
9 Slave Lake.

10                   This is currently what's under land  
11 negotiations with the federal government; part of a  
12 much larger Akaitcho Treaty 8 land claim that is -- is  
13 underway.

14                   I'd like to point out that the  
15 boundaries to the Chief Drygeese Territory were passed  
16 by resolution at the Treaty 8 assembly in 2005. And if  
17 I don't -- the Gahcho Kue project sits about in there.  
18 So it's obviously well within the Chief Drygeese  
19 Territory.

20                   Now, the Yellowknives Dene First Nation  
21 and De Beers Canada signed a traditional knowledge  
22 study agreement near the end of September 2012, a few  
23 months back. And this -- the stated purpose of this  
24 project was to gather traditional knowledge and  
25 traditional land use information, as well as

1 contemporary land use information, for -- from the  
2 Yellowknives Dene for the -- for that particular  
3 project area and for the consideration of De Beers in  
4 their project EIR process and other regular --  
5 regulatory processes.

6                   Now, setting off to -- to do this work,  
7 we -- we recognized quite quickly that we had to first  
8 determine what we already knew about the area. And  
9 that's the part of this project that is underway right  
10 now. We will then be moving into determining what gaps  
11 we have in that knowledge and how we go about filling  
12 those gaps.

13                   And -- and the final phase, which will -  
14 - as you can see, phase 3 at the bottom of the page  
15 there, into March and April, looking at how this  
16 information can be used to -- to guide De Beers in  
17 their process of planning, constructing, operating, and  
18 finally closing the mine.

19                   Now, this list should probably have the  
20 archeological reports at the top, because it's loosely  
21 chronologic. But what I have been doing in the last --  
22 the last couple of months is looking at quite a number  
23 of different published sources of historic use of the  
24 area -- and they -- these date way back into the early  
25 1800s -- along with we have information from the Dene

1 Mapping Project. We have traditional place names  
2 project that took place in the mid-1990s; the Weledeh  
3 Yellowknives Dene history project, which was later on  
4 in the '90s; and then the Akaitcho Land Use  
5 Study/Treaty 8 Mapping Project, which was about ten  
6 (10) years ago, ten (10) to twelve (12) years ago.

7                   Now, this is a -- this is a map from one  
8 of those early explorer/hunter people who came to the  
9 North. This is about a hundred and thirty (130) years  
10 ago, this particular map. But I basically wanted to  
11 point out that we have the beginning of establishing a  
12 pattern of land use for this particular area by First  
13 Nations. And this map was drawn by a guy named  
14 Warburton Pike, who came north primarily to hunt musk  
15 ox before they became extinct, because that was the  
16 belief a hundred and thirty (130) years ago: They were  
17 -- they were going to become extinct, so why not come  
18 up and -- and kill a few?

19                   So he made a number of trips onto the  
20 barrens from the east arm of Great Slave Lake and  
21 mapped some of the major trails used by people -- used  
22 by Dene who were -- who followed these trails north --  
23 you can see some of them on the map here -- followed  
24 them north to some of the large lakes that sort of  
25 surround -- Gahcho Kue is right in here. And so these

1 large lakes that surround that particular area were  
2 well known to Dene hunters who -- who had particular  
3 areas they went to because there were caribou crossing  
4 places on these lakes. So in the fall, these were  
5 utilized by First Nations to -- basically, they built  
6 small canoes and they went out and they -- they speared  
7 caribou. And these were then -- meat was dried and  
8 transported back south.

9                   This is -- some of you may be familiar  
10 with the Dene Mapping Project, which was a massive  
11 project undertaken in the mid-'70s and into the early  
12 '80s. And this is the -- this is the map showing the  
13 trails, just the trails used by Weledeh -- Yellowknives  
14 Dene Weledeh hunters/trapper. And again, the -- the  
15 project area's right around in here.

16                   This is from the Treaty 8 Mapping  
17 Project that shows some of the village sites along the  
18 -- the north shore. And this is a -- a pattern of use  
19 that began with the coming of the fur trade. And  
20 people built some -- you know, some extended families  
21 and sometimes multiple families would -- would locate  
22 at certain loca -- certain bays along the -- the north  
23 shore and build their cabins. And from there the base  
24 of operations would be, you know, northward out to meet  
25 the caribou in the fall when they came south and



1 perhaps even car -- or, musk ox hunting during the  
2 middle of the winter.

3                   Now, we have -- this is some -- this is  
4 a map project, a mapping project, that took place a  
5 number of years back where all of the NTS 1:50,000 map  
6 sheets were -- were taped together. And it covers --  
7 it covers a huge area. And -- and Elders, hunters,  
8 trappers were encouraged to get down on their hands and  
9 knees and to draw the trails and the grave sites and  
10 cabin sites and all that they knew about the land right  
11 onto this particular map. And every once in a while it  
12 gets brought out, and -- and if we have a large enough  
13 space we can open it up.

14                   And on the left you see former Chief  
15 Fred Sangris showing some features to -- to former  
16 Member of Parliament Ethel Blondin. And I'm not sure  
17 where that's spread out. I can see a bingo -- bingo  
18 board in the back, so -- and then the -- the map again  
19 is spread out, and people are gathered around it in the  
20 -- the foyer to the legislative assembly.

21                   This, I think, is the most telling map  
22 that we have of -- of that particular area. This comes  
23 from the -- the Treaty 8 Land Use Mapping Project. And  
24 here we have a -- a system of trails through the area.  
25 And the heavier lines that you can see represent the

1 major trails, and these smaller lines represent  
2 people's trap lines.

3                   So as you can see, Gahcho Kue is on a --  
4 on a major trail system. And -- and again, the -- the  
5 -- Great Slave Lake is just off the south of this map.  
6 So it's not very far from -- from some of these north  
7 shore villages to -- to get into -- onto the trail  
8 system that's -- that then heads north.

9                   This is the information from that same  
10 project, showing some of the camps. And I -- I must  
11 apologize for the size of the -- the script there, but  
12 that's the Gahcho Kue Project location right there.  
13 And as you can see, right on the site are -- are two  
14 (2) areas that were pointed out in previous projects as  
15 -- as camp sites right on -- on Gahcho Tee (phonetic),  
16 which I hear people have been calling Kennady Lake and  
17 I understand that was the name of a -- some lonesome  
18 geologist's girlfriend. So I'm not -- anyway, Gahcho  
19 Tee is the -- is the traditional name for that  
20 particular lake. And there are other camp sites around  
21 in there and these cor -- coincide very nicely to the  
22 trail system.

23                   I want to point out that -- that what we  
24 have is a un -- a rather unique geographical situation  
25 here. There's the northward extension of the tree line

1 in this particular area. And essentially, it points  
2 straight to -- to Gahcho Kue project. And this allowed  
3 -- there's a canoe route. One (1) of the -- one (1) of  
4 the trails I saw there was an actual canoe route, so  
5 it's possible to take a -- a small cre -- canoe up --  
6 up the stream and a -- and a couple portages. And you  
7 end up in a group of lakes right in this area, where we  
8 have Elders telling us that this is a place where  
9 people went to, re -- remained in the tree line, where  
10 of course they were sheltered and they had wood to  
11 burn, but from there moved out onto the -- onto the --  
12 the barrens for caribou hunting.

13                   And I think this is a pattern that we  
14 could probably trace back if we had an archeological  
15 project that covered more than just that tiny little  
16 place there. If we have a -- a larger regional study,  
17 I think we would see that this is a pattern of use that  
18 dates back perhaps thousands of years and -- and  
19 primarily because of that unique location of the tree  
20 line extending well out onto the -- onto the barrens.

21                   So we have this information-gathering  
22 phase that's nearly complete. And -- and I'm quite  
23 confident that we can say that the area is well known  
24 and well used by Dene. It's on a major trail system  
25 that connects the -- the east arm with some of the

1 larger lakes to the north: Clinton-Colden, Aylmer,  
2 Mackay. All of these are well used and well known as -  
3 - as caribou hunting locations. And also back when  
4 musk ox were hunted, this wa -- these were trails that  
5 were used to -- to get into the area where the musk ox  
6 are located.

7                   Camp locations, a network of miner  
8 trails, suggest a lot of trapping took place in that  
9 area. And again, as I said, that northward extension  
10 of the treeline along Bedford Creek, which was a -- a  
11 canoe route, meant that accessing the southward  
12 migration of the caribou in the fall was made all that  
13 much easier.

14                   Now, because of their unique ge --  
15 geographical position, the small lakes -- and those are  
16 only -- those are only 25 kilometres south -- south of  
17 Gahcho Kue, so it's a very -- really a very short  
18 distance. I -- I think that, if you were to go in  
19 there, if the archaeologists were to go in there, we  
20 would find a lot of traditional camps that date back  
21 hundred, perhaps even thousands -- thousands of years.

22                   So we're in the process of analyzing  
23 what we know and -- and we'll be looking for gaps in  
24 that information. We will be conducting further  
25 research, and that's primarily Elders' interviews

1 focussed on -- on filling those information gaps. And  
2 we'll be looking very closely at what knowledge they  
3 have of -- of the wildlife in the area, and primarily  
4 that would be caribou and caribou movements and caribou  
5 -- for that area and on, you know, where the trapping  
6 used to take place, and -- and still does in some  
7 cases. And -- and, of course, fish.

8                   Now, what conclusions can we draw from  
9 past and present use of the Gahcho Kue area? Well, we  
10 can -- we know that we have a -- an established  
11 pattern, and we will be filling in the gaps in that  
12 information and we will be working with De Beers to  
13 help them perhaps in some design changes that may occur  
14 with their proposed mine, but certainly in the long-  
15 term wildlife monitoring around the mine and -- and in  
16 the operation of the mine and -- and in the closure  
17 planning.

18                   And -- and, you know, the Yellowknives  
19 Dene are very -- very, very concerned that, because  
20 this is an area that is used, has been well used, will  
21 be well used in the future, that -- that that  
22 particular area be brought back as close as possible to  
23 -- to the way it is today so that it can continue to be  
24 used.

25                   So, with that, I will turn it now over

1 to Todd Slack.

2 MR. TODD SLACK: Thanks. Excuse me.

3 Todd Slack, for the Yellowknives. First off, I'd just  
4 like to thank the panel for the opportunity here. And  
5 I realize that the -- the slides aren't going to be of  
6 great use today, but I hope when -- when you're looking  
7 at them they -- they summarize our presentation.

8 I've had to highlight some of the areas  
9 of concern here just in the interests of time, for your  
10 interest we've provided eleven (11) areas of concern  
11 and a number of recommendations in our technical  
12 report. But I've kind of whittled it down to focus on  
13 the most significant keys that the Yellowknives think  
14 are -- represent good environmental stewardship. And  
15 that's where I'm going to start.

16 This is not the first mine that this  
17 company has in the Territory, and we need to remember  
18 how that other site has been operated. Those actions  
19 can provide insight into what we -- is reasonably  
20 expected for the future here. And I don't want to lose  
21 focus on the particulars of this project, but I think  
22 it's fair to say, and we heard a bit about this  
23 earlier, that the Snap Lake mine would not be  
24 considered the best environmental performer of the  
25 three (3) existing mines. These issues are a matter of

1 record. They were acknowledged by the Company and with  
2 the other parties.

3                   During the 2011 Land and Water Board  
4 licensing, the Yellowknives stated the position this  
5 way:

6                   "Our most pressing concern with this  
7 application is a general -- general  
8 concern surrounding the intent that  
9 the Company is bringing to  
10 environmental stewardship of the  
11 site."

12                  The Yellowknives Dene weren't alone in  
13 this -- in this feeling.

14                  I want to give the company credit, we've  
15 seen a change in their approach over the last year,  
16 year and a half. And this additional openness and  
17 engagement is appreciated, and we're very encouraged to  
18 move away from something that's always a confrontation  
19 to something more collaborative. But the limitation  
20 with this is it's a short time period and there's no  
21 guarantee that that pro -- that approach will continue  
22 into the future.

23                  That's one of the -- the positions or  
24 one of the observations that are guiding our  
25 recommendations where we're seeking to have many of the

1 measures and requirements that the Yellowknives need  
2 for this project to be considered enshrined in  
3 something that has some backing.

4                   The most obvious gap that the  
5 Yellowknives have observed with this project's proposal  
6 is -- well, it relates to the cumulative effects. And  
7 we've talked a fair amount about this, this week.

8                   In the past, I think it fair to say that  
9 we have seen good mitigations related to direct impacts  
10 from mining. Trucks are not running over a lot of  
11 caribou. But where this has begun to fail is when it  
12 comes to cumulative effects and indirect effects, the  
13 zone of avoidance that we've talked about.

14                   Now, why is this so important? Right  
15 now we're talking about three (3) mines in our -- in  
16 this Territory with one (1) at a reduced capacity in  
17 Nunavut. And, depending on the permitting and the  
18 financing process, there's going to be ten (10) mines  
19 in the caribou range in -- by the end of this decade.

20                   Some of these are going to be very large  
21 open-pit operations and a lot of them come with new  
22 roads which bring changes to the migration routes,  
23 barriers to movement, changed behaviour and impacts to  
24 wildlife health.

25                   So we've got Hackett River and the Izod



1 Corridor up on the calving grounds, Sabina's Back River  
2 Project isn't very far away. Jericho and Lupin are  
3 just to the south in the calving or the post-calving  
4 areas. A -- Ekati, Courageous Lake and Diavik are  
5 astride the migration route.

6 And then on the winter range we have  
7 Tyhee, Fortune, Nechalacho, Snap Lake, Gahcho Kue.  
8 More roads, more mines, more access and more barriers,  
9 all of these things have an un -- this is an  
10 unprecedented level of development.

11 When we combine this with the current  
12 state of caribou population, this is a very big deal to  
13 the Yellowknives. And all this development, it's a big  
14 change from the two (2) mines that we had five (5), ten  
15 (10) years ago.

16 And no one here, no one in Government,  
17 not industry, no one is addressing -- actively  
18 addressing this, especially in regards to caribou. The  
19 precautionary principle and the importance of  
20 conservation have not been recognized.

21 Now, the Yellowknives are pretty clear  
22 in stating that they're in favour of development, but  
23 that development has to be done in a reasonable -- and  
24 we heard the phrase "sustainable", but as sustainable a  
25 way as possible.

1                   We heard from AANDC yesterday. The  
2 results of their work is years in the future. We'll  
3 hear from GNWT today, and I'm going to argue ahead of  
4 time that the results of their work is going to be  
5 years in the future as well.

6                   And then we heard that the burden of  
7 analysis is going to fall to the regulatory system,  
8 which is the parties and the staff. And I can say with  
9 certainty that the parties aren't -- don't have the  
10 resources to undertake this analysis. And I don't  
11 believe that the Boards are well suited to do this  
12 either. Sorry, Board staff.

13                  If the status quo cannot be tolerated  
14 and Government can't be relied on to meet this clear  
15 need, then what? We've heard, and it's in the GNWT rec  
16 -- technical report how industry collaborated together  
17 and lead the development of the grizzly bear and the  
18 wolverine sites.

19                  If government is failing to act and  
20 industry is willing to show the leadership, that is  
21 great. If this Board makes a measure that requires  
22 cumulative effects analysis and monitoring to be  
23 undertaken, there's no doubt in my mind that this  
24 project would see to it that that happens.

25                  And, you know, this isn't crazy talk.

1 We've been discussing cumulative effects in the  
2 territory for a number of years. This Board -- or,  
3 sorry. My apologies to the translators.

4 The Review Board has made these kind of  
5 measures in the past on other files. And in the end,  
6 the Yellowknives Dene don't care how this need is  
7 addressed. They care that it does get addressed.

8 Traditional knowledge and western  
9 science are required to be evaluated as equals in the  
10 regulatory system. And the first step for this to be  
11 true is further -- to be not just opportunity for  
12 traditional knowledge to be incorporated, but for that  
13 -- resources to be available to allow the collection.  
14 Because right now, that doesn't exist.

15 And this is good for everyone. And --  
16 oh, I can just use a quick example as to what I'm  
17 talking about. And I'm talking about this in the  
18 operational sense, during the mine's life. There are  
19 dozens of Yellowknives members who could tell you --  
20 could look at a caribou for a few minutes and then tell  
21 you if that caribou is healthy. If this is a -- if we  
22 have to rely on industry to go and do this, well, you  
23 know, that's consultants, that's tests, that's  
24 scientific analysis, it's thousands of dollars, and the  
25 results are measured in years and uncertainty rather

1 than in seconds with clarity.

2                   Now, recently, the Company has made a  
3 commitment to provide not just opportunity but  
4 resources to allow for this. And the Yellowknives are  
5 happy to work with the Company, but what we're asking  
6 the Board is to enshrine this as a measure so that we  
7 have this commitment and it must be fulfilled. That  
8 will ensure that the old way of doing things, where  
9 traditional knowledge was often an afterthought or was  
10 a one (1) time issue, that that way is gone and that  
11 this is incorporated into ongoing operations.

12                   We've heard other concerns around  
13 closure this week, and I'm not sure how much that we  
14 should add to this, but I'm going to talk about two (2)  
15 lines of thought to get it into the record because it's  
16 this process that -- and what happens here that helps  
17 guide the closure planning in future years. Working on  
18 the ICRPs for the other mines -- sorry, the interim  
19 closure and reclamation plans for the other mines. We  
20 are always going back to the environmental assessment  
21 to see what was promised and what commitments were  
22 made.

23                   We have the Company's perspective in  
24 their EIS, but from the Yellowknives' point of view,  
25 the closure objectives are weak and are not supported.

1 During the proceedings associated with the Snap Lake  
2 water licence, a senior De Beers executive, Dave  
3 Putnam, had said, We don't own the land, we're just  
4 borrowing it. Well, the Yellowknives agree, and they -  
5 - the way that land comes back to them, they should  
6 have a pretty good say in that. And it shouldn't be  
7 coming back to them broken or degraded.

8                   The Company has defended their position  
9 by saying that the risks associated with a -- higher  
10 contaminant loadings is -- are very low. But given  
11 that this land is pristine and healthy now, why are we  
12 considering what the risks are? The land and water  
13 should be coming back in that same healthy and as  
14 pristine an op -- a way as possible.

15                   That's -- the Company approach, in my  
16 opinion, and -- this is contrary to the conservation  
17 principles that the Yellowknives Dene have always  
18 applied to the land. And it's contrary to the -- the  
19 guiding principles of the MVRMA as well.

20                   And this is summed up relatively easily  
21 in my mind. When the Company went and did their  
22 economic calculus to consider the tradeoffs and  
23 benefits of their closure, there is no value on clean  
24 and pristine water and clean and pristine land. As  
25 long as it's accepted, that's good enough. But the

1 Yellowknives want the Company to do better.

2                   The second item in terms of closure is  
3 that the language that they use surrounding their  
4 objectives often lacks precision. And that's number 1.  
5 Number 2, it's unilaterally de -- defined. And we  
6 understand that the Company picks these objectives, but  
7 when the Company uses phrases like "significant" and  
8 "acceptable", I think I'm fair to say that the Com --  
9 their version of acceptable and significant is going to  
10 be quite different than the Yellowknives'. And it is  
11 important to clarify that as early as possible in the  
12 process.

13                   And I'll use an example here to -- I  
14 think it was yesterday that we -- we heard about talk  
15 that it will be a functioning aquatic ecosystem at the  
16 end of the -- at the end of this process.

17                   Well, the Yellowknife River is -- when  
18 it's translated, it is the Coney River, but mining  
19 operations here has destroyed the coney stock. That  
20 being said, the -- the Yellowknife River clearly has an  
21 -- a functional aquatic ecosystem, but the coney are  
22 gone, the coney that the Yellowknives relied on for  
23 generations.

24                   Clarity on these issues is essential.  
25 The legacy that this mine will leave after its eleven

1 (11) year life -- well, the Yellowknives are going to  
2 be here forever. Randy has illustrated how they've  
3 used this land; they're going to continue to use this  
4 land.

5 What the Yellowknives are asking the  
6 panel is for a much improved and more detailed closure  
7 plan to be completed within a year. We understand that  
8 this is a requirement of the Land and Water Board  
9 process, and we would have preferred stronger measure.  
10 But we are where we are now, and we recognize that.

11 This -- the preliminary closure plan  
12 that they've submitted, it just doesn't give us a good  
13 idea as to what the final impacts will be. We need  
14 something better than that. And here in the territory  
15 we've developed great processes that work. Let's move  
16 along that line. That's what we're hoping for.

17 And then just one (1) final note. In  
18 terms of wildlife monitoring, the GNWT has expressed  
19 some uncertainty as to whether a monitoring plan is  
20 required. Well, straightforward, the Yellowknives  
21 consider this to be essential. And my colleague here,  
22 Kim Poole, is going to highlight some of the  
23 deficiencies and requirements that we've asked for in a  
24 wildlife plan.

25 MR. KIM POOLE: Yeah, good morning. It

1 is our opinion that all the pieces do not appear to be  
2 in place for this project to go ahead while ensuring  
3 the health of the caribou herds. We suggest that  
4 weaknesses still exist in data analysis and  
5 preparation. However, if we were to assume that the  
6 mine is going to go ahead, then we need to focus on  
7 monitoring, mitigation, and adaptive management. And I  
8 want to make three (3) main points here.

9               First off, we need to improve monitoring  
10 to test the effectiveness of the mitigation. As an  
11 example -- as an example, we need to minimize the  
12 footprint -- sorry, minimizing the -- the mine  
13 footprint is one form of mitigation, but how is the  
14 effectiveness of this mitigation being tested?

15               Another example is dust suppression on  
16 the roads is another mitigation, but how effective is  
17 it actually at suppressing dust or not contributing to  
18 the apparent zone of influence that we have observed  
19 for caribou?

20               Second main point is that -- is about  
21 best-practices monitoring. Much can be learned from  
22 fifteen (15) years of monitoring history from large  
23 developments in the Arctic. Monitoring and mitigation  
24 at Gahcho Kue should be of the highest standards. And  
25 following are a couple of examples of monitoring issues



1 and designs that should be better addressed by De  
2 Beers.

3                   The first one relates to the winter  
4 road. There was initial reluctance to address the  
5 potential impacts of the winter road on caribou  
6 movement. The assessment does not go on to  
7 meaningfully evaluate or assess these potential  
8 impacts; only to suggest that they are low to minimal  
9 in magnitude. De Beers does not appear to have any  
10 plans in place to test whether the assumptions about no  
11 impacts to caribou movement as a result of the road are  
12 true.

13                   In response to both Tlicho government  
14 and YK Dene IRs about the impact of the winter road on  
15 caribou movements, De Beers has stated that this is  
16 covered in the October WMP. However, that plan notes  
17 only plans to monitor hunter use, not whether the  
18 winter road affects movement. Nothing is mentioned on  
19 studies to examine the filter or partial barrier  
20 effects of the road.

21                   Changes -- and, we all hope, increases -  
22 - in herd size will result in changes and distribution  
23 -- in distribution and migration. Monitoring plans for  
24 examining movement across the winter road must be  
25 developed for the -- in the WMP now, with mitigation

1 plan options developed. Monitoring can include  
2 intensive track count surveys or use of remote cameras,  
3 and the study designs must be robust.

4               Regarding the zone of influence, De  
5 Beers has stated that studies on the zone of influence  
6 around the project are not likely to provide  
7 information helpful to adaptively manage mining  
8 operations. And we respectively disagree with that.

9               The process that De Beers should follow  
10 is first to determine whether a zone of influence  
11 exists and the extent, which is the distance of the  
12 impacts to caribou distribution around the mine  
13 infrastructure. And this is -- will also be used to  
14 verify the impact predictions. Second, examine the  
15 pent -- potential causal mechanisms for the zone of  
16 influence. And third, mitigate to reduce the influence  
17 of these causal mit -- mechanisms on the zone of  
18 influence and on caribou distribution and abundance.

19              There's a need to determine the  
20 effective footprint of the development and to verify  
21 the impact predictions. Aerial surveys have proven so  
22 far to be the most effective, but other options may  
23 exist. But they must be tested to ensure their  
24 effectiveness.

25              The mechanisms behind the observed zone

1 of influences should be further examined. If dust  
2 deposition is a major contributor, then further  
3 mitigation of dust needs to be considered.

4                   And my final point is that increased  
5 usefulness of the monitoring is -- is the need for  
6 increased usefulness -- use -- usefulness of the  
7 monitoring data in adaptive management. We need to  
8 address the sensitivity of the monitored parameters or  
9 variables to detect the effects. Are -- is the  
10 monitoring set up to actually at -- detect eff --  
11 effect size? If not, then we need to either increase  
12 the monitoring, which is the power to detect the  
13 change, or change indicators.

14                   Wolverine track counts -- the change  
15 from wolverine track counts to using DNA monitoring is  
16 one (1) example which we're arguably -- which has had  
17 success. And grizzly bear work using -- changing from  
18 using vegetation plots to the DNA monitoring that is  
19 currently being conducted is another example.

20                   The monitoring must be sensitive enough  
21 to detect the change or, and perhaps more importantly,  
22 avoid concluding no change when in fact one (1) is  
23 present. De Beers needs to always expect the  
24 unexpected. There are examples at the other mines  
25 where this has happened since the beginning. The size

1 of the zone of influence for caribou is one (1)  
2 example; caribou caught in the fencing around the  
3 airport structures is another; and the initial spat of  
4 wolverine mortalities associated with the two (2) mines  
5 near Lac de Gras is a third. Thank you.

6 MR. TODD SLACK: Thanks. And why is it  
7 important to get these details into the -- into the  
8 record now? While you're -- this panel is the only  
9 sort of regulatory or legislative option that exists to  
10 require the Proponent to do this. Right now, AANDC  
11 doesn't have this power. Its inspectors can't address  
12 wildlife. GNWT doesn't have the power to require this.  
13 So that's why we're bringing -- putting some of these  
14 things into the record.

15 And just to -- to wrap up here, the  
16 Company has arrived at the decision where they believe  
17 that this project won't have effects on caribou, water  
18 quality, or other issues; what impact there is will be  
19 insignificant or it can be mitigating.

20 Some thoughts on that assertion. The  
21 words on the page are not the land. We all know this.  
22 And what we also know is that every environmental  
23 assessment has underestimated the environmental impacts  
24 that they would have. Early the -- earlier in this  
25 process, the Proponent stated how they've built in many

1 conservatisms into their predictions. And I -- I hope  
2 they're right. But the mines that exist today, we know  
3 that they have been incorrect on some very important  
4 issues. And I -- I can just touch on three (3) of  
5 them.

6 BHP stated that their operation would  
7 never have an impact on the water quality of Lac de  
8 Gras. Diavik predicted caribou avoidance maximum of 7  
9 kilometres. Well, their last wildlife monitoring  
10 report reported fourteen (14) to 40 kilometres. Snap  
11 Lake predicted that their TDS level would never reach  
12 three hundred and fifty (350) parts per million.  
13 That's going to happen.

14 So what does this all mean? I just  
15 think we have to be careful when we treat the results  
16 on the page. This is a very comprehensive  
17 environmental impact statement, but those predictions  
18 are inherently wrong and they've been significantly  
19 wrong on critical issues.

20 Secondly, I can't help but wonder what  
21 mit -- what additional mitigations are available for  
22 cumulative effects and for indirect effects.

23 During the caribou population decline of  
24 the last few years, we have seen almost no changes to  
25 the operations that have lowered their -- the existing

1 operations -- pardon me -- that have lowered their  
2 impact to the Caribou herd. Part of this is we don't  
3 have a firm handle on why those impacts are occurring;  
4 but, regardless, the operations haven't changed.

5               So if the predictions have been wide of  
6 the mark on these past critical issues, despite the  
7 best efforts of all involved, it makes sense that trend  
8 will continue here.

9               Second, if we know that the ability to  
10 mitigate is somewhat limited on these core issues, this  
11 is a concern and we need to think very carefully. And  
12 the lessons in conservatism shouldn't be just applied  
13 in the modelling and the assumptions, but in the  
14 decisions that get made. And that's why the  
15 Yellowknives are asking for the measures that they are.

16

17               Land and water is precious, and if this  
18 mine is to be considered, then that is the threshold to  
19 which it must be restored. The project has done a -- a  
20 good job with their EIS, but without going further, the  
21 Yellowknives Dene will end up losing another part of  
22 their lands.

23               With your measures and suggestions, the  
24 project can and will do better. The bar can be raised  
25 to a point where the folks that I work for, they will

1 agree that the big promises that have been made, that  
2 those promises are met and that the land will be  
3 returned in a way that reflects their desires -- the  
4 desires of the people who need and use the land.

5 And, to me, that's the test for this  
6 project. If we want to see sustainable mining that Mr.  
7 Koropchuk talked about in his opening, well, then  
8 that's the threshold that must be met.

9 Thanks, Mr. Chair.

10 THE CHAIRPERSON: Thank you very much  
11 for your presentation. I'd like to recognize and  
12 acknowledge the presence of two (2) Yellowknife Dene  
13 First Nations chiefs who are here with us today and on  
14 whose traditional land we are meeting. We have Chief  
15 Roy Erasmus from N'Dilo and Chief Eddie Sangris from  
16 Dettah. Thank you for -- for being with us today.

17 We now are moving into questions from  
18 parties. And as I've done for the last two (2) days, I  
19 haven't quite memorized this list yet, but I'll work my  
20 way through it.

21

22 QUESTION PERIOD:

23 THE CHAIRPERSON: So first up, Akaitcho  
24 IMA Implementation Office...? Seeing none, we move on.

25

1 Dene Nation...?

2 Deninu Kue First Nation...?

3 Lutsel K'e First Nation...?

4 MR. MIKE TOLLIS: Thank you, Mr. Chair.

5 Mike Tollis from the Lutsel K'e Dene First Nation. I  
6 want to thank the Yellowknives for a great presentation  
7 and no questions at this time. Thank you.

8 THE CHAIRPERSON: Thank you. NWT Metis  
9 Nation...?

10 North Slave Metis Alliance...?

11

12 (BRIEF PAUSE)

13

14 MS. SUSAN ENGE: Good morning and thank  
15 you, Mr. Chairman. Susan Enge, North Slave Metis  
16 Alliance. And thank you to the Yellowknives --

17 THE CHAIRPERSON: Sue -- Sue Enge, is  
18 that?

19 MS. SUSAN ENGE: Sue Enge, North Slave  
20 Metis Alliance.

21 I have a question. I -- I really  
22 enjoyed that presentation. It gave me a little better  
23 understanding of the project before us. My question to  
24 the Yellowknives Dene First Nation is: Why, in your  
25 view, do you think that De Beers Canada is not



1 addressing SLEMA's recommendations from Snap Lake? And  
2 if you -- do you support an independent monitoring  
3 agency to monitor the environment and wildlife and the  
4 impacts on people?

5 I understand that the Company does not  
6 support an independent agency. They're discussing  
7 another group, to which we have not been involved, so  
8 my question to you is:

9 Why, in your view, is De Beers Canada  
10 not supporting an independent agency or SLEMA's  
11 recommendations to date? Thank you.

12 THE CHAIRPERSON: Thank you. Who is  
13 going to respond? Todd Slack...?

14 MR. TODD SLACK: Thanks, Mr. Chair.  
15 And thank you for the question.

16 Without understanding which  
17 recommendations -- which SLEMA recommendations and  
18 knowing a little bit more about it, I can't really  
19 answer that question.

20 In terms of the independent oversight,  
21 the Yellowknives have worked to develop the Ni Hadi  
22 Yati group, and we feel that this is the -- the best  
23 option moving forward. And we're -- while much remains  
24 to be done with it we're very optimistic in terms of  
25 its ability to meet the -- some of the requested

1 measures that we had in our technical report. Thanks.

2 THE CHAIRPERSON: Thank you. Sue

3 Enge...?

4 MS. SUSAN ENGE: Thank you, Mr.

5 Chairman. It was in your slide there, your reference  
6 to SLEMA, and that's why I was asking what your SLEMA  
7 concerns were.

8 THE CHAIRPERSON: Thank you. Todd

9 Slack...?

10 MR. TODD SLACK: Oh, sorry. Thanks.

11 The -- I understand what the recommendations were now.

12 There -- SLEMA had made some recommendations at the  
13 technical session. Sorry, Todd Slack for the

14 Yellowknives. And I can't speak on behalf of De Beers,

15 but I think SLEMA had made a good recommendation in

16 that case, and it was -- this is a question as to why

17 they didn't accept the recommendation, as far as I

18 know.

19 THE CHAIRPERSON: Thank you. Sue

20 Enge...?

21 MS. SUSAN ENGE: Okay. Thank you, Mr.

22 Chair. I have another question about the inspectors

23 that had been on site at Snap Lake. And it appears

24 that they need advance notice to go on site. And I'm

25 wondering if you can support that approach or whether

1 you have a different recommendation for inspections?

2 THE CHAIRPERSON: Thank you. Todd

3 Slack...?

4 MR. TODD SLACK: Thanks, Mr. Chair. I

5 -- I hes -- I'm kind of speaking on behalf of De Beers

6 here, but I do have a pretty good understanding of this

7 particular issue. And I stand to be corrected.

8 There was some concerns in terms of

9 inspector access, and this remains so. And we have

10 brought these both to the Company and to AANDC itself.

11 And my understanding is that the AANDC inspector is

12 free to enter the site at any point, but if he's going

13 to go there on a De Beers's flight, then some advance

14 notice is required.

15 Now, do I think that's the ideal way?

16 No. I -- I would like to see a more collaborative

17 approach that would allow surprise inspections, but I

18 respect both parties and I leave it to them to resolve

19 that.

20 THE CHAIRPERSON: Thank you. Sue

21 Enge...?

22 MS. SUSAN ENGE: Thank you, Mr. Chair.

23 During your presentation, you said that

24 predictions that the Company is making are inherently

25 wrong. So I'm wondering what mitigative measures you

1 think are required to avoid the Company being  
2 inherently wrong in their predictions during this  
3 process or in future planning?

4 THE CHAIRPERSON: Thank you. Todd  
5 Slack...?

6 MR. TODD SLACK: Thanks, Mr. Chair.  
7 Well, all predictions are inherently -- well, sorry,  
8 maybe not all, but most predictions are inherently  
9 wrong, because they are just that: They're a  
10 prediction.

11 What we've seen in the past is them be  
12 wrong in some important ways, and the Yellowknives have  
13 proposed a number of measures in their technical report  
14 that we think would lower the consequences associated  
15 with incorrect predictions. So I'll leave it at that,  
16 I think.

17 THE CHAIRPERSON: Thank you. Sue  
18 Enge...?

19 MS. SUSAN ENGE: I just have a couple  
20 more questions. One is our Elders at the Metis  
21 Alliance are not willing to put at stake our watershed.  
22 And I know the Company is working hard to ensure  
23 mitigative measures are acceptable to our Elders, and  
24 that is being discussed at the traditional knowledge  
25 workshops. And we are -- we are continuing with the

1 discussion with the Company on that as well.

2 But what do you feel comfortable with,  
3 in terms of their promises to protect the watershed?

4 THE CHAIRPERSON: Thank you. Todd  
5 Slack...?

6 MR. TODD SLACK: Todd Slack,  
7 Yellowknives Dene. The -- that's a -- a very broad  
8 question. And the underlying response is that I think  
9 the Company has done a fairly good job in their  
10 approach. In terms of the specifics, and especially in  
11 regards to closure, the Yellowknives Dene would have  
12 concerns -- or, do have significant concerns. And we  
13 would like to -- to work on that, and we'd like to work  
14 with them early in the process. And that was one of the  
15 -- one of our focusses.

16 It -- it's my belief that if the  
17 Yellowknives Dene views are addressed within that  
18 structure, then the watershed will be protec --  
19 protected. The Yellowknives Dene are not -- rather  
20 than looking at it in such a way that -- which promises  
21 do we support, well, we can identify the concerns.  
22 That's probably an easier way.

23 The Yellowknives Dene are concerned  
24 about a -- a lot of things here. But in terms of the  
25 water, some of the things are the exceedance of CCMEs,

1 the site-specific water quality, the presence of fish  
2 in the water management pond. There's a list --  
3 there's a long list that goes along with that, and  
4 we've tried to bring as many of them forward. And we  
5 will continue to do that in the next stages as well.

6 THE CHAIRPERSON: Thank you. Is this  
7 the final question, Sue?

8 MS. SUSAN ENGE: Yes. Thank you, Mr.  
9 Chair. Thank you, Mr. Slack. During our discussions  
10 with the project -- Company, we had mentioned during, I  
11 think it was, the aquatic effects monitoring plan  
12 workshop, where we felt there was a need, and I believe  
13 your -- the Yellowknives Dene First Nation supported  
14 this concept at that workshop.

15 But I just wanted to get verification  
16 whether or not you support a traditional knowledge  
17 specialist working at the executive level in the  
18 Company who would have decision-making powers to --  
19 over the mine operations during its life and closure so  
20 that mitigative measures for caribou or whatever other  
21 environmental impact is occurring would -- could be in  
22 place.

23 THE CHAIRPERSON: Thank you. Todd  
24 Slack...?

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

1 The Yellowknives Dene would support any additional  
2 resources towards traditional knowledge. We have  
3 internally been working, and we acknowledge that the --  
4 we acknowledge that this process requires both the  
5 Yellowknives and the Company to move forward.

6 In the past, the resources have been  
7 limited and the incorporation has been weak. And we  
8 want to do a better job. That means we have to do a  
9 better job, and it means the Company has to do a better  
10 job. And any and all resources are require -- are --  
11 are appreciated.

12 THE CHAIRPERSON: Thank you. Thank you  
13 for your questions.

14 MS. SUSAN ENGE: That concludes my  
15 questions. Thank you, Mr. Chair.

16 THE CHAIRPERSON: Thank you. Next is  
17 the Tlicho government.

18

19 (BRIEF PAUSE)

20

21 MR. HENRY ZOE: Good morning, Mr.  
22 Chair. Henry Zoe, Tlicho government. I have a couple  
23 of questions, Mr. Chairman. I'd like to ask Todd:

24 Can you please describe how you would  
25 see the monitoring you described implemented in Ni Hadi

1 Yati?

2 THE CHAIRPERSON: Thank you. Mr. --

3 Mr. Slack...?

4 MR. TODD SLACK: Thanks, Mr. Chair, and  
5 thanks, Henry. That -- you know, we're going with big  
6 questions this morning.

7 We're still at the early stages the --  
8 the Yellowknives have worked with all of the groups for  
9 Ni Hadi Yati. And our -- our intention is to submit  
10 additional information in our closing comments later  
11 this month. But the monitoring hasn't been a focus of  
12 that to date. We would like to see Yellowknives Dene  
13 members as a part of this process, and we want to see  
14 this done in a collaborative way, ideally by consensus,  
15 that it brings together both First Nations'  
16 perspectives and western science.

17 It's hard to -- to say beyond that,  
18 because we want to work with all the partners, but -- I  
19 hope that answers the question.

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

22 MR. HENRY ZOE: Thank you. Secondly,  
23 can you describe how you would see the WEMP fitting  
24 into and forming the work of the proposed Ni Hadi Yati?

25 THE CHAIRPERSON: Thank you. Todd



1 Slack...?

2 MR. TODD SLACK: Thanks. Yeah, the  
3 WEMP is going to -- well, sorry, obviously going to be  
4 one of the primary drivers of this. And the discussion  
5 to date is that the WEMP will be part of the binding  
6 agreement that establishes Ni Hadi Yati.

7 And so if the Board makes a measure  
8 along -- makes measures along the lines that the -- the  
9 joint presentation proposed, the WEMP will be required  
10 through the --

11 THE CHAIRPERSON: Excuse me, acronyms  
12 are tough, please.

13 MR. TODD SLACK: You're -- of course.  
14 My apologies again. The WEMP is the wildlife effects  
15 monitoring program. That will be a requirement of the  
16 Ni Hadi Yati group, and it must be done as part of that  
17 agreement. So the results generated from that will be  
18 fed back to Ni Hadi Yati, where they're reviewed by the  
19 advisors, and the advisors provide advice to each of  
20 the parties.

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

23 MR. HENRY ZOE: Thank you. I have no  
24 further questions.

25 THE CHAIRPERSON: Thank you.

1 Aboriginal Affairs and Northern Development...?

2 MS. MICHELE CULHANE: Michele Culhane,  
3 with Aboriginal Affairs. We have no questions.  
4 Thanks.

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

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

10 THE CHAIRPERSON: Thank you. Fisheries  
11 and Oceans Canada...?

12 MS. BEV ROSS: Thank you, Mr. Chair,  
13 and thank you for the presentation. Bev Ross,  
14 Fisheries and Oceans Canada. We have no questions.

15 THE CHAIRPERSON: Thank you.  
16 Government of the Northwest Territories...?

17

18 (BRIEF PAUSE)

19

20 MR. GAVIN MORE: Gavin More, Government  
21 of the Northwest Territories. I have about three (3)  
22 questions. The first one (1) is to correct Mr.  
23 Slack on his comments that the GNWT does not support  
24 the wildlife management plan. It obviously got a  
25 little confusing when they actually got and supported

1 what the GNWT has actually been trying to focus on,  
2 which is the wildlife effects monitoring program.

3                   The key for us is that that's the  
4 element that fits into the program for cumulative  
5 effects -- cumulative effects monitoring. And of  
6 course it's also the question of consistency amongst  
7 the various mines in terms of the monitoring program.  
8 It struck me that their later comments supported fully  
9 the WEMP, but I would like to clarify that -- that we  
10 have not said that a wildlife management plan is also  
11 not required. So that's just a comment.

12                   I won't ask the question, because I -- I  
13 think there's been enough confusion put in front of the  
14 panel based on the back-and-forth questioning. But I  
15 would like to lead into the -- to the rather broad  
16 question of measure related to cumulative effects.

17                   And I think the key for us -- I think if  
18 you look at the barren-ground caribou, barren-ground  
19 caribou from the Bathurst herd, the range flows into  
20 Nunavut, it flows into Saskatchewan, as well as the  
21 NWT.

22                   And I'd like to ask the Yellowknife Dene  
23 how they see the role of this Board with that  
24 particular, rather broad measure request fitting to  
25 past projects that exist in the NWT, but also how it

1 ties into other governments, other jurisdictions, and  
2 other projects in those jurisdictions.

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

5 MR. TODD SLACK: Well, we're sticking  
6 with the tough questions, I see. We would be happy to  
7 talk about this, but this is a big question and --  
8 which programs, which other considerations need to be  
9 made. And this is -- I'm going to reply with a bit of  
10 a side step. But as I said, the Yellowknives Dene, it  
11 doesn't matter who does it; it matters that someone  
12 exercises leadership.

13 If we had the opportunity to do it, I --  
14 I have no doubts that the Yellowknives would -- would  
15 take this on as well, if they had the resources and the  
16 opportunity. But that just isn't going to happen. So  
17 who has the mandate? Who has the responsibility? Well,  
18 I would argue that it lies with the Crown, and in this  
19 case, AANDC has made it clear that GNWT is responsible  
20 for caribou. GNWT has not addressed this need; we  
21 recognize that. We have seen the com -- the companies  
22 come together and exercise some leadership on the other  
23 species.

24 So I think the Yellowknives would be  
25 open to any solution, regardless of who's doing it,

1 regardless of what programs are affected. There's a  
2 clear need. That's the -- and something has to be  
3 done.

4 THE CHAIRPERSON: Thank you.

5 MR. GAVIN MORE: Thank you, Mr. Chair.  
6 Gavin More, GNWT. I guess my next question would be,  
7 then, are the Yellowknives Dene familiar with the  
8 Caribou Forever strategy? We're into our second five  
9 (5) year strategy.

10 And I think I'd like to find out whether  
11 Mr. Slack or the other representatives of the  
12 Yellowknives Dene are familiar with that strategy?

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

15 MR. TODD SLACK: Todd Slack,  
16 Yellowknives Dene. Yes, I am familiar with it, and I  
17 do agree that it addresses cumulative effects, or it  
18 mentions it. However, the budgetary notes in that --  
19 and I don't have it in front of me, but it allocates  
20 money and responsibility to past years, just as the  
21 previous Bathurst caribou management allocated  
22 responsibility for caribou.

23 I went and I looked at the main  
24 estimates for GNWT. I looked at the -- not the main  
25 estimates, but the report of spending. Well, there was

1 a single transfer in -- in that report of -- for  
2 cumulative effects. And where this is going, we don't  
3 know. What's being done, we're not seeing results.

4 So I agree that that responsibility is  
5 mentioned in there. I agree that it proposes budgetary  
6 items towards that. But it -- these things have not  
7 been fulfilled, either in terms of spending or in terms  
8 of results. And for government, when you see how they  
9 spend their dollars, that's where their priorities lie.

10 THE CHAIRPERSON: Thank you.

11 MR. GAVIN MORE: Thank you, Mr. Chair.  
12 Gavin More, GNWT. I think the -- I wanted to end on  
13 that one point that the strategy is, from our point of  
14 view, very critical. It relates to more than just the  
15 Bathurst herd, because we have a broader -- we have a  
16 larger number of herds in the -- in the territory that  
17 have to be managed and planned for.

18 And I think one of the -- the points  
19 that we would raise is that one of the key issues for  
20 the area would be support of parties to complete the  
21 Bathurst management plan, and I -- I think that's --  
22 that's the key area that people have mentioned.

23 THE CHAIRPERSON: We need you to get  
24 the question, please.

25 MR. GAVIN MORE: Yes. I guess maybe

1 that would be the question. Are the Yellowknife Dene,  
2 since they've indicated that they are supportive of  
3 working together with other parties, are they  
4 supportive of completing the Bathurst management plan?

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

7 MR. TODD SLACK: The Bathurst caribou  
8 management plan, the Yellowknives have participated in  
9 this. But without knowing what it's going to look  
10 like, it's hard to say whether the Yellowknives are  
11 going to support it.

12 And, you know, with all due respect to  
13 GNWT's position that they have a lot of caribou herds  
14 to manage, well, yeah, they do. And I -- I feel bad  
15 for that great responsibility. But the issue from the  
16 Yellowknives' perspective that we're bringing forward  
17 today is there is a caribou crisis going on.

18 The harvesting has been reduced from --  
19 from GNWT's numbers -- four thousand (4,000) animals to  
20 a hundred and fifty (150). Well, that represents an --  
21 a hardship for folks. And their -- make no mistake,  
22 that it is having a real effect.

23 The want to have a penned Territory  
24 response for cumulative effects. Well, you know, that  
25 would be great, especially if it addresses the concern

1 here. But we can't wait another ten (10) years for  
2 something to happen. It's been fifteen (15) years  
3 since BHP started and we're still at a very early  
4 stage.

5 THE CHAIRPERSON: Thank you.

6 MR. GAVIN MORE: Gavin More, GNWT. I  
7 have no more questions, thank you.

8 THE CHAIRPERSON: Thank you. Natural  
9 Resources Canada...?

10 MR. JOHN KING: John King, Natural  
11 Resources Canada. We have no questions, thank you.

12 THE CHAIRPERSON: Thank you. Parks  
13 Canada...?

14 MS. ANN RONALD: Ann Ronald, Parks  
15 Canada. We have no questions, thank you.

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

18 MR. MIKE MOLINSKI: Mike Molinski,  
19 Transport Canada. I have no questions, thank you.

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

22 MS. VERONICA CHISHOLM: Veronica  
23 Chisholm, from De Beers. Thank you very much for your  
24 presentation. Much appreciated. We just have a few  
25 questions. I have a few questions, and then I'll --



1 I'll pass it on to Stephen Lines. I think they're  
2 fairly simple questions.

3 With respect to the closure plan, Mr.  
4 Chairman, I'm just wondering if the Yellowknives Dene  
5 are familiar with the fact that De Beers has a  
6 commitment to provide an updated reclamation and  
7 closure plan as part of the water licensing phase?

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

10 MR. TODD SLACK: Todd Slack. I'm  
11 familiar with the commitment, but the water licensing  
12 phase is a long time, or can be a long time. And thi -  
13 - this is -- we -- we -- the Yellowknives sought to  
14 have this addressed through the Information Request,  
15 through the technical report -- or technical sessions.  
16 And I would suggest that this is overdue to have these  
17 additional details and precision in language so that  
18 we're -- everyone is clear.

19 The commitment that is made, we  
20 acknowledge that the plan is part of the licensing --  
21 an updated plan is part of the licencing process, but a  
22 commitment is just a commitment. And while we want to  
23 trust the Company, you know, due diligence requires  
24 that these things be enshrined in something that has  
25 additional ba -- backing if we want it done sooner than

1 later.

2 THE CHAIRPERSON: Thank you.

3 MS. VERONICA CHISHOLM: Veronica  
4 Chisholm, from De Beers. Just a follow-up on that.

5 There is a commitment to involve  
6 Aboriginal parties and their traditional knowledge  
7 through life of mine. In fact, the acknowledgement that  
8 the traditional knowledge report that's going to be  
9 produced by the Yellowknives Dene will be included as  
10 part of the closure plan. De Beers has made that  
11 commitment and will follow up on that commitment.

12 So my question to the Yellowknives Dene  
13 is: Are they familiar with those commitments that have  
14 been made to date?

15 THE CHAIRPERSON: Thank you. Mr.  
16 Slack...?

17 MR. TODD SLACK: Todd Slack. Yes,  
18 we're familiar with that commitment and we acknowledged  
19 that in our presentation. But, again, a commitment  
20 from the Company -- it -- it doesn't have any backing  
21 after this permitting process. It's been the  
22 Yellowknives' experience that companies come in and  
23 promise a lot of things before permits. And we're going  
24 to trust you on the ones that aren't essential, but  
25 these essential ones have to receive some sort of

1 backing.

2 THE CHAIRPERSON: Thank you.

3 MS. VERONICA CHISHOLM: Veronica  
4 Chisholm, from De Beers. I just have one (1) other  
5 question with respect to closure.

6 I'm just wondering if the Yellowknives  
7 Dene can appreciate the fact that closure and  
8 reclamation plans are an iterative process. Part of  
9 things that we talked about in our conceptual closure  
10 plan is that we would do progressive reclamation. And,  
11 as a result, we would have to update our closure and  
12 reclamation plans on a regular basis.

13 My question is: Is the Yellowknives  
14 Dene familiar with that process and that approach to  
15 closure and reclamation planning?

16 THE CHAIRPERSON: Thank you. Mr.  
17 Slack...?

18 MR. TODD SLACK: The Yellowknives Dene  
19 are very familiar with the interim closure and  
20 reclamation plan, and we're familiar with working with  
21 De Beers on an interim closure and reclamation plan.  
22 But the difference between the state of those plans and  
23 the qual -- or the state of this plan is significant.

24 During the Snap Lake process and I --  
25 sorry, interim closure and reclamation process, we

1 often find ourselves going back to the EA stage to find  
2 out what promises were made, what commitments were  
3 made. And this is why we would like to see this done  
4 sooner, get the details in place, get the clarity, and  
5 then that way we are moving from a solid document  
6 rather than a more obscure one.

7 THE CHAIRPERSON: Thank you. De  
8 Beers...?

9 MS. VERONICA CHISHOLM: Thank you for  
10 the response. I -- I have one (1) other question, and  
11 then I will just put it to my colleague, Mr. Lines.  
12 But my question is regarding a comment made by Mr.  
13 Poole regarding testing mitigation measures, and there  
14 was a reference to dust.

15 And I'm just wondering if he's familiar  
16 with the haul road summary report in which we went into  
17 the field and tested the mitigation measures, road  
18 watering, and how effective they were on dust -- if  
19 he's had an opportunity to review that. It was put on  
20 the registry on September 28th, 2012.

21 THE CHAIRPERSON: Thank you.

22 MR. KIM POOLE: Thank you, Mr. Chair.  
23 Kim Poole. No, I have not reviewed that.

24 THE CHAIRPERSON: Thank you.

25 MS. VERONICA CHISHOLM: Thank you. I

1 will now pass it on to my colleague, Mr. Lines, to ask  
2 a few more questions.

3 THE CHAIRPERSON: Yeah. I want to get  
4 an idea how many.

5 MR. STEPHEN LINES: I'd say I probably  
6 have two (2) or three (3), Mr. Chairman, if that's  
7 okay. Stephen Lines, for De Beers, Mr. Chairman. If  
8 you'd just maybe allow me make a -- a comment before I  
9 get into the questions, I just wanted to address what  
10 Mr. Slack had talked about with respect to De Beers's  
11 approach to working with inspectors and find that it  
12 was -- Mr. Slack has a view on it, but I think it's for  
13 De Beers to speak to.

14 We do work very closely with the federal  
15 government inspectors wherever possible. We do sort of  
16 coordinate the -- the site visits, and sometimes they  
17 drop in. So I just wanted to clarify that.

18 Just going to the -- to the questions, I  
19 guess I'm going to try and subdue a certain level of, I  
20 guess, frustration, but -- and -- and I understand that  
21 Mr. Poole wears a lot of hats. I'm sure he has a lot  
22 on -- on his plate.

23 But I just want to clarify that he  
24 recalls the wildlife working group and the workshop  
25 that led to the development of the wildlife effects

1 monitoring program.

2 MR. KIM POOLE: Kim Poole, Yellowknives  
3 Dene. Sorry, the question was whether I recall the  
4 workshop that I was in? Yes.

5 MR. STEPHEN LINES: Thank you.

6 THE CHAIRPERSON: I -- I was  
7 distracted. I'm not sure which way I'm going. De  
8 Beers...?

9 MR. STEPHEN LINES: Thank you, Mr.  
10 Chairman. Stephen Lines, for De Beers. That's --  
11 thank you, Mr. Poole. So with that, then, the outcome  
12 of the wildlife effects monitoring plan included  
13 various different studies that were referenced in the  
14 Yellowknives Dene presentation. And I -- my question  
15 then would be:

16 Does -- is Mr. Poole aware that the  
17 wildlife effects monitoring program includes studies  
18 for zone of influence, studies for causal effects  
19 between dust and noise, behavioural studies with  
20 distance from mine, and a TK study related to  
21 behavioural effects and barrier effects along the  
22 winter road?

23 MR. KIM POOLE: Yeah. Kim Poole,  
24 Yellowknives Dene. Yes, I'm aware of those. I'm also  
25 aware that the plan does not address anything to do

1 with partial barrier or filter effects of the winter  
2 road. I could see nothing in that. I checked the  
3 October 4th version, I think, which is the latest, of  
4 the WEMP, and I did not see anything to do with that.

5 I also note that the zone of influence  
6 design seems to be, to me, quite weak in the sense that  
7 it's aerial surveys that have been proposed. But when  
8 you look at the extent of the aerial surveys, to be  
9 able to determine a zone of influence, you have to  
10 survey essentially beyond the expected zone of  
11 influence. And on an east-west gradient, the lines  
12 only go out to about 13 or 14 kilometres from the  
13 infrastructure from the mine site.

14 So if you -- if the same kind of zone of  
15 influence that has been determined for the Lac de Gras  
16 mines is present in -- in Gahcho Kue, then the study is  
17 going to have a hard time determining whether an actual  
18 zone of influence exists.

19 THE CHAIRPERSON: Thank you. De  
20 Beers...?

21 MR. STEPHEN LINES: Thank you, Mr.  
22 Chairman. It's Stephen Lines again.

23 I'm wondering if Mr. Poole would agree  
24 that that level of detail could be worked out, as De  
25 Beers is committed to, through consultation with the

1 GNWT and the -- and the communities?

2 THE CHAIRPERSON: Thank you.

3 MR. TODD SLACK: Todd Slack,

4 Yellowknives Dene. And I'm sure Mr. Poole would agree  
5 that this could be worked out. But in the absence of  
6 something that requires a wildlife -- and I might screw  
7 up the -- the particular term, but the wildlife  
8 monitoring program I believe is the one that we're  
9 going with, something that requires that, then the  
10 Company would be free not to do this. So we are open,  
11 and we hope to work with the Company, and we have  
12 worked with the Company to date, but we're also looking  
13 for something that enshrines this.

14 THE CHAIRPERSON: Thank you. De  
15 Beers...?

16 MR. STEPHEN LINES: Thank you, Mr.  
17 Chairman. The presentation referred to is a lack of  
18 analysis of the winter road and caribou. I'm just  
19 wondering if the Yellowknives Dene are aware of De  
20 Beers's response in qualitative assessment on this  
21 matter in response to the Gahcho Kue panel Information  
22 Request number 4, Tlicho government Information Request  
23 response number 44, and the Yellowknives Dene First  
24 Nation request IR response 3.38.

25 THE CHAIRPERSON: Thank you.



1 MR. KIM POOLE: Yeah. Kim Poole,  
2 Yellowknife Dene. Yes, I am familiar with all of them.  
3 I did an extensive review of -- of Tlicho government IR  
4 44. And, again, from a road movement and filter point  
5 of view, there wasn't anything in it of substance. It  
6 did -- it was not addressed, in my opinion.

7 THE CHAIRPERSON: Thank you. De  
8 Beers...?

9 MR. STEPHEN LINES: Thank you. My last  
10 question, Mr. Chairman.

11 I wonder if the Yellowknives Dene would  
12 agree that this is something that can be studied around  
13 the road in the event caribou are there to do so?

14 THE CHAIRPERSON: Thank you.

15 MR. KIM POOLE: Kim Poole, Yellowknife  
16 Dene. Yes, I agree it can be studied. What I think  
17 we're looking for is that it -- the preparation is a  
18 little bit more firmed up and in place before we have  
19 to do a knee-jerk reaction to caribou being present.

20 I have the opportunity to look at the  
21 caribou collar -- collar information that is regularly  
22 put out by ENR, Environment and Natural Resources. And  
23 I noted that last week it looked like approximately one  
24 quarter (1/4) of the Ahiak caribou collars went through  
25 Gahcho Kue area.

1                   So this is sort of, you know, and easy  
2 example of saying, well, let's get something in place  
3 so we know what to do when they come rather than let's  
4 deal with it down the road if and when it happens. I'm  
5 fully aware that these things can be worked out, Mr.  
6 Lines. I'm just suggesting that they be worked out  
7 ahead of time, sooner than later.

8                   THE CHAIRPERSON:    Thank you.

9                   MR. KIM POOLE:     Oh, hang on, Mr. Chair.

10                  THE CHAIRPERSON:    Oh, okay.

11                  MR. TODD SLACK:     I'd like to add just  
12 one (1) -- one (1) thought to that. And the  
13 Yellowknives Dene participated in -- in 2009, there was  
14 a reconsideration of other wildlife effects monitoring  
15 programs at Snap, at Diavik, and at Ekati. We found  
16 this process to be very frustrating. We found it to be  
17 -- we found the companies -- instead of -- the  
18 Yellowknives' position coming into this was, hey, we  
19 want to work smarter. We don't want to do monitoring  
20 for monitoring's sake.

21                  And during this process, we felt -- and  
22 we have written letters to this effect -- that the  
23 companies took advantage of this opportunity not to do  
24 better work or to reallocate their effort, but rather  
25 to do less work. And while there always is an

1 opportunity to change and adapt and that's been a focus  
2 of this program, we don't want to get into that  
3 situation again. It took the better part of three (3)  
4 years for the grizzly bear project, a relatively non-  
5 controversial, agreed-on approach, to come to fruition.  
6 Well, three (3) years for something not that  
7 controversial, you know, wha -- what's going to happen  
8 when there's a -- a bigger issue here?

9 We don't want to spend ten (10) years --  
10 that's the life of this mine -- debating whether they  
11 should be doing something or shouldn't be doing  
12 something.

13 THE CHAIRPERSON: Thank you. Does that  
14 conclude the questions from De Beers?

15 MR. STEPHEN LINES: Thank you, Mr.  
16 Chairman. I'm -- I'm all done. I'd like to thank the  
17 Yellowknives Dene. Thank you.

18 THE CHAIRPERSON: Thank you. I guess,  
19 on behalf of the panel, I have to apologize to the  
20 people who are standing at the back. We have a small  
21 room, and it's very limited. I know I asked yesterday  
22 -- I want to do it again today -- please only occupy  
23 one (1) chair so that people could get a chance to sit  
24 down. Further to that, if there's chairs available,  
25 please make them available to staff so that we can --

1 we can get a few more people comfortable in the room.

2 We -- I understand from staff that we  
3 have four (4) or five (5) more questions, but we do  
4 have time for a health break. So we will break now and  
5 come back at twenty (20) to 11:00. Thank you.

6

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

8 --- Upon resuming at 10:30 a.m.

9

10 THE CHAIRPERSON: We are now at the  
11 stage in the -- to have panel staff and technical  
12 advisors ask questions, so I'll turn it over to Chuck.

13 MR. CHUCK HUBERT: Chuck Hubert, with  
14 the panel staff. Thanks, Mr. Chair. Anne Gunn, our  
15 technical advisor has two (2) questions; Terry Antoniuk  
16 has a couple; Kathy Racher has one (1); and Brigitte  
17 Masella has one (1). So I'll turn it over to Anne Gunn.

18 MS. ANNE GUNN: Mr. Chairman, I have  
19 just a -- a short question about clarification on one  
20 (1) of the points that the Yellowknives Denes raised.  
21 So I'll go ahead.

22 My question is -- is a clarification of  
23 your recommendations in the technical report, six (6)  
24 and seven (7). And they're specifically in the context  
25 of cumulative effects. Given the strength of the

1 concerns you've expressed for the caribou, I would like  
2 to ask you about the cumulative -- cumulative effects.

3 My understanding is that De Beers used,  
4 as endpoints in their assessment of cumulative effects,  
5 the endpoint of their assessment was calf survival -- I  
6 mean, their projection was based on calf survival,  
7 pregnancy rates, and the abundance of caribou.

8 So, those are range-wide, I think was  
9 the term you used, monitoring. I think other people  
10 have pointed out there's not a great deal of use of  
11 monitoring if it's not going to lead to -- to  
12 decisions.

13 And so at the cumulative effects level,  
14 what I'm looking for is what sort of clarif -- a  
15 clarification of what sort of management actions or  
16 mitigations would you be hoping to see or expect to see  
17 at the level of cumulative effects?

18 THE CHAIRPERSON: Thank you. Mr.  
19 Slack...?

20 MR. TODD SLACK: Todd Slack,  
21 Yellowknives Dene. That's a -- a very large question,  
22 and I -- I'm not going to have a good answer for it.

23 Fundamentally, the Yellowknives believe  
24 that this -- that development on the calving grounds  
25 needs to be treated as a range management issue. So

1 how does that tie into management actions?

2                   And we -- you know, we acknowledge that  
3 monitoring, absent management, doesn't provide a lot of  
4 value. It -- it does no good when you see the caribou  
5 are declining and then the -- to date, we've seen one  
6 (1) management action, and that's the restriction of  
7 harvest. There has been no management actions in terms  
8 of thresholds, in terms of level of development, in  
9 terms of land use planning. There's a lot of possible  
10 tools that could be used, but they -- at present, none  
11 of them are being used, except for harvest management.

12                   This is a very complicated issue, as we  
13 heard. We heard about some of the ins and outs. And  
14 again, the Yellowknives will be happy to participate in  
15 this as it goes along, but we don't have the answers.  
16 And right now, the Yellowknives don't have a treaty  
17 implementation. So there's very -- their ability to  
18 influence the process relies on our participation  
19 within the Board, within the Land and Water Boards.  
20 But again, they -- there's limitations there, because  
21 they don't address wildlife at the Land and Water Board  
22 stage.

23                   So I don't have a good answer.  
24 Something needs to be done. We would look at all  
25 options. But in terms of providing recommendations for

1 management, beyond land use planning and considerations  
2 of thresholds, I just -- I -- it's a -- it's a big  
3 question.

4 THE CHAIRPERSON: Thank you, Mr. Slack.  
5 Anne Gunn...?

6 MS. ANNE GUNN: Mr. Chairman, I have a  
7 second part, just a brief follow-up, if that -- okay.

8 You mentioned as reasonably foreseeable  
9 projects ten (10) mines. So the -- the magnitude of  
10 the cumulative effects is -- is likely growing. I  
11 mean, if -- as an -- an extrapolation say, 1 percent  
12 projection of reduction in number of caribou for one  
13 (1) mine, so if you have ten (10) mines, you're going  
14 to see a mag -- a much greater magnitude.

15 So this -- would you agree that there's  
16 some urgency towards getting a framework in place to  
17 deal with the cumulative effects?

18 THE CHAIRPERSON: Thank you. Todd  
19 Slack...?

20 MR. TODD SLACK: Absolutely. There's  
21 no question about that. And the other component to  
22 that is the mines to date that we've seen are in areas  
23 where research is sort of -- and traditional knowledge  
24 has indicated that caribou are less stressed by  
25 development.

1                   With the additional mines on the calving  
2 grounds, the Yellowknives are very concerned that --  
3 that those will have a differential type of effect,  
4 will have a higher level of impact than the clear  
5 observation of impacts that we've seen at Diavik and  
6 Ekati

7                   THE CHAIRPERSON:    Thank you.   Anne  
8 Gunn...?

9                   MS. ANNE GUNN:     Mr. Chairman, I think  
10 that answers my -- my -- I think I get the  
11 clarification I asked for.   Thank you.

12                  THE CHAIRPERSON:    Thank you.

13                  MR. TERRY ANTONIUK:   Terry Antoniuk.   I  
14 would like to also reference the recommendations of --  
15 that Yellowknives Dene First Nation have made.   And I  
16 have three (3) questions for those.   And, again, just  
17 seeking clarification on -- on the way that -- how the  
18 pieces of this puzzle come together.   It's similar to  
19 the questions over the last couple of days.

20                  So my first question is:   When I look at  
21 recommendations number 1, number 2, and number 3, and  
22 based on some of the information that you provided in  
23 your presentation earlier, is it -- is it correct that  
24 these three (3) recommendations would be covered off by  
25 the joint Ni Hadi Yati proposal with the specific terms



1 that are included in these three (3) recommendations?

2 THE CHAIRPERSON: Thank you. Mr.

3 Slack...?

4 MR. TODD SLACK: Todd Slack,

5 Yellowknives Dene. I'm just taking a second to re-read

6 these. Bear with be one (1) sec.

7

8 (BRIEF PAUSE)

9

10 MR. TODD SLACK: Todd Slack,

11 Yellowknives Dene. Yes, it's -- it's -- it would be my

12 belief that if the Ni Hati -- Ni Hadi Yati evolves in

13 the way that we expect it to, these recommendations

14 would be largely addressed.

15 THE CHAIRPERSON: Thank you.

16 MR. TERRY ANTONIUK: Terry Antoniuk.

17 Thank you for that. Turning now to recommendation

18 number 4, which speaks to cumulative effects

19 monitoring. And, again, for clarification, yesterday

20 there was some -- a presentation, a discussion, about

21 cumulative effects monitoring by Aboriginal Affairs and

22 Northern Development.

23 Does this recommendation address the

24 work that's undertaken by Aboriginal Affairs and

25 Northern Development under the cumu -- cumulative

1 impacts monitoring program, or is it intended to be  
2 broader than that?

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

5 MR. TODD SLACK: Todd Slack,  
6 Yellowknives Dene. It's the -- the Yellowknives'  
7 belief that the -- the cumulative impacts monitoring  
8 program is not addressing the goals here. We've seen  
9 in the -- Undertaking number 1, and I was going to  
10 reference it, but I cut it for time.

11 But when you look at the submissions and  
12 the -- the projects that that program has funded, they  
13 don't address the big picture. They are slices of the  
14 pie. And while they are productive, they are not the  
15 whole pie or the whole picture. The other thing to  
16 remember is the CIMP, as we heard, is a limited  
17 program, and each of those titles that appears is a  
18 relatively small study.

19 All -- and I spoke for De Beers earlier,  
20 so I'll speak on AANDC's behalf now. And I think that  
21 up until a couple of years ago the -- the CIMP award  
22 was for twenty thousand (20,000). And so you had to  
23 partner that with other dollars to -- you know, and  
24 twenty thousand dollars (\$20,000) does not give you a  
25 lot of money if you have to go to the barrens. And

1 they have increased that to fifty thousand dollars  
2 (\$50,000) a year now. But if we're talking the big  
3 picture here, you know, that's -- that's a different  
4 animal altogether.

5                   The second item here is that CIMP is an  
6 NWT program. I know Nunavut has a separate program,  
7 and I'm not aware of what is being done there. But  
8 it's my belief that that program is not addressing the  
9 question that you're inquiring here to. And this  
10 recommendation that we've -- the way that we've phrased  
11 this in such that we're not dictating what has to be  
12 done.

13                   We -- if it's a success, the parties  
14 will know it and they can create the structure, or  
15 someone creates the structure. And when people agree  
16 that it's working, that's what we're looking for in the  
17 measure here and that's what the -- the -- item A is  
18 about here.

19                   THE CHAIRPERSON: Thank you.

20                   MR. TERRY ANTONIUK: Thank you. Terry  
21 Antoniuk. One (1) -- one (1) last question then. So  
22 we've talked about project monitoring and miti --  
23 mitigation in the -- in the first three (3)  
24 recommendations. We've now talked about cumulative  
25 monitoring in this recommendation, now turning to the -

1 - to the -- the third component of cumulative effects  
2 management.

3 And the recommendation here calls for an  
4 adaptive management approach. And again, similar to  
5 the question to -- to the Tlicho government yesterday,  
6 there's been some proposals made by -- by De Beers, by  
7 Tlicho, and -- and here again.

8 And I -- just for clarification, this  
9 adaptive management approach, does that -- is that  
10 along the lines of an aquatic -- the aquatic model of a  
11 response framework with clear objectives and/or action  
12 levels, whatever the terminology is linked to  
13 mitigation and monit -- monitoring at the herd level,  
14 or is it something else?

15 THE CHAIRPERSON: Thank you. Mr.  
16 Slack...?

17 MR. TODD SLACK: Todd Slack,  
18 Yellowknives Dene. It -- I think it's those things,  
19 but it's more. We -- one of our IRs to the Company was  
20 to try and seek and understand what additional  
21 mitigations are possible if observations and the dat --  
22 data and information is showing that they are having  
23 additional impacts or that the caribou population isn't  
24 recovering.

25 And so there's that project-specific

1 level. But this recommendation ideally feeds not just  
2 into the adaptive management here, but the adaptive  
3 management across the range and the management  
4 responses. And your discussion about the response  
5 framework, I know that came up in the BHP licensing  
6 process.

7                   And those words don't necessarily mean  
8 much to me, but the idea that I have is that you're  
9 creating a situation in which you have if/then  
10 situations. So if item A happens, then mitigation X,  
11 Y, and Z are possible. And that should be identified  
12 ahead of time, because if you wait until -- if the  
13 caribou go down to 10,000, let's say, well, no, that's  
14 not adaptive management. That's crisis management.

15                   And we want to know what options are  
16 avail -- we sought to know what's available ahead of  
17 time, at least with this project. But we want to see  
18 it across the whole range so that we're not splitting -  
19 - again, splitting all these things into individual  
20 parts and that the -- the picture that is being  
21 considered is not just this project, but the caribou.  
22 And that's the goal that we're seeking.

23                   THE CHAIRPERSON:    Thank you.

24                   MR. TERRY ANTONIUK:   Terry Antoniuk.

25 No more questions, thank you.

1 MR. CHUCK HUBERT: Brigitte Masella...?

2

3 MS. BRIGITTE MASELLA: Thank you.

4 Brigitte Masella, for the panel. During the  
5 presentation on Ni Hadi Yati, it was said that it will  
6 provide a communication forum for all parties who share  
7 many of the same concerns, including socioeconomic  
8 impacts.

9 And how do you see Ni Hadi Yati  
10 incorporating the monitoring of the socioeconomic  
11 impacts of the project and the associated adaptive  
12 management process?

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

15 MR. TODD SLACK: Todd Slack,  
16 Yellowknives Dene. From -- from the Yellowknives'  
17 perspective, we haven't been -- we don't have a good  
18 feeling for this and we don't know that it will. The  
19 goal of our involvement to date with the Ni Hadi Yati  
20 is that it's going to prepare us better for  
21 understanding impacts associated with this mine. And  
22 there was a question yesterday about the cumulative  
23 effects.

24 The Ni Hadi Yati is going to work with  
25 Gahcho Kue's informa -- or data that they develop and

1 help turn that into -- into information that the  
2 parties -- the Yellowknives Dene, can act on. And then  
3 when we file our submissions to the Boards that we  
4 aren't forced to consider data, that we're forced to  
5 consider information.

6 But, to date, the Yellowknives' invol --  
7 involvement has been on the wildlife and effects to the  
8 land and the water. The socioeconomic impacts haven't  
9 been a -- a major focus and I'm not sure that they will  
10 be.

11 THE CHAIRPERSON: Thank you.

12 MS. BRIGITTE MASELLA: Okay, thank you.

13 DR. KATHY RACHER: Kathy Racher, for  
14 the panel. On -- on Wednesday, De Beers clarified what  
15 traditional uses it believed -- it would ensure that it  
16 -- were -- were protected or -- or ensured, I guess, at  
17 mine closure. And these all relate, in this case, to  
18 water quality issues.

19 They -- they stated that the lakes in  
20 the area, including Kennady Lake, would be safe to use  
21 as drinking water, that there would be fish to catch,  
22 fish to eat, and be navigable. And that was De Beers's  
23 opinion on what the traditional uses are that they are  
24 -- that they are meant to protect or what people want  
25 them to protect in that area.

1                   And I just wanted to check in with  
2 people. If that is really, for example, for the  
3 Yellowknives Dene First Nation, if those are the kind  
4 of traditional uses that you are also seeking to  
5 protect and have at closure.

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

8                   MR. TODD SLACK: Todd Slack, the  
9 Yellowknives Dene. Yes, of course, those are some of  
10 the uses and some of the things, but I think that, just  
11 as in the closure discussion, we get into an issue of  
12 language here.

13                   That when -- for -- for example, when  
14 the Elders talk about the quality of the fish, Western  
15 science may say, Hey, this fish is good to eat. But  
16 what we've seen internally is that the Elders have  
17 observed changes with the fish. That they're --  
18 they're soft -- the flesh is softer, for instance.

19                   And the -- the way that the people use  
20 the land, they have a different and a -- a more innate  
21 connection to it. And they see things that while  
22 numerically may be healthy or may be safe, that's not  
23 the -- the way that they want this site to either  
24 operate or to go back to.

25                   As I said, like, this is pristine water.



1 It's arguably some of the purest land on -- left on  
2 Earth. That needs to be reflected in the end goals and  
3 in the operational management. Yeah, I -- I hope that  
4 helps.

5 THE CHAIRPERSON: Thank you.

6 DR. KATHY RACHER: Kathy Racher, for  
7 the panel. Just a follow-up then to that. I was  
8 wondering in your -- the technical report that you  
9 submitted and you obviously fo -- focussing a lot on  
10 caribou, and there wasn't a lot of details on water  
11 uses, for example, traditional uses.

12 And I wondered if, in your closing  
13 statements, you can elaborate on some of the things you  
14 just -- you just mentioned, some of the clarifications  
15 about traditional uses with respect to water, for  
16 closure objectives or during operation?

17 THE CHAIRPERSON: Thank you. Mr.  
18 Slack...?

19 MR. TODD SLACK: Of course.

20 THE CHAIRPERSON: Does that complete  
21 technical support? Now we'll move on to legal counsel.

22 MR. JOHN DONIHEE: Yes, it does, Mr.  
23 Chairman. It's John Donihee, for the panel. I just  
24 have a couple of quick questions.

25 Mr. Slack, this morning you talked about

1 the objectives for the closure plan and indicated that  
2 your -- that the YKDFN had some concerns about the  
3 language in those objectives. I -- I just want to  
4 clarify that I guess the nature of the suggestion or  
5 recommendation that you're making to the panel -- and -  
6 - and so let me simply ask then:

7                   Is what you want simply clearer -- more  
8 clearly stated definitions at this stage, or are you  
9 really asking for some additional effort to redo what -  
10 - what is really a very preliminary closure plan at  
11 this point?

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

14                   MR. TODD SLACK: Both, and it's not  
15 just the definition of a word; it's clear understanding  
16 between the Yellowknives and the Company as to what the  
17 words mean. The word can be defined in many ways, but  
18 the intent and the context that goes along with it is  
19 just as important.

20                   THE CHAIRPERSON: Thank you.

21                   MR. JOHN DONIHEE: Thank you, Mr.  
22 Chairman. John Donihee again. It's normal, once the  
23 environmental assessment process is over -- many of  
24 them are -- are triggered by water licence  
25 applications. And of course one of the purposes of

1 environmental assessment is to test a project and,  
2 consequently, it's not unusual for changes to the  
3 project scope or design to take place during the, and  
4 as a result of the, environmental assessment process.  
5 So I suspect that De Beers will be looking at, you  
6 know, their application for a water licence  
7 automatically once the environmental assessment process  
8 is over.

9 I -- I'm just wondering whether, you  
10 know, during that normal process, if they interact with  
11 the Yellowknives Dene in the way that you've asked for,  
12 is that -- is that satisfactory? Is that -- does that  
13 solve the problem that you've raised, or are you really  
14 asking for something even beyond what would happen on -  
15 - on the runup to the regulatory process?

16 THE CHAIRPERSON: Thank you. Mr.  
17 Slack...?

18 MR. TODD SLACK: Todd Slack, yeah,  
19 Yellowknives Dene. We're absolutely -- the  
20 Yellowknives are absolutely asking for more than is  
21 usually submitted during the water licensing process.  
22 When you go back and you look at the -- and I'm going  
23 to get the -- the -- I'll probably get it backwards,  
24 but if this one is a preliminary closure plan, then  
25 there's also a conceptual closure plan, or vice versa.

1                   And when you go back and look at the  
2 water licensing applications with the -- the previous  
3 mines, even that initial application wouldn't --  
4 wouldn't be the kind of thing that we're looking for.  
5 We're hoping to see this be something of significant  
6 focus and to be done in the very near term. The -- the  
7 water licensing process can take some time.

8                   That would help us all understand what  
9 the likely impacts are going to be and to understand  
10 what -- or provide both parties clarity on what they're  
11 promising and what the Yellowknives have heard  
12 promised.

13                   THE CHAIRPERSON:     Thank you.

14                   MR. JOHN DONIHEE:     Thank you, Mr.  
15 Chairman. I'm -- at great risk, I'm going to try this  
16 one more time. It's John Donihee. I wonder, Mr.  
17 Slack, then if you could be clear what exactly --  
18 you're asking the panel for a measure. What exactly  
19 does that -- should that measure say about how this  
20 process should work, the process you're describing of  
21 working with De Beers?

22                   How should that work so that when the  
23 revised water licence application goes forward, the  
24 Yellowknives are satisfied?

25                   THE CHAIRPERSON:     Thank you. Mr.

1 Slack...?

2 MR. TODD SLACK: Todd Slack,  
3 Yellowknives Dene. And to -- to be -- we try to -- to  
4 get this process moving during IRs, during technical  
5 sessions, and -- because it is an important issue.  
6 This is the tradeoff, the -- how they're going to leave  
7 the site. But what we want to see is something akin to  
8 a second or third ICRP -- sorry, interim closure and  
9 reclamation plan. So Snap Lake is just starting this,  
10 but BHP is on version 3?

11 MR. KIM POOLE: Yeah.

12 MR. TODD SLACK: And Diavik is on  
13 version 2, and that's the -- the level of data that we  
14 -- level of data and clarity that we want to see going  
15 into the water licensing process.

16 THE CHAIRPERSON: Thank you.

17 MR. JOHN DONIHEE: Thank you, Mr.  
18 Chairman. I have one (1) other question, and it  
19 relates to the Ni Hadi Yati -- I know I'm  
20 mispronouncing that, my apologies -- and it -- it's the  
21 similar question that -- that -- or similar to the  
22 question that I asked the Tlicho government  
23 representatives yesterday.

24 What -- what happens if -- from the  
25 Yellowknives' perspective, if the negotiation process

1 that you're anticipating is going to result in a  
2 consensus, what happens if that doesn't work out?

3 When I asked you about this during the  
4 combined presentation on the first day of the hearing,  
5 you indicated that several of your recommendations  
6 could stand aside essentially because of the Ni Hadi  
7 Yati proposal.

8 Is that still your position, or is there  
9 a fallback position for the Yellowknives?

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

12 MR. TODD SLACK: Todd Slack, the  
13 Yellowknives Dene. Yeah. The -- if the measures are  
14 put into place along the lines of the joint  
15 presentation, that does overtake some of these other  
16 issues. These -- these were processes that -- and  
17 deadlines that were moving concurrently and were moving  
18 quite quickly.

19 At this point, the Yellowknives are  
20 confident that there's enough common ground that we  
21 will have a good resolution to that. If the -- that  
22 negotiation doesn't work out, the Yellowknives'  
23 perspective is that there -- there is the likelihood of  
24 significant concern and significant impacts.

25 With that in mind, we believe that the

1 Proponent is sufficiently motivated to ensure that's  
2 not going to happen, as are the Yellowknives. If  
3 that's true in the negotiation, if later on there's a  
4 problem with the Ni Hadi Yati, there's a couple of  
5 different enforcement opportunities. Part of the  
6 discussion has included a robust dispute resolution  
7 system similar to what we've seen at the -- the other  
8 sites. And we know that it works and we're trying to  
9 streamline that.

10 And then, at the end of the day, this is  
11 a binding con -- we're setting this up as a binding  
12 contract. And while no one, especially me, wants the  
13 burden of this to be a contract law dispute, you know,  
14 you still have that binding mechanism and you could go  
15 that route.

16 THE CHAIRPERSON: Thank you.

17 MR. JOHN DONIHEE: Thank you, Mr.  
18 Chairman. Those are my questions.

19 THE CHAIRPERSON: Okay. Now we move to  
20 panel members. Panel member, Rachel Crapeau...?

21 MS. RACHEL CRAPEAU: Masi cho for the  
22 information during your presentation. I had some  
23 questions, but it seems that John Donihee asked those  
24 questions already, so noth -- no further questions, Mr.  
25 Chair.

1 THE CHAIRPERSON: Thank you. Panel  
2 member, James Wah-Shee...?

3 MR. JAMES WAH-SHEE: Thank you, Mr.  
4 Chairman. I'd like to thank the Yellowknife Dene for  
5 your presentation and outlining your clarification and  
6 concerns. Masi cho. I have no questions.

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

9 MR. PETER BANNON: Thank you, Mr.  
10 Chair. I'd like to thank the Yellowknives First Nation  
11 -- or Dene First Nation for a very good presentation.  
12 You've given the panel a lot to consider. And I have  
13 no questions.

14 THE CHAIRPERSON: Thank you. Panel  
15 Member, Richard Mercredi...?

16 MR. RICHARD MERCREDI: Thank you, Mr.  
17 Chair. I'd just like to thank the presentation on  
18 behalf of the Yellowknife -- YK Dene First Nation. And  
19 no questions.

20 THE CHAIRPERSON: Thank you very much.  
21 The Chair doesn't have any questions. On behalf of the  
22 panel, I want to thank the Yellowknives Dene First  
23 Nation team for the presentation. And I am very  
24 pleased to report that we're still on track, in terms  
25 of time and the agenda.



1                   So thanks again, and we'll start --  
2 we'll give Lutsel K'e Dene First Nation an opportunity  
3 to set up, and we'll try to get going in one (1) or two  
4 (2) minutes. Thank you.

5

6                   (BRIEF PAUSE)

7

8                   THE CHAIRPERSON: Okay. It appears  
9 that Lutsel K'e is ready for their presentation, so  
10 please proceed.

11

12 PRESENTATION BY LUTSEL K'E DENE FIRST NATION:

13                   MR. MIKE TOLLIS: Thank you, Mr. Chair.  
14 Good morning, panel, and all parties to the review. My  
15 name is Michael Tollis. My role is the wildlife lands  
16 and environment manager for the Lutsel K'e Dene First  
17 Nation. I would like to first acknowledge the presence  
18 of our Chief, DoraENZOE, as well as members of the  
19 council, James Marlowe and Emily Saunders.

20                   I also have with me today several  
21 wildlife committee members, Joseph Catholique, Ron  
22 Fatt, TerryENZOE, and Roy Desjarlais. I'd like you to  
23 know, Mr. Chair, that we have travelled to Yellowknife  
24 this week for the hearings under our own funding, which  
25 is limited, to display our level of concern with the

1 project.

2                   Please, Mr. Chair, feel free to tell me  
3 to slow down, it's probably going to happen a few  
4 times. So in my technical capacity with the First  
5 Nations I'll be making this presentation today, and you  
6 may also hear from other members of the Lutsel K'e Dene  
7 First Nation.

8                   So our position -- as stated loud and  
9 clear at the community hearings in Lutsel K'e, the  
10 predic -- the position that the community and the  
11 leadership have taken on this proposal is that the  
12 Lutsel K'e Dene cannot support the proposed Gahcho Kue  
13 project at this time. We heard testimony from the  
14 community members regarding the impacts that will be  
15 suffered by the community and they are from negligible,  
16 which De Beers would have you believe.

17                   This stance is based on three (3) key  
18 factors. The first we heard throughout this review, as  
19 well as from Mr. Glen Koropchuk on Wednesday, that De  
20 Beers is committed to sustainable development.

21                   The Lutsel K'e Dene First Nation feels  
22 that De Beers's interpretation of sustainable  
23 development neglects the holistic approach required in  
24 determining what is sustainable. And though we have  
25 our reservations in calling Snap Lake a sustainable

1 operation, we are certain that four (4) mines on one  
2 (1) caribou herd range and two (2) mines on one (1)  
3 watershed are unsustainable.

4 A second key factor, as mentioned in the  
5 community hearings and throughout this review, is that  
6 the caribou are suffering. Chief DoraENZOE stated in  
7 her closing comments from the community hearing, quote:

8 "The caribou is our way of life. It  
9 is our well-being. If the caribou is  
10 impacted, we are impacted."

11 We would wholeheartedly agree with the  
12 statements made by Dr. Ginger Gibson from the Tlicho  
13 that the Bathurst caribou numbers are at a critical  
14 level. All the previous proponents on the herd range  
15 have stated in their EIS that they will have minimal or  
16 negligible impacts to the environment and to caribou.  
17 And if caribou populations declining by 90 percent over  
18 fifteen (15) years is a minimal or negligible impact,  
19 we are beyond disturbed at the notion of more minimal  
20 and negligible impacts from the proposed project. I'm  
21 sorry, Mr. Chair.

22 The third is the past performance of the  
23 Company on the Lutsel K'e traditional territory. Snap  
24 Lake is arguably the worst of the three (3) diamond  
25 mines, in terms of environmental performance. And

1 though we have faith that De Beers is learning from  
2 their mistakes, to date, we have no reason to believe  
3 that improved performance will be achieved at a new  
4 location the Lutsel K'e traditional territory.

5                   That being said, Mr. Chair, with the  
6 agenda of the federal government to push development  
7 and neglect environmental protection, as well as the  
8 words from the Premier on Wednesday stating GNWT  
9 supported the project, and, further, with no other  
10 parties taking a firm stance to oppose this project, we  
11 cannot help but think our voices will fall on deaf  
12 ears.

13                   Therefore, it is necessary to take every  
14 precaution to ensure a sustainable mine in the event  
15 that the final decision is made contrary to the wishes  
16 of the Lutsel K'e Dene First Nation. It is from this  
17 position that Lutsel K'e makes the following  
18 presentation and subsequent recommendations and  
19 suggested measures.

20                   So over the next half hour I'll be  
21 discussing the connections between the area of Gahcho  
22 Kue and Lutsel K'e; a summary of the traditional  
23 knowledge report, along with the recommendations from  
24 it; the concerns of the First Nations, followed by a  
25 list of suggested measures; and, finally, our

1 conclusions.

2                   Everyone is aware of where the project  
3 is located, but this map was developed by Lutsel K'e,  
4 showing the project to be approximately 140 kilometres  
5 from the community as well as about 71 kilometres from  
6 Fort Reliance, a location frequented by the Lutsel K'e  
7 Dene.

8                   We've also highlighted the Lady of the -  
9 - Lady of the Falls spiritual site, which is the most  
10 sacred site in the Lutsel K'e traditional territory.  
11 The area in green is the boundary of the proposed  
12 Thaidene Nene protected area which is currently being  
13 negotiated.

14                   The exploration camp, as you can see  
15 from the map in the top right corner, is about 4  
16 kilometres from the protected area boundary. And the  
17 red circle around the site is the accepted 15-kilometre  
18 zone of influence which, as we've learned throughout  
19 this review and others, that that zone of influence  
20 could be extended far beyond 15 kilometres and well  
21 into the protected area.

22                   The Lutsel K'e Dene have lived and will  
23 continue to travel on the land in the Gahcho Kue area  
24 of their traditional territory. Wildlife will continue  
25 to pass through the area of Gahcho Kue and will

1 continue to be harvested and consumed by the Dene  
2 people. These connections are cultural and spiritual.  
3 And, therefore, the Lutsel K'e Dene must be assured  
4 that these connections will remain strong long after  
5 the mine has left and that the mine does not impact the  
6 future use of the area by the Dene people.

7                   The water from the mine site will end up  
8 in Great Slave Lake, likely faster than the Proponent  
9 predicts. And as the Dene people drink from the lake,  
10 water quality and quantity are critically important.  
11 Also crucial to the health of the Dene people is the  
12 health of the fish in all lakes and rivers for they,  
13 too, will be harvested and consumed by the Dene. All  
14 wildlife depends on healthy drinkable water. And as  
15 mentioned already, the Dene are directly impacted when  
16 the wildlife is impacted.

17                   If the mine proceeds, there will be  
18 opportunities for community members to be employed in  
19 all stages of development. Also, the proposed  
20 development has the potential to incite economic growth  
21 in the community. However, the proposed development's  
22 expected impacts at the community level is the increase  
23 of negative health and social impacts.

24                   We'll move on to the traditional  
25 knowledge report. First, I'd like to state, Mr. Chair,

1 that the final report is complete. The reason for not  
2 submitting it to the Proponent and the public registry  
3 is that we have yet to receive the agreed-upon  
4 outstanding funds from the Proponent, which Ms.  
5 Chisholm from De Beers has stated to me that has been  
6 processed by De Beers. So you can likely expect that  
7 report next week.

8                   So for the next several slides, I'll go  
9 through a brief background of the report; the context;  
10 the topics of water, caribou, and land use; and the  
11 concerns and recommendations of the Lutsel K'e Elders.

12                   So the report was originally completed  
13 in 2006 but never approved by a Chief and council for  
14 release. This was because the consultant hired did a  
15 terrible job on the report and substituted a lot of  
16 information from the Snap Lake report, which was out of  
17 context and somewhat irrelevant to the Gahcho Kue area.

18                   The working group was reconvened. The  
19 report was rewritten. The original interviews were  
20 verified with the Elders still with us. And then  
21 workshops were held with the Elders, the wildlife  
22 committee, and the council to approve the report.

23                   One of our Elders wanted to make it  
24 clear the respect that the Dene have for the land. He  
25 stated, quote:

1 "We have to respect the land  
2 anywhere, not just because it has  
3 minerals on it. Anywhere, we respect  
4 the land. It's always been like  
5 that, even when the land had no  
6 resources on it, same thing."

7 End quote.

8 The Dene people see this land no  
9 different than they see their entire traditional  
10 territory: a place that is pristine, supports life, and  
11 contributes to the sustainability of the Dene culture.  
12 The Elders speak from entire generations on the land,  
13 as well as the experience of three (3) other diamond  
14 mines in the traditional territory.

15 Also, I'll note that the project design  
16 that was discussed at the time of these interviews may  
17 have changed since the information was recorded.

18 You'll note, Mr. Chair, that this map is  
19 altered from the one submitted in this presentation to  
20 the public registry, as the workshop for the Elders who  
21 approved the report was held after that submission. So  
22 this is the map accep -- accepted by the traditional-  
23 knowledge holders of Lutsel K'e as the direct water  
24 flow from Kennady Lake moves in several directions, not  
25 simply north, as stated by the Proponent.



1 I'd also like to note at this time, Mr.  
2 Chair, that on Wednesday, Veronica Chisholm from De  
3 Beers mentioned that they had only heard about the  
4 flows between Kirk, Fletcher, and the Hoarfrost on  
5 Monday, and Lutsel K'e. But, in fact, they were fully  
6 aware of this potential connection and actually did  
7 further investigations on it in September, posting the  
8 results to the public registry on November 13th in a  
9 document titled "Hydrological Investigations of the  
10 Kirk Lake Watershed."

11 In that report, it states, quote:  
12 "Although it was apparent that there  
13 is no surface flow between Kirk and  
14 Fletcher Lakes, there may be a  
15 potential for subsurface flows to  
16 occur through bedrock fractures."

17 End quote. So De Beers has stated that  
18 there is potential for the water to flow the way the  
19 experts in Lutsel K'e have said it flows. And this was  
20 not a surprise to any Elder, but a positive step for  
21 better TK inclusion.

22 Veronica Chisholm also mentioned on  
23 Wednesday that if the water does flow the way Lutsel  
24 K'e Elders say it flows, i.e. other connections to  
25 Great Slave Lake, that De Beers will simply, quote,

1 "dike it off to prevent contamination," end quote. We  
2 are concerned as to how De Beers would use a dike to  
3 prevent subsurface flow contamination.

4                   Going back to the slide, as you can see,  
5 the Lutsel K'e water flow experts have noted another  
6 route to Artillery Lake through Fletcher and Walmsley,  
7 the purple arrow, which would drastically reduce the  
8 travel distance between the project site and the Lady  
9 of the Falls spiritual site, which Elders have  
10 identified as the most important concern of the  
11 proposal, one (1) Elder stating, quote:

12                   "The proposed mine might disturb the  
13                   Old Lady of the Falls. Her spirit is  
14                   strong. You shouldn't touch sacred  
15                   places like that."

16                   End quote.

17                   Another concern raised by the Elders is  
18 the amount of dikes and dams proposed to isolate  
19 Kennady Lake. In the words of a Lutsel K'e Elder,  
20 quote:

21                   "If a beaver makes a dam, the water  
22                   is not the same anymore, because the  
23                   dam will hold back water, and it will  
24                   rise towards the inland. So that's  
25                   what's going to happen here too."

1 End quote.

2 And though De Beers has discussed water  
3 diversion, one of the proposed diversions doesn't sit  
4 right with the Elders.

5 De Beers states in the EIS:

6 "Dike C will serve to raise the level  
7 of Lake A-3 to a point where the  
8 outlet will be permanently diverted  
9 to Lake N-9."

10 To which an Elder responded, quote:

11 "Is there going to be a problem with  
12 making the river flow backwards? Is  
13 this possible to do? If it is  
14 possible to make the river flow  
15 backwards, it is okay with me. Go  
16 ahead and make it happen. In my  
17 mind, it's impossible."

18 So this next map shows traditional  
19 caribou migration routes through this area and is  
20 described in the report as a main migration route that  
21 leads caribou to Artillery Lake and beyond.

22 They are concerned that the caribou  
23 might find a different route and not come around  
24 anymore. This concern is paramount and is shared by  
25 the entire community. The Elders note the need to

1 protect caribou -- important caribou crossings.

2 There's one southwest of the site and one at the south  
3 end of Artillery Lake.

4 Elders also identify the need for  
5 cumulative effects analysis, observing in their years  
6 of experience that animals were healthier prior to  
7 developments; that caribou eat the vegetation around  
8 the mine -- mining operations, and that this is making  
9 them sick; and also that caribou are not being allowed  
10 enough time to feed and rest, being chased away by loud  
11 noises and trucks.

12 The TK holders of this area listed  
13 various cabins and camps in the Gahcho Kue area, one  
14 (1) such camp being located right around Gahcho Kue  
15 where an RCMP station was also placed. One Elder had  
16 an observation that is rarely taken into consideration  
17 when deciding if a mine should be allowed to proceed  
18 through this phase. He said, quote:

19 "It's not like before, because  
20 there's a mine. If we go there, we  
21 always have the mine on our mind."

22 This represents a loss of the connection  
23 that the Dene people will have with this land. The  
24 land will always be recognized as spoiled, and this is  
25 a heavy price to pay for the Dene.

1                   This next map shows some of the trap  
2 lines and trails recorded in terms of use of the area  
3 and, as you can see, they are quite extensive.

4                   So here's a summary of the concerns of  
5 the TK holders from the report. The first concern was  
6 the damage to the immediate surrounding area as it will  
7 inevia -- inevitably be with this development. The  
8 project will negate the pristine qualities of the  
9 landscape indefinitely through water contamination,  
10 dust deposition, and waste rock mountains -- or piles.

11                  There's the obvious and most important  
12 concern about contamination of the Lockhart River  
13 watershed, and specifically the Lady of the Falls  
14 spiritual site. There are concerns about fish in terms  
15 of relocation and reclamaton, as the Elders want to  
16 ensure the fish are respected when they are removed.  
17 Also, with relocation, if this is still an option, that  
18 the receiving water bodies are not over-populated.

19                  For caribou, the Elders have witnessed a  
20 steady decline in caribou health and increases in  
21 caribou injuries. Both issues were not apparent prior  
22 to mining developments. Also, migration patterns to  
23 the area will be disrupted, or else the caribou risk  
24 passing through the zone of influence; neither are good  
25 options for the Lutsel K'e Dene people.

1                   For caribou and bears, the Elders are  
2 concerned that the placement of an operation more  
3 populace than the community of Lutsel K'e in the middle  
4 of the barren lands may cause habituation of these  
5 animals to human presence. Though De Beers has  
6 repeatedly committed to involving TK in their work, the  
7 Elders are concerned that the monitoring conducted by  
8 De Beers is not conducted in a TK-focussed way,  
9 therefore, making it difficult for the Elders to  
10 understand what the outcomes of the monitoring are.

11                   Road construction has been repeatedly  
12 raised with operational mines to ensure they are  
13 focussed on the protection of caribou from injury.  
14 There remains an unaddressed concern about the  
15 potential for runoff from the 90-metre-high waste rock  
16 piles that border the part -- border and partially sit  
17 in Kennady Lake.

18                   This concern is twofold: First, that  
19 they will cause an unnatural increase of the quantity  
20 of water in Kennady Lake; and two, that there will  
21 still be potential for water to leach through the cover  
22 rock and enter the lake after picking up contaminants  
23 from the acid-generating rock in the piles.

24                   Lastly, the other mining operations have  
25 promised education and training for the community, but

1 these promises have scarcely been realized. In terms  
2 of consultation and accommodation, the Elders want to  
3 ensure that the Proponent is keeping the community  
4 informed in an open and honest way over the life of the  
5 mine, not just until they get their permits to operate.

6 To frame the Elders' recommendations I  
7 have a quote from one (1) of the Elders who said,  
8 quote:

9 "The recommendations and concerns are  
10 put in place so that land, water, and  
11 animals are respected. Only then  
12 will we have a good working  
13 relationship."

14 End quote. So with that in mind the  
15 Elders recommend to build an overflow channel for Dike  
16 A and continually monitor the channel. As an Elder  
17 mentioned, quote:

18 "Even the beaver doesn't make its dam  
19 right sometimes."

20 End quote. So they want a contingency  
21 plan in place to prevent any overflow to the receiving  
22 environment.

23 Also, that the Proponent does not try to  
24 repopulate the lake with fish post-closure, as their  
25 habitat is destroyed and will move back in there only

1 if it's suitable, potentially seventy (70) years down  
2 the road or around the year 2100.

3                   Continuing with fish, they recommend  
4 some healthy fish be placed in nearby lakes and some of  
5 the healthy and sick fish be given to Lutsel K'e, sick  
6 fish to be used for dogs. I believe De Beers has the  
7 intention to do this already, but the Eld -- Elders  
8 recommend that fish camps be coordinated where Elders  
9 can teach youth about fish health and quality, how to  
10 fix a fish, and how to smoke and dry fish.

11                   On water quality they recommend prev --  
12 prevention of runoff from the waste rock pile from  
13 flowing into the Lockhart River watershed. And on this  
14 note, they also recommend that a ditch be constructed  
15 to contain contaminated runoff from the waste rock  
16 piles to prevent caribou from ingesting the  
17 contaminants.

18                   For caribou, that De Beers make every  
19 effort to prevent caribou from feeding in the mine area  
20 and that this recommendation can be carried out by the  
21 Lutsel K'e Dene monitoring teams requested in the  
22 following two (2) recommendations. If the proponent  
23 can't have a full-time monitoring team from Lutsel K'e  
24 at the mine site, then at the very least they contract  
25 the Lutsel K'e Dene for monitoring during migration



1 periods.

2                   Also in regards to caribou, the depth of  
3 the road bed that the Proponent will construct be kept  
4 as shallow as possible and be constructed with smaller  
5 rocks or sand to prevent injuries to caribou.

6                   Along the winter and spur roads the  
7 Elders wish to see designated parking areas on the  
8 land, not on the lakes where the truck -- where trucks  
9 can stop and drivers can rest, again, to prevent  
10 impacts to the watershed. Finally, on the roads that  
11 the spur and winter roads be monitored and managed in  
12 con -- in consultation with the Lutsel K'e Dene to  
13 ensure the best possible protection for water and  
14 wildlife.

15                   The last slide of recommendations  
16 focuses on consultation, recommending that De Beers  
17 support the involvement of Lutsel K'e Dene in all  
18 stages of decision-making and that De Beers create a  
19 timeline for regular meetings with the First Nation,  
20 set dates in advance of all changes to the project, and  
21 monitor -- changes to the project and monitoring and  
22 management programs.

23                   Also a recommendation was for De Beers  
24 to create employment opportunities for the community  
25 through proper training and education. As an Elder

1 said, quote:

2 "De Beers has to work to help us  
3 educate us."

4 End quote. So this concludes the  
5 summary of the TK report. So I'll be moving on to  
6 further concerns of the community of Lutsel K'e.

7 Our concerns in regard to the winter  
8 road revolve around the confusion and potential hazards  
9 to the caribou. First, their habitat fragmentation  
10 could potentially nullify large areas of the Bathurst  
11 herd range, having more of an impact on the range than  
12 the 1 percent range impact predicted by De Beers.

13 Concerns also raised by the Elders are  
14 in regards to the injured -- injuries caribou sustained  
15 in attempts to cross the road. As some caribou  
16 ventured across while some don't, there's a splitting  
17 of the herd through confusion and fear, making them  
18 more vulnerable to predation without the protection of  
19 the herd.

20 Sorry again, Mr. Chair. Another major  
21 concern of the community of Lutsel K'e that was raised  
22 in the community hearing is the potential for the road  
23 and project to act as a barrier and force the caribou  
24 around the eskers to the north of the project and far  
25 out to the east beyond Artillery Lake.

1                   As the caribou are travelling further  
2 and further away from their traditional routes, the  
3 Lutsel K'e Dene are concerned with the impact this will  
4 have on their hunting and harvesting rights, as many  
5 community members will no longer be able to afford to  
6 travel that far to the barren lands for caribou.

7                   To date there is insufficient research  
8 into the impact of dust deposition to caribou health.  
9 Traditional knowledge indicates signs of poor caribou  
10 health such as swollen feet, sickness, skinniness, pus  
11 in the flesh, sores on the legs, broken legs, and poor-  
12 quality hair.

13                  BHP's monitoring program has identified  
14 that the quality of lichen is changing as a result of  
15 dust deposition around the mine. And TK suggests that  
16 if lichen is absorbing dust, then the quality of the  
17 nutrients in the lichen that is usually supplied to the  
18 caribou through ingestion will consequently be of lower  
19 quality or potentially dangerous to the health of the  
20 animal.

21                  Elders are concerned with the impacts of  
22 the waste rock pile runoff on caribou health. The  
23 acid-generating nature of the rocks and the fact that  
24 the rocks will be in the old boundary of Kennady Lake  
25 is reason to believe that contaminated water could be a

1 long-term concern for wildlife health.

2                   And standing at 90 metres from the  
3 ground, the large, potentially steep side slopes of the  
4 piles will provide for a large amount of runoff as well  
5 as pose a threat to caribou access to the pile.

6                   TK notes that caribou like to get higher  
7 -- like to get to higher ground for a better view of  
8 the land as well as to evade the pestering of bugs in  
9 the summer months. These two (2) piles at 90 metres  
10 high will be the highest elevation as far as the eye  
11 can see in any direction, making them attractive to  
12 caribou and potentially dangerous for the caribou to  
13 access.

14                   Cumulative effects. I feel like we've  
15 talked about this enough so I'll cut this part down a  
16 little bit.

17                   This would be the second mine on the  
18 same watershed, the fourth mine on the Bathurst herd  
19 range. And we must ask: What is the critical mass for  
20 development on a herd's range?

21                   Migration routes of caribou have seen a  
22 noticeable alteration since the beginning of mining  
23 operations, in particular from the placement of roads  
24 in the barren lands.

25                   TK has seen a noticeable -- sorry. TK

1 has seen a noticeable increase in caribou sickness and  
2 injury since the beginning of mining in the region, and  
3 there is a lack of information on cumulative impacts of  
4 noise, smell and overall presence in the barren lands.

5                   With the Tibbit-to-Contwoyto winter road  
6 also on the watershed and cutting through the Bathurst  
7 herd range, and access made easier to this region  
8 already, we must make it clear that we're not going to  
9 know what development will be the tipping point until  
10 it's too late. Therefore, the precautionary principle  
11 must be applied.

12                   Moving on to water quality. Lutsel K'e  
13 is concerned with the reconnection of Kennady Lake to  
14 the flow regime after the use of the lake as a wa --  
15 water management pond.

16                   We understand the water in the  
17 management pond will be pumped in the to -- into the  
18 Tuzo pit, but any settled contaminants will still be  
19 present at the lake bed and will -- and with the  
20 potential seepage from the prying -- from the fine  
21 processed kimberlite facility, as well as the  
22 mountainous rock piles bordering and partially residing  
23 in the lake, it is difficult for us to believe the  
24 Company when they tell us that the water quality will  
25 meet guidelines.

1                   Lutsel K'e is concerned with the  
2 downstream monitoring south of the mine site where TK  
3 supports water flow. And, again, a serious concern for  
4 the community is the Lockhart River, where the  
5 slightest of impacts is a significant impact for Lutsel  
6 K'e Dene. It is necessary for the Proponent to monitor  
7 all potential connections to Artillery Lake as  
8 suggested by the Elders of Lutsel K'e.

9                   For fish we must be assured that the  
10 compensation plans will be finalized prior to the  
11 issuing of permits. This is too big of an issue to  
12 leave until after the opening of the site.

13                   We are also concerned with the lack of  
14 communication with De Beers -- or with Lutsel K'e on  
15 the part of DFO as to properly -- as to proper  
16 compensation planning. We believe this should have  
17 happened early and often.

18                   Lastly, downstream monitoring should be  
19 undertaken in the protected areas -- or, sorry --  
20 undertaken in the areas where Lutsel K'e's traditional  
21 knowledge determines that there is potential for water  
22 quality issues, particularly the Hoarfrost River which  
23 empties into Great Slave Lake.

24                   Moving on to socioeconomic concerns.  
25 This chart was taken from the Snap Lake 2011

1 Socioeconomic report, showing Lutsel K'e with one (1)  
2 active employee at 0 percent of the total employment.  
3 This is just one (1) example of De Beers not meeting  
4 their commitments to the community in terms of  
5 reserving employment for seven (7) Lutsel K'e members  
6 throughout the life of the mine.

7                   Further, we have a large number of  
8 employable members that are unable to secure jobs at  
9 the mine because of the barriers of criminal records.  
10 Also, that community members reported feelings of  
11 discrimination when they were employed at the mines.  
12 So this, too, acted as a barrier for maintaining  
13 employment.

14                   Some social impacts of the mining  
15 developments that have been witnessed in the community  
16 over the last fifteen (15) years were increased crime  
17 rates and violent crime rates. Increases in income  
18 without infrastructure to support saving a reasonable  
19 spending has resulted in increased drug and alcohol  
20 use, which usually contributes to increased activity at  
21 the Lutsel K'e health centre.

22                   As mentioned in the Lutsel K'e hearing,  
23 the idea of mining the land is against the nature of  
24 the Lutsel K'e Dene. It is seen as disrespectful and  
25 devalues their sense of self while limiting cultural

1 and personal growth. The schedule of mining work  
2 contributes to the deterioration of family structures,  
3 a notion that the health and wellness workers of Lutsel  
4 K'e are trying desperately to improve.

5 We won't get into discussions of the  
6 Victor Mine or any of De Beers's African mines, but  
7 we'll focus on the Snap Lake project because there are  
8 enough concerns to talk about here. And the project is  
9 in the same climate as -- as the proposed project.

10 Firstly, there is a concern about the  
11 consistent failure to comply with licences and  
12 agreements. Secondly, and most impactful directly in  
13 town, is a lack of socioeconomic benefits being  
14 realized in the community. And thirdly, the spill  
15 record of Snap Lake is shocking to say the least, the  
16 latest of which coming a mere two (2) days ago. And  
17 yes, De Beers is doing well to report their spills, but  
18 what's important to us is that they do better to  
19 prevent their spills. And this doesn't seem to be the  
20 case as De Beers has already reported a diesel spill  
21 for the Gahcho Kue exploration. How are we to be  
22 convinced that they will improve their performance with  
23 another development?

24 Finally, the proposed protected area  
25 that has been long in the making and whose negotiations



1 are progressing. This protected area has been called  
2 for by Elders for many years and is very close to the  
3 hearts of the Lutsel K'e Dene. Again, here's a map  
4 showing the proximity, the mine being located within  
5 the buffer zone of the potential protected area, and  
6 whose zone of influence will certainly detriment the  
7 pristine nature of the protected area.

8                   Other impacts, other potential for the  
9 mine to impact downstream water quality, which will be  
10 inside the park boundary, as well as for potential  
11 future decline in tourism quality as the park will  
12 likely be advertised as pristine wilderness of the  
13 north, which is altered when three (3) open pits are  
14 located directly adjacent to it.

15                   Finally, Mr. Chair, I come to the  
16 suggested measures from Lutsel K'e. Measure 1, to  
17 address our concerns regarding wildlife the Lutsel K'e  
18 Dene First Nation requests the following four (4)  
19 measures: 1) that a monitor -- a monitoring team of  
20 Aboriginal land users and TK holders be selected by the  
21 Aboriginal parties to develop a TK work plan to develop  
22 a TK work plan to supplement the scientific wildlife  
23 monitoring programs and improve them. If De Beers  
24 really wants to commit to incorporate TK when possible,  
25 this is their opportunity to do so.

1                   Measure 2, that the panel realize that  
2   there is a significant concern from the parties  
3   regarding the lack of meaningful cumulative effects  
4   analysis on the Bathurst herd range and require  
5   concrete commitments from government and the Proponent  
6   on monitor -- monitoring and managing cumulative  
7   impacts before the proposal can proceed.

8                   Mr. Chair, we believe that with three  
9   (3) operating mines, a large winter road, several  
10  smaller but still sizeable roads -- and as the  
11  Yellowknives mentioned, close to ten (10) more  
12  proposals in the regulatory phase on this range,  
13  coupled with the devastated herd numbers, common sense  
14  indicates that a correlation must be investigated  
15  before any further development can be considered.

16                  Coming out of the TK recommendations, we  
17  request a measure that would require the Proponent to  
18  design their waste rock piles in a manner that would  
19  allow for caribou to have easy and safe access to their  
20  summits. Lutsel K'e T -- TK experts can be consulted  
21  to help in this design.

22                  Measure 4, that the Proponent be  
23  required to undertake comprehensive investigations on  
24  the health impacts of caribou that are feeding around  
25  the mine site and ingesting dust deposited on the

1 ground and in the lichen. Only when we know for  
2 certain that impacts of dust on the caribou -- only  
3 then will we be able to ease our minds on the issue.

4 To address concerns on downstream water  
5 quality we suggest the following two (2) measures.  
6 Measure number 5: that the panel require the Proponent  
7 to install monitoring stations at locations identified  
8 and agreed to by the Lutsel K'e Dene to ensure that the  
9 effects on downstream water bodies are accur --  
10 accurately recorded. Again, this is incorporating TK  
11 in a mea -- meaningful way while providing for a more  
12 robust and accurate water management -- water -- water  
13 monitoring program.

14 Measure number 6: that the Proponent  
15 investigate and document the subsurface flow from Kirk  
16 Lake to Frec -- Fletcher Lake, as well as Fletcher to  
17 Walmsley, and the connections of these lakes to the  
18 Hoarfrost River and to Artillery Lake.

19 From De Beers's previous work, they have  
20 a -- already identified that there is potential for  
21 subsurface flow between Kirk and Fletcher. We believe  
22 this measure will provide accurate data and may  
23 influence future water monitoring and management  
24 programs on site and downstream.

25 Next, to address concerns regarding fish

1 compensation, the Lutsel K'e Dene First Nation request  
2 Measure number 7, that DFO be required to consult with  
3 the First Nation on fish compensation and that the  
4 Proponent be required to design and finalize a fish  
5 habitat compensation plan with the community prior to  
6 the issuing of any permits or licences. Again, Mr.  
7 Chair, this is too big of an item to leave until after  
8 operation begins.

9           To address concerns regarding the social  
10 impacts of development on the community, the Lutsel K'e  
11 Dene First Nation request Measure number 8 from the  
12 panel, that the Proponent be required to consult with  
13 the Health and Social Services Department of the Lutsel  
14 K'e Dene First Nation to develop effective ways to  
15 mitigate the negative social impacts from development.

16           Only by working with the community  
17 members who deal with the impacts from mining on a day-  
18 to-day basis will De Beers be able to truly understand  
19 the situation in the community and work to try to  
20 improve it.

21           The messer -- the measures suggested are  
22 in place should the panel recommend that the mine be  
23 allowed to proceed to the permitting phase. The  
24 position of the Lutsel K'e Dene First Nation still  
25 stands firmly opposed to the development in its

1 entirety at this time.

2                   So, from this position, we have but one  
3 (1) single measure to put forward, that this proposal  
4 must not be allowed to proceed to the permitting and  
5 licensing phase until De Beers comes into compliance  
6 with all agreements, licences, permits and  
7 authorizations in regards to their existing Snap Lake  
8 Diamond Mine.

9                   Our position stems partially from a  
10 serious lack of trust with the Company, and only when  
11 the -- when they show Lutsel K'e and other parties that  
12 they are capable of meeting their commitments and  
13 complying with regulations and expectations -- only  
14 then will Lutsel K'e be able to work with De Beers on a  
15 new project.

16                   So, Mr. Chair, in our final comments  
17 I'll echo the words of Chief Dora Enzoë at the  
18 community hearings in Lutsel K'e this past Monday. She  
19 said, We don't expect you to understand our culture,  
20 you don't have the connection to the land that we have,  
21 but we do expect you to respect it -- our culture, our  
22 connection and our land.

23                   Thank you very much.

24                   THE CHAIRPERSON: Thank you very much  
25 for your presentation. Congratulations on it. Sir...?

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MR. MARTIN IGNASIAK: Mr. Chairman,  
it's Martin Ignasiak, from De Beers. The -- I didn't  
want to interrupt, but the presentation put up contains  
a number of new slides, including significant new  
measures.

So, first, I wanted to confirm it will  
be put on the record, but, too, I also wanted to  
inquire whether it would be possible to get a copy of  
that presentation right now so we can review it again  
during the course of the lunch hour since we haven't --  
we haven't seen it before.

THE CHAIRPERSON: Thank you. Any  
comments from our legal counsel?

MR. JOHN DONIHEE: John Donihee, for  
the panel, Mr. Chairman. First, of course, it will go  
on the record. Secondly, we'll make arrangements to  
get a copy. Ele -- electronic copy good enough?

MR. MARTIN IGNASIAK: Yes.

MR. JOHN DONIHEE: Okay. We'll --  
you'll get it right away.

THE CHAIRPERSON: Thank you. I want to  
recognize -- did you have anything else to add, sir?  
We're -- we're getting close to the -- to the break,  
but if you have -- if you wish to -- to add anything

1 it's time to do so now.

2

3 (BRIEF PAUSE)

4

5 MR. MIKE TOLLIS: Thank you, Mr. Chair.

6 I just wanted to note that the position of the Lutsel

7 K'e Dene First Nation was developed after the

8 submission of that proposal. We had to review all the

9 documents that were available, so that's why the

10 presentation changed so drastically from the initial

11 submission. Thanks.

12 THE CHAIRPERSON: Thank you very much.

13 And a copy will be provided? Thank you. So that takes

14 us -- it's ten (10) to 12:00 and we're exactly on -- on

15 the timing for the agenda. It's time to break and we

16 will reconvene at 1:15. And everybody have a good

17 lunch. Thank you. Bye.

18

19 --- Upon recessing at 11:47 p.m.

20 --- Upon resuming at 1:11 p.m.

21

22 QUESTION PERIOD:

23 THE CHAIRPERSON: Good afternoon,

24 everyone. I hope everybody had a good lunch. We're

25 about to proceed again. We're at questions from

1 parties to Lutsel K'e. I'll work my way through this  
2 long list, beginning with Akaitcho IMA Implementation  
3 Office...?

4                   Seeing none, we'll move on to Dene  
5 Nation...?

6                   Deninu Kue First Nation...?

7                   NWT Metis Nation...?

8                   North Slave Metis Alliance...?

9                   MR. ERIC BINION: Eric Binion, North  
10 Slave Metis Alliance. Thank you for your presentation.  
11 We have no questions.

12                  THE CHAIRPERSON: Thank you. Tlicho  
13 government...?

14                  Yellowknives Dene First Nation...?

15                  MR. TODD SLACK: Todd Slack, for  
16 Yellowknives Dene. No questions.

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

19                  Environment Canada...?

20                  MR. CAREY OGILVIE: Carey Ogilvie,  
21 Environment Canada. No questions. Thank you.

22                  THE CHAIRPERSON: Thank you. Fisheries  
23 and Oceans Canada...?

24                  MS. BEV ROSS: Bev Ross, Fisheries and  
25 Oceans Canada. No questions, Mr. Chair.



1 THE CHAIRPERSON: Thank you.

2 Government of the Northwest Territories...?

3 MR. GAVIN MORE: Gavin More, GNWT. No  
4 questions.

5 THE CHAIRPERSON: Thank you. Natural  
6 Resources Canada...?

7 MR. ROB JOHNSTONE: Rob Johnstone,  
8 Natural Resources Canada. No questions, Mr. Chairman.

9 THE CHAIRPERSON: Thank you. Parks  
10 Canada...?

11 MS. ANN RONALD: Ann Ronald, Parks  
12 Canada. We have no questions. Thank you.

13 THE CHAIRPERSON: Thank you. Transport  
14 Canada...?

15 De Beers Canada...?

16 MS. VERONICA CHISHOLM: Veronica  
17 Chisholm, from De Beers. I'd like to thank Lutsel K'e  
18 for -- Dene First Nations for presenting the  
19 information. Some of the traditional knowledge was the  
20 first time I've seen it, so we very much look forward  
21 to receiving that report, I guess, when the invoices  
22 are paid. I just have one (1) question, and that's to  
23 Lutsel K'e Dene First Nation.

24 And I'm just wondering if you're aware  
25 that the plans to install Dike C that you referenced in

1 your presentation no longer applies because we updated  
2 the project description in April 2012; and that can be  
3 found in figure 3.5-1, page 3-20, in section 3 of the  
4 April 2012 project description, and also you can look  
5 at the model at the back.

6 THE CHAIRPERSON: Thank you.

7 MR. MIKE TOLLIS: Thank you, Mr. Chair.  
8 Thank you for the question, Veronica. Sorry, my name  
9 is Mike Tollis, Lutsel K'e. Yeah. Thank you. We'll  
10 have a look at it.

11 THE CHAIRPERSON: Thank you.

12 MS. VERONICA CHISHOLM: Veronica  
13 Chisholm, from De Beers. No other questions. I just  
14 wanted to make one (1) quick comment that De Beers will  
15 be happy to do an undertaking where we'll consolidate  
16 all of our commitments to date, including those made  
17 during these sessions, and submit that as an  
18 undertaking, which I believe might be Undertaking  
19 number 2, if someone from the staff could clarify.

20 THE CHAIRPERSON: Yes, thank you.  
21 We'll go to legal counsel. Undertaking number 2, is  
22 that right?

23 MR. JOHN DONIHEE: John Donihee. Yes,  
24 that's correct, Mr. Chairman. It will be Undertaking  
25 number 2.

1 --- UNDERTAKING NO. 2: De Beers to submit final  
2 table of commitments (no  
3 date)  
4

5 THE CHAIRPERSON: Thank you. Any other  
6 questions?

7 MS. VERONICA CHISHOLM: Veronica  
8 Chisholm, from De Beers. No other questions. Thank  
9 you, Mr. Chairman.

10 THE CHAIRPERSON: Thank you. We'll now  
11 turn to panel staff and technical advisors.

12 MR. CHUCK HUBERT: Chuck Hubert, with  
13 panel staff. The panel's technical advisors do have  
14 some questions, for Lutsel K'e. And I'll start with  
15 Anne Gunn.

16 MS. ANNE GUNN: Anne Gunn, with the  
17 panel. Thank you, Mr. Chairman. I've just got a  
18 couple of brief questions, just matters of  
19 clarification.

20 First of all, thank you for the  
21 thoughtful presentation. In -- in the responses to  
22 your -- to the recommendations -- this is 232 of the  
23 technical report -- De Beers responded to your request  
24 for a -- a winter road behaviour study with -- that  
25 they would -- they would probably take a look at it.

1                   But your second part was that you asked  
2 for a study of altered migration patterns associated  
3 with development since the 1990s. And I -- my -- I  
4 guess that my request for clarification is: Are you  
5 still looking for that study? Because De Beers didn't  
6 include it in their response.

7                   And so I wondered if that was still an  
8 outcoming issue, from your perspective.

9                   THE CHAIRPERSON: Thank you.

10                  MR. MIKE TOLLIS: Thanks. Mike Tollis,  
11 from Lutsel K'e Dene First Nation. I would -- I would  
12 like to see a -- the scientific study to back up the  
13 traditional knowledge that I've heard from the Elders  
14 of Lutsel K'e that there is in fact altered migration  
15 routes. So, yes, I would still be looking for that  
16 study. Thank you.

17                  THE CHAIRPERSON: Thank you.

18                  MS. ANNE GUNN: Anne Gunn, with the  
19 panel. Mr. Chairman, I just have one (1) more point.  
20 You've brought forward some very detailed  
21 recommendations for mitigation for the project-level  
22 effects, and there was quite a few of them. Would you  
23 -- would it be useful to have a sort of standalone  
24 section or a part of the wildlife monitoring as a  
25 caribou protection plan, where all the mitigation --

1 pro -- proposed mitigation measures for the project  
2 were brought together into one (1) set of covers so the  
3 Elders and all the other stakeholders could see the  
4 complete set together?

5 Do you -- would that be useful, to have  
6 a caribou protection plan?

7 THE CHAIRPERSON: Thank you.

8 MR. MIKE TOLLIS: Mike Tollis, Lutsel  
9 K'e. Yes, that would be -- that would be very helpful.  
10 And I'm -- I'm sure that the Elders would love to see  
11 some measures and mitigation measures, in terms of the  
12 traditional knowledge that they -- that they put  
13 forward as -- as part of -- as part of those -- that  
14 list.

15 THE CHAIRPERSON: Thank you.

16 MS. ANNE GUNN: Mr. Chairman, just one  
17 (1) more small clarification. Anne Gunn, for the  
18 panel.

19 Would you be putting that in your --  
20 that recommendation for a caribou protection plan in  
21 your final closing statement?

22 MR. MIKE TOLLIS: Yes.

23 THE CHAIRPERSON: Thank you.

24 MR. MIKE TOLLIS: Mike Tollis. Thanks.

25 MR. TERRY ANTONIUK: Terry Antoniuk,

1 Mr. Chairman. I have two (2) questions, and you'll  
2 note a common theme to the ones asked of others on the  
3 issue of cumulative effects assessment monitoring and  
4 management. And I note that -- that the measure number  
5 2 that you've provided today deals with this issue of -  
6 - of cumulative effects specifically for caribou.

7 Again, just in terms of clarifying the  
8 various pieces that are -- that are out there that have  
9 been proposed, just appreciate your perspective on the  
10 Ni Had -- how the Ni Hadi Yati proposal addresses  
11 cumulative effects monitoring or management of caribou.

12 THE CHAIRPERSON: Thank you.

13 MR. MIKE TOLLIS: Thank you. Mike  
14 Tollis, from Lutsel K'e. The Ni Hadi Yati proposal, as  
15 has been developed by the technical staff for the First  
16 Nations, to improve upon the -- the monitoring of -- of  
17 the current mines. We determined that having experts  
18 in these -- in these positions on -- to speak to these  
19 issues would be incredibly beneficial, as it's -- it  
20 should be part of their -- of their current work to  
21 undertake those tasks.

22 But as cumulative effects is, in our  
23 opinion, not very well documented or well reported on  
24 to date, it will be a -- a really interesting exercise  
25 for all the parties involved to -- to work together to

1 try to figure out the -- the best possible way forward,  
2 in terms of cumulative effects.

3 And -- it's difficult to try to appoint  
4 one (1) -- one (1) person for -- for cumulative  
5 effects, as they're -- it -- it's a multifaceted issue.  
6 So we would pro -- we would hope to, like I said, work  
7 in collaboration with all -- all the parties involved  
8 and get a variety of perspectives to try to develop an  
9 effective cumulative monitoring program.

10 THE CHAIRPERSON: Thank you.

11 MR. TERRY ANTONIUK: Thank you for  
12 that. Terry Antoniuk, for the panel. To follow-up  
13 then:

14 Are there any specific recommendations  
15 for cumulative effects management and oversight by  
16 Aboriginal Affairs and Northern Development or the  
17 Government of the Northwest Territories that -- that  
18 you would -- that you could make now? Thank you.

19 THE CHAIRPERSON: Thank you. Mike  
20 Tollis...?

21

22 (BRIEF PAUSE)

23

24 MR. MIKE TOLLIS: Mike Tollis, Lutsel  
25 K'e Dene First Nation. As -- as Todd Slack from the

1 Yellowknives alluded to earlier, the -- the capacity  
2 and expertise issues in the -- in the First Nations are  
3 -- are well known. And it's -- it's really difficult  
4 for me to be able to recommend any kind of measures at  
5 this point.

6 Just like the Yellowknives, we would be  
7 very open to participating in any -- any work that's  
8 done to work towards the effective reporting of  
9 cumulative impacts assessments. But at this time it --  
10 it's -- we -- we have nothing to -- nothing to suggest  
11 to the -- the authorities.

12 THE CHAIRPERSON: Thank you.

13 MR. TERRY ANTONIUK: Terry Antoniuk.  
14 Thank you for that. And I appreciate that there's a  
15 lot of information coming -- coming at people during  
16 the last few days. So perhaps if, upon reflection,  
17 there's something that you can suggest in your -- in  
18 your final argument or your final submission, that  
19 would -- that would be appreciated. No further  
20 questions.

21 THE CHAIRPERSON: Thank you. Any more  
22 questions?

23 MR. CHUCK HUBERT: Yes, Mr. Chair. I'd  
24 like to go to Kathy Racher, followed by Brigitte  
25 Masella.



1 DR. KATHY RACHER: Kathy Racher, for  
2 the panel. I also thank you for your presentation.

3 In your -- in your presentation, one of  
4 the measures for water quality, labelled number 5,  
5 you've recommended a measure to require the Proponent  
6 to install monitoring stations at locations downstream  
7 that are identified and agreed to with -- by the Lutsel  
8 K'e Dene.

9 And you say:

10 "To ensure the effects on downstream  
11 water bodies are accurately  
12 recorded."

13 And, you know, I understand that measure  
14 very well. But one of the -- the challenges in  
15 managing the project long term through the water  
16 licence, which will manage the effects to water, on the  
17 project is knowing what we're -- what level of effect  
18 we're -- we're trying to manage the project to.

19 And for that, the Land and Water Boards  
20 usually look for understanding what the traditional  
21 uses are of the -- of the area that -- that the parties  
22 that are effected, such as the Lutsel K'e Dene First  
23 Nation, are trying to protect so that when we're  
24 managing the project through the water licence, we are  
25 very clear on -- you know, just monitoring, you know,

1 tells you if something is going up or not going up.  
2 But how far up is too -- too far? And that's -- it's  
3 both an amount and it's a location, or it can just be a  
4 use and a location.

5 And De Beers has -- has talked about  
6 what they've -- what they've --

7 THE CHAIRPERSON: Excuse me, Dr.  
8 Racher, can you please --

9 DR. KATHY RACHER: I'm talking really  
10 fast.

11 THE CHAIRPERSON: -- ask your question?

12 DR. KATHY RACHER: Okay, okay. Will  
13 there be further details in your traditional knowledge  
14 study that -- that comes out next week, you said, on  
15 the traditional uses and locations of those uses of  
16 water bodies downstream of the mine?

17 THE CHAIRPERSON: Thank you. Mike  
18 Tollis...?

19

20 (BRIEF PAUSE)

21

22 MR. MIKE TOLLIS: Mike Tollis, Lutsel  
23 K'e. Thank you for your question. I have a tough  
24 time, in my -- in my capacity, speaking for -- for --  
25 for the Elders and -- and their uses of the land and --

1 and what level of -- what level of impact would be --  
2 they would -- they would hope to mitigate or that --  
3 what level would be acceptable, I guess. But this is -  
4 - this is something that I -- I don't know if I'll be  
5 able to -- to speak to you at this time. But the --  
6 the Elders of the community, I'm sure, have very strong  
7 opinions on what they would like to see. So I can -- I  
8 can definitely include that in my closing comments with  
9 -- after a consultation with the Elders. Thanks.

10 THE CHAIRPERSON: Yes, go ahead.

11 MR. JAMES MARLOWE: Thank you, Mr.  
12 Chair. My name is James Marlowe. I'm from the Lutsel  
13 K'e Dene First Nation member. I'd like to -- in  
14 regards to your question on studies, I think those  
15 studies can be jointly done in cooperation between the  
16 government, De Beers, and the First Nation. Those  
17 studies could be carried out to determine the types of  
18 water quality that can be -- it could be done corp --  
19 in working together with the government and the First  
20 Nation.

21 THE CHAIRPERSON: Thank you.

22 MS. BRIGITTE MASELLA: Brigitte Masella,  
23 for the panel. You mentioned that mining activities  
24 have resulted in an increase in health and social  
25 problems, and you recommend that De Beers be required

1 to consult with the health and social services  
2 department of the Lutsel K'e Dene to develop effective  
3 mitigation plans in that regard.

4 Can you shed more light on your  
5 expectations, in terms of the involvement of the Lutsel  
6 K'e Dene in defining the monitoring and mitigation  
7 plans for socioeconomic impacts?

8 THE CHAIRPERSON: Thank you. Mike  
9 Tollis...?

10 MR. MIKE TOLLIS: Thank you, Mr. Chair.  
11 Mike Tollis, from Lutsel K'e Dene. Over the -- the  
12 years of development at the -- on the -- on the  
13 territory and from the experience of the First Nation,  
14 we need to see better commitments and agreements from  
15 the Company that are attuned to the community needs and  
16 capacity, not just promises of employment or other --  
17 other benefits that aren't delivered. We need to see  
18 an improved and more inclusive socioeconomic monitoring  
19 -- or, sorry, an improved socioeconomic strategy.

20 Basically, the -- the -- the  
21 conversation that De Beers needs to have with Lutsel  
22 K'e is: How can we achieve the visions of the Lutsel  
23 K'e Dene have for -- for their own future rather than  
24 how can Lutsel K'e better participate within the De  
25 Beers's vision of -- of how to use the land?

1                   So this -- this kind of work would be --  
2 would be fairly extensive. There are a number of  
3 issues. I'd recommend that you look at the transcripts  
4 from the -- from the hearing in Lutsel K'e. There was  
5 a presentation by a former Chief, Addie Jonasson about  
6 -- about the socioeconomic impacts and -- and the level  
7 of them. And that has a fairly comprehensive  
8 description.

9                   THE CHAIRPERSON: Thank you.

10                  MS. BRIGITTE MASELLA: Thank you.

11                  THE CHAIRPERSON: Okay. We move on to  
12 legal counsel.

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

15                  THE CHAIRPERSON: Thank you. We'll go  
16 to panel members, starting with the -- panel member,  
17 Richard Mercredi...?

18                  MR. RICHARD MERCREDI: Thank you, Mr.  
19 Chair. I have no questions.

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

22                  MR. PETER BANNON: Thank you, Mr.  
23 Chair. I'd like to thank the Lutsel K'e Dene First  
24 Nation for showing up in such numbers. It shows you  
25 are very interested in this project and having your

1 views shared, but I have no questions.

2 THE CHAIRPERSON: Thank you. Panel  
3 member, James Wah-shee...?

4 MR. JAMES WAH-SHEE: Thank you, Mr.  
5 Chairman. I'd just like to thank the Lutsel K'e Dene  
6 Nation for their presentation and thank you.

7 THE CHAIRPERSON: Thank you. Panel  
8 member, Rachel Crapeau...?

9 MS. RACHEL CRAPEAU: Masi cho, Lutsel  
10 K'e Dene for your presentation. It was very helpful.  
11 And for the moment I have one (1) question, but I think  
12 somebody already asked it. So masi cho, Mr. Chair.

13 THE CHAIRPERSON: Thank you. And I, as  
14 the Chair, do not have any questions. But on behalf of  
15 the panel I would like to thank Lutsel K'e Dene First  
16 Nation for their presentation, a very good  
17 presentation. Thank you so much.

18 MR. MICHAEL TOLLIS: Thank you, Mr.  
19 Chair.

20

21 (BRIEF PAUSE)

22

23 THE CHAIRPERSON: We're about to move  
24 into the Government of the Northwest Territories's  
25 presentation. I suspect it's going to take a minute or

1 two (2), hopefully not too long, to get set up.

2

3 (BRIEF PAUSE)

4

5 THE CHAIRPERSON: Okay. Good

6 afternoon. It looks like the GNWT is just about ready

7 to fly here. So, Mr. Gavin More, you -- I understand

8 you're the lead. I think it would probably be

9 appropriate to introduce your -- your support group

10 here, if -- if you can, and then -- then get into your

11 presentation. Thank you.

12

13 PRESENTATION BY GNWT:

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

15 We've got it scripted. I'll introduce everybody. One

16 (1) person is just turning up.

17 So basically, my name is Gavin More.

18 I'm the Manager of Environmental Assessment and

19 Monitoring for the Government of Northwest Territories.

20 I am joined today by representatives of GNWT

21 departments with mandates for socioeconomic

22 programming, wildlife, and air quality. Starting on my

23 left, I have Janet Grinsted, Assistant Deputy Minister

24 from Education and Employment. On her left is Kelly

25 Kaylo, Assistant Deputy Minister from Industry,

1 Tourism, and Investment. And on the far left is Debbie  
2 DeLancey, Deputy Minister from Health and Social  
3 Services.

4 To my right I have Dr. Nicole McCutchen,  
5 Manager of Wildlife Research and Management for the  
6 Wildlife Division with the Department of Environment  
7 and Natural Resources. To her, right is Dr. Jan  
8 Adamczewski, who is GNWT's ungulate biologist and  
9 barren-ground caribou expert; and Diep Duong, who is  
10 the Manager, Waste Reduction and Management for the  
11 Environment and Natural Resources Department.

12 Our presentation to the panel is  
13 organized by key area. Kelly Kaylo provided the  
14 socioeconomic section, Diep Duong will provide the air  
15 section, and Nicole McCutchen will provide the wildlife  
16 section. After the presentation, our panel will --  
17 will be available for questions.

18

19 (BRIEF PAUSE)

20

21 MS. KELLY KAYLO: Good afternoon,  
22 panel. Thank you. My name is Kelly Kaylo, as  
23 mentioned earlier. I have the privilege of presenting  
24 the Government of the Northwest Territories's  
25 socioeconomic presentation.



1                   The Government of the Northwest  
2 Territories's social programming departments of Health  
3 and Social Services; Education, Culture, and  
4 Employment; Municipal and Community Affairs; Industry,  
5 Tourism, and Investments; NWT Housing Corporation;  
6 Department of Justice; and Bureau of Statistics  
7 collaboratively plan and provide a wide array of  
8 programs and services on an NWT-wide basis. These  
9 programs and services adapt to the changing needs of  
10 our communities and residence over a -- a bit of time.  
11 The GNWT monitors and reports on socioeconomic  
12 indicators across the territory.

13                   The departments responsible for the  
14 Government of the North Territories's socioeconomic  
15 interests actively participated throughout the  
16 Environmental Impact Review for the Gahcho Kue project.  
17 Departmental staff engaged with De Beers during  
18 workshops and individual meetings to discuss and  
19 resolve a number of potential concerns.

20                   These concerns covered the topics of  
21 culture, heritage, and archeology; employment and  
22 education; procurement and business development; health  
23 and social services; and socioeconomic monitoring and  
24 follow-up. The following slides will highlight a few  
25 of these areas.

1                   Archeologists from the Prince of Wales  
2 Northern Heritage Centre worked with the De Beers to  
3 develop an archeological management plan for the  
4 project. The plan was completed in October of this  
5 year. De Beers confirmed the implementation of the  
6 plan in the response to the GNWT techno -- technical  
7 report that was filed in November. The GNWT is  
8 confident adherence to the archeological management  
9 plan will effectively manage the project's effects on  
10 archeological sites. There are no outstanding issues  
11 related to archeological sites' protection.

12                   De Beers is addressing health and social  
13 services concerns in the following ways: commitments in  
14 the Environmental impact statement and during the  
15 technical review through information request responses  
16 and technical rep -- report responses. Through follow-  
17 up meetings, De Beers and GW -- GNWT jointly prepared a  
18 set of health and social services commitments which  
19 were filed and are now on the public registry. The  
20 GNWT wants those commitments reflected in a  
21 socioeconomic agreement follow-up program.

22                   The GNWT reviewed commitments for  
23 employment and education made by the De Beers in its  
24 Environmental Impact Statement and those made during  
25 the technical review. GNWT staff engaged with De Beers

1 to ensure an initial understanding of these  
2 recommendations and commitments. De Beers provided  
3 additional clarity to the resp -- recent responses to  
4 the GNWT technical report filed on the public registry.  
5 The GNWT would like to see these commitments reflected  
6 in a socioeconomic agreement follow-up program.

7                   The GNWT understands the Tlicho  
8 government has affirmed its recommendation to conduct  
9 an independent labour survey has been met. The GNWT  
10 would like to briefly provide additional information to  
11 the panel it may find useful in the areas of.

12                   The GNWT recognizes labour market  
13 information is key to labour-force development. Our  
14 skill development and employment readiness programs are  
15 developed in response to input from the North Slave  
16 regional training partnership. This partnership  
17 includes representation from Aboriginal governments,  
18 community services agencies, and industry, the Mine  
19 Training Society, Diavik, De Beers, BHP, the NWT  
20 Construction Association, Skills Canada, GNWT  
21 departments, and the federal government are also  
22 members.

23                   For example, the Mine Training Society  
24 is partnershiped with Education, Culture, and  
25 Employment regional offices in the North Slave, South

1 Slave, and Dehcho regions recently completed an  
2 employment result survey. Based on the programming by  
3 Education, Culture, and Employment and its partners the  
4 GNWT is confident this important initiative will  
5 continue to be addressed over time.

6               The GNWT believes businesses should be  
7 given a full and fair opportunity to participate in the  
8 business opportunities from the Gahcho Kue project.  
9 The GNWT held discussions with De Beers on NWT  
10 procurement and business development opportunities,  
11 purchasing order of priority and procurement strategy,  
12 De Beers's relationship with contractors and sub-  
13 contractors, the degree of NWT and Aboriginal business  
14 participation in the Gahcho Kue project. The GNWT  
15 expects that -- the same level of NWT procurement for  
16 the Gahcho Kue project as it is for the Snap Lake mine.

17               A number of commitments have been made  
18 in the technical review, including information request  
19 responses and technical report responses, as well as  
20 through one-on-one meetings. These commitments should  
21 be reflected in a socioeconomic agreement follow-up  
22 program.

23               A socioeconomic agreement is an  
24 essential follow-up program to monitor and test  
25 socioeconomic predictions, evaluate successes, identify

1 gaps when predictions made during the Environmental  
2 Impact Review are not met, and identify adaptive  
3 management measures to address unintended results.

4                   The GNWT and De Beers recently confirmed  
5 their intentions to negotiate and sign and  
6 socioeconomic agreement. It is expected also to show  
7 economic commitments made by De Beers during the  
8 Environmental Impact Review and one-on-one discussions  
9 with the GNWT, including reporting commitments, will be  
10 formalized within that socioeconomic agreement.

11                   The GNWT recommends as a condition of  
12 project approval that the panel include the following  
13 requirement for a socioeconomic follow-up program in  
14 its report of Environmental Assess -- Assessment under  
15 section 134(2) of the Mackenzie Valley Resource  
16 Management Act: De Beers and GNWT shall negotiate and  
17 sign a follow-up program in the form of a socioeconomic  
18 agreement.

19                   The GNWT believes the project-related  
20 socioeconomic concerns will be substantively addressed  
21 through several means that include De Beers's  
22 commitments during the Environmental Impact Review  
23 process, impact and benefit agreements negotiated  
24 between De Beers and Aboriginal communities, GNWT's  
25 ongoing and continually attempting socioeconomic

1 programs and services, implementation of a  
2 socioeconomic agreement.

3 Thank you, Mr. Chair. I'll now pass the  
4 presentation over to Diep Duong.

5 MS. DIEP DUONG: Good afternoon. My  
6 name is Diep Duong. I will now address the GNWT's  
7 perspective on the air quality aspects of the Gahcho  
8 Kue project. Our air quality programs coordinator,  
9 Aileen Stevens, unfortunately could not be here today,  
10 so I'm speaking on her behalf.

11 Air quality and incinerator commitments.  
12 The GNWT has reviewed -- oh, sorry, The GNWT has  
13 reviewed the air quality components of the  
14 Environmental Impact Statement participated in  
15 technical sessions, and worked one-on-one with De Beers  
16 --

17 THE CHAIRPERSON: Excuse me.

18 MS. DIEP DUONG: Sorry, am I going to  
19 fast?

20 THE CHAIRPERSON: We have translators --

21 MS. DIEP DUONG: Oh, sorry.

22 THE CHAIRPERSON: -- translating into  
23 Aboriginal languages and they will never keep up if you  
24 keep that speed up, so --

25 MS. DIEP DUONG: Okay, sorry.

1 THE CHAIRPERSON: -- can you please  
2 slow -- slow down?

3 MS. DIEP DUONG: I'll start over. The  
4 GNWT has reviewed the air quality components of the  
5 Environmental Impact Statement, participated in a  
6 technical sessions, and worked one on one with De Beers  
7 to resolve outstanding concerns as relate to air  
8 quality and incineration management. The following  
9 slides provide a highlight of our perspective on air  
10 quality and incineration management.

11 First, the GNWT identifies the primary  
12 components of the air quality management to be the  
13 emissions management, air quality monitoring, and  
14 mitigation and adaptive management strategies. De  
15 Beers has committed to development and implementation--

16 THE CHAIRPERSON: Excuse me, you're  
17 still going too fast and --

18 MS. DIEP DUONG: Oh, I'm sorry.

19 THE CHAIRPERSON: -- our translators are  
20 nearly in revolt.

21 MS. DIEP DUONG: Okay.

22 THE CHAIRPERSON: So please slow down.

23 MS. DIEP DUONG: Sorry. I will slow  
24 down. I thought I was speaking slower.

25

1 (BRIEF PAUSE)

2

3 MS. DIEP DUONG: De Beers has committed  
4 to the development and implementation of an air quality  
5 and emissions monitoring and management plan, and an  
6 incineration management plan. De Beers submitted the  
7 two (2) draft plans to the GNWT and Environment Canada  
8 for review in October 2012.

9 The GNWT has reviewed the draft air  
10 quality and emissions monitoring and management plan.  
11 We agree it includes all the primary components  
12 required for adequate air quality management, including  
13 emissions reporting and management, air quality  
14 monitoring, and plans for mitigative and adaptive  
15 management strategies.

16 While not all components of the air  
17 quality and emissions monitoring management plan have  
18 been finalized at this point, the GNWT is satisfied  
19 with the plan's current framework. Some details still  
20 need to be fine-tuned before the project construction.

21 Similarly, the incineration management  
22 plan will need to be fine-tuned before approach of  
23 construction, but the GNWT is satisfied with the plan's  
24 current framework.

25 De Beers has committed to finalizing



1 these plans in consultation with the GNWT and  
2 Environment Canada, as noted in the slide. Is that a  
3 little bit better?

4                   Regulatory implementation. The GNWT is  
5 responsible for environmental protection and management  
6 on lands for which it has administrative authority.  
7 These are non-federal lands. The GNWT has not taken on  
8 jurisdiction for air quality on federal lands. To  
9 date, federal regulatory agencies have not occupied  
10 jurisdiction for air quality on federal lands.

11                   Land and water boards in the Northwest  
12 Territories maintain authority for land and water  
13 protection and not -- and have not included terms and  
14 conditions related to air quality protection in their  
15 permits or licences.

16                   Any air quality commitments or measures  
17 resulting from this environmental impact review are  
18 within the scope of the project. However, it is likely  
19 these measures will be orphaned and will require  
20 alternative methods of follow-up to ensure compliance.

21                   The GNWT does consider incineration to  
22 be a waste management practice and not necess -- not  
23 necessarily a qua -- and air quality issue. Under the  
24 Mackenzie Valley Land Use Regulation subsection 26-1,  
25 land and water boards can include in it permit

1 conditions respecting clause C, the type and size of  
2 equipment that may be used on a land; clause D, the  
3 methods and techniques to be employed by the permittee  
4 in carrying out land use operation; and clause I, the  
5 storage, handling, and disposal of refuse or sewage.

6 Under these clauses, incineration is  
7 clearly a waste management issue. Terms and conditions  
8 related to incineration have been included in a number  
9 of land use permits and/or water licences.

10 The GNWT and De Beers have committed to  
11 working together to develop a formalized approach to  
12 capture commitments made during this environmental  
13 impact review process. This will ensure air quality  
14 management and protection measures are upheld  
15 throughout the life of this project. The specific  
16 details of the approach, such as timing and party  
17 collaboration, are not yet finalized at this time.

18 So in conclusion, the GNWT acknowledges  
19 the air quality commitments made by De Beers and  
20 confirm our agreement with them. We are satisfied with  
21 the framework of De Beers's air quality and emissions  
22 monitoring management plan, and are committed to  
23 working together to finalize it as the project  
24 proceeds.

25 The GNWT also reviewed the draft

1 incineration management plan and notes following the  
2 general framework and guidance provided the technical  
3 document for BAT incineration issued by Environment  
4 Canada. The GNWT is committed to working with De Beers  
5 to finalize the incineration management plan during the  
6 regulatory process.

7                   The GNWT and De Beers have committed to  
8 working towards the development of an approach to  
9 further formalize De Beers's air quality commitments  
10 that might be excluded from the regulatory process. I  
11 will now pass it on to Nicole McCutchen.

12                   THE CHAIRPERSON: Just a point, the  
13 GNWT was assigned thirty (30) minutes and you're at  
14 thirty-two (32) already. So how much longer will your  
15 presentation take?

16                   MR. GAVIN MORE: Dr. McCutchen  
17 indicates about fifteen (15) minutes, Mr. Chair.

18                   THE CHAIRPERSON: Please cut it down to  
19 ten (10). Thank you.

20                   DR. NICOLE MCCUTCHEN: I assume that  
21 means I can't speak fast. As mentioned, my name is Dr.  
22 Nicole McCutchen. I am responsible for establishing  
23 overall direction for GNWT's wildlife and wildlife  
24 habitat research and monitoring programs.

25                   My background is in environmental

1 assessment and cumulative effects assessment as it  
2 relates to wildlife. I will now address the GNWT's  
3 perspective on the wildlife aspects of the Gahcho Kue  
4 project.

5 Our role in this review is to ensure  
6 that the impacts of the project in -- on wildlife and  
7 wildlife habitat are minimized and mitigated. In the  
8 NWT this is the -- a shared responsibility with our co-  
9 management partners and other governments.

10 We are seeking wildlife plans and  
11 programs that are robust, that are adaptive, and  
12 provide good information for wildlife management and  
13 mitigation. De Beers has developed a wildlife effects  
14 monitoring program and a wildlife and wildlife habitat  
15 protection plan as mechanisms to address any impacts of  
16 the project on wildlife and wildlife habitat.

17 A wildlife effects monitoring program as  
18 defined under the Mackenzie Valley Resource Management  
19 Act is a follow-up program meant to evaluate a couple  
20 of things. This includes the soundness of an  
21 environmental assessment or environmental impact review  
22 for proposed development, the effectiveness of  
23 mitigation measures or remedial -- and -- or remedial  
24 measures imposed as conditions of approval of the  
25 proposal. And I'll stop there.

1                   So the main questions that we asked  
2 while reviewing De Beers' draft wildlife effects  
3 monitoring program were: Is it robust enough to test  
4 predictions made in the environmental impact statement  
5 that the project will have limited or no impact on  
6 wildlife and wildlife habitat? Does it target multiple  
7 species of concern, including caribou, wolverine, and  
8 grizzly bears? Was it developed collaboratively with  
9 partners and does it emphasize the use of standardized  
10 protocols? We also asked whether it was adaptive,  
11 meaning that it will be revised as new information is  
12 obtained.

13                   Another one (1) of our considerations  
14 was whether De Beers intended to monitor wildlife  
15 beyond the local and regional study areas identified in  
16 their draft program. This is important, because we are  
17 concerned about population level impacts, that is, how  
18 a population may change in size or trend as a result of  
19 the project. Our concern is that a site-specific  
20 program will only target a handful of individuals,  
21 meaning that population level impacts, if they do  
22 exist, will be difficult to detect.

23                   Regional monitoring will provide better  
24 information about populized -- population size and/or  
25 trend for wildlife in the Slave geological province.

1 This information will be used by us and our co-  
2 management partners to make management decisions  
3 related to harvest and development. Population size  
4 and/or trend is also a key indicator in any program  
5 that assesses, monitors, and mitigates cumulative  
6 effects. But I'll touch more on this later.

7                   So after our review we concluded that De  
8 Beers' proposed program is conceptually sound and  
9 there's a couple of reason for this. It does target  
10 multiple species, mainly barren ground caribou,  
11 wolverines, and grizzly bears, and raptors. It does  
12 emphasize working with partners to develop the program,  
13 and it indicates that De Beers is open to taking both  
14 an adaptive management approach to their program as  
15 well as their -- they have indicated their willingness  
16 to contribute to regional monitoring programs.

17                   And more specifically, they've committed  
18 to a joint grizzly bear DNA hair-snagging study, a  
19 wolverine DNA hair-snagging study, and a five (5) year  
20 North American peregrine falcon survey.

21                   These are programs that the GNWT has  
22 advocated for in recent workshops, and it's namely  
23 because they will result in a standardized monitoring  
24 program for carnivores at a scale that's appropriate,  
25 or more appropriate, for understanding cumulative

1 impacts in the Slave geological province. These  
2 programs are also collaborative. And it -- and by that  
3 I mean that the other diamond mines are -- are working  
4 on those with us, and we are also participating in  
5 them.

6                   Some other things that De Beers has  
7 agreed to work with us on, but I'll -- I won't talk  
8 about too much because of the time, is a winter --  
9 programs related to the winter access road, including  
10 working with us on check stations along the access road  
11 and public education programs that respect -- promote  
12 respect for caribou.

13                   So that said, there are a number of  
14 other things -- or, there are some other things that  
15 require further development or refinement within the  
16 wildlife program as proposed. So, for example, many of  
17 the specific details related to the regional programs  
18 still need to be worked out. We need to understand  
19 what cell size, as an example, is best used to monitor  
20 wolverines across the diamond mines and at our own  
21 control site at the Tundra Ecosystem Research Station  
22 at Deering Lake.

23                   But De Beers has committed to con -- to  
24 participating in future workshops that the GNWT will  
25 lead to refine these program elements. And it's also

1 at these workshops where we can start discussing how to  
2 address cumulative effects issues for carnivores. And  
3 we intend to have these workshops early in the new  
4 year, and of course they will be open to other parties.

5 The other program component requiring  
6 further development is De Beers's barren-ground caribou  
7 program, particularly as it relates to cumulative  
8 effects assessment for the Bathurst herd.

9 So one of our primary concerns with this  
10 project is how it contributes to the overall -- all  
11 amount of disturbance on the landscape. And as you can  
12 see on the map up there, there are already a number of  
13 demal -- developments and potential developments in the  
14 historical range of the Bathurst herd. Developments  
15 are in that interesting pink colour, and the range --  
16 the historic range is in blue.

17 We also know that more developments are  
18 proposed, including a number on the -- of projects on  
19 the Bathurst calving grounds in Nunavut. A cumulative  
20 effects program is necessary to determine how all these  
21 developments, in combination with natural factors like  
22 fire and human factors like roads and increased  
23 harvests, impact caribou and caribou habitat. Knowing  
24 this will help us understand what factors we can manage  
25 and what factors are the most important to manage.



1                   The GNWT is taking a leading role in  
2   coordinating collaborative cumulative effects programs  
3   for multiple species, including the Bathurst herd, but  
4   we cannot do this alone. We believe that this is a  
5   shared responsibility among governments, co-management  
6   partners, land users, and others who use the herd. And  
7   we look forward to De Beers's participation in this  
8   collaborative approach to cumulative effects  
9   management.

10                  I'm also going to touch briefly on,  
11   before we go to the next slide, about some of the  
12   things that we are already doing, in terms of  
13   cumulative effects programming. The first is that we  
14   are in the process of hiring a cumulative effects  
15   biologist. This will complete the team of experts that  
16   we need to deal with increasing environmental  
17   assessment and cumulative effects assessment issues in  
18   the North.

19                  We are also working with AANDC and  
20   Environment Canada -- "AANDC" meaning Aboriginal  
21   Affairs and Northern Development Canada -- to expand on  
22   some of our -- to understand better what tools are out  
23   there to assess cumulative effects and which ones are  
24   most appropriate for the North. And there's other  
25   things that we're doing as well which I can talk about

1 if questions are asked, but I'll leave it at that.

2 In addition, our caribou management  
3 strategy outlines the importance of cumulative effects  
4 assessment for barren-ground caribou across the NWT.  
5 Cumulative effects were identified as a priority as  
6 part of the public review of the draft strategy that  
7 was released in February 2011. You guys spoke and now  
8 we're responding, because we do, as a good government,  
9 listen to what you say.

10 As I mentioned earlier, one of the first  
11 steps in developing a cumulative effects program is  
12 having a good understanding of how your population of  
13 concern is doing. That means getting good baseline  
14 information on population size or trends.

15 Currently, we survey the Bathurst herd  
16 every three (3) years to get an update on size. This  
17 will tell us if the herd is increasing, decreasing, or  
18 stable. We collect this information using a collaring  
19 program and follow -- follow-up aerial surveys of the  
20 calving -- calving grounds.

21 So collars tell us where they are. With  
22 an aerial survey, we count how many are actually there.  
23 This information combined with things from calf  
24 recruitment, sex ratio, and health and condition tell  
25 us how the herd is doing and it's all -- this is the

1 information that is critical for making management  
2 decisions related to harvest, land use activity,  
3 cumulative effects, et cetera, with our co-management  
4 partners, and these things are described in that  
5 strategy.

6 De Beers indicated in its draft program  
7 that it will contribute to our strategy, but what this  
8 means exactly remains undefined. And why is it  
9 important to develop a cumulative effects program for  
10 the Bathurst herd?

11 Well, we know based on our very recent  
12 survey over the summer that while the herd is now  
13 stable at thirty-five thousand (35,000) animals, it is  
14 still very low in numbers.

15 We also know that there has been no  
16 change in the number of breeding females in the herd  
17 since 2009 and calf recruitment has been low over the  
18 past two (2) years. We expect herd recovery to be slow  
19 and that continued management actions will be needed to  
20 conserve the herd.

21 We will need to continue to work  
22 together to understand how multiple factors affect herd  
23 size and trend and what this means for the long-term  
24 management of the herd so that it remains a sustainable  
25 resource for northerners and some of this work has

1 already started. We are working with our co-management  
2 partners, Aboriginal governments, and traditional users  
3 to develop short-term harvest management actions for  
4 the herd, as well as an overall process for the long-  
5 term management of the herd. Part of that long-term  
6 management could include addressing cumulative effects  
7 as part of a multi-partner process.

8                   So for De Beers, their support to a  
9 cumulative effects program needs to include a couple of  
10 things. For example -- or first off, they need to  
11 provide support for our current monitoring program for  
12 the Bathurst herd. They need to identify the potential  
13 zone of influence around their project, including the  
14 zone of influence around the access road.

15                   They need to work with us and our  
16 partners to understand how wolf predation affects herd  
17 size and trend. De Beers has contributed to our wolf  
18 predation study in 2012 and our understanding is that  
19 they will do that again in 2013. And they also need to  
20 work with us and our partners to develop an access  
21 management plan to minimize impacts of the access road  
22 on the Bathurst herd.

23                   And just so we're clear, these are not  
24 all the factors that we would put in a cumulative  
25 effects program, they're only part of the factors. We

1 -- this list represents how De Beers would need to be  
2 involved. Some things that are missing from this  
3 include things like: Fire, like habitat condition, and  
4 harvest, et cetera, and these things can be discussed  
5 more at a cumulative effects workshop that we'll be  
6 holding for the Bathurst caribou in the new year and De  
7 Beers has already committed to participating in this  
8 workshop.

9 All right. We're almost there. So  
10 overall, the GNWT believes that De Beers's approach to  
11 wildlife monitoring is conceptually sound, inclusive,  
12 and emphasizes adaptive management. In addition, De  
13 Beers has agreed to participate in regional monitoring  
14 programs for wolverines, grizzly bears, and raptors,  
15 which we believe is forward thinking and a positive  
16 step.

17 However, the barren-ground caribou  
18 program, in terms of addressing cumulative effects  
19 needs further refinement. We are working with De Beers  
20 to develop a memorandum of understanding to provide  
21 further clarity on how we can work together to develop  
22 a mutually acceptable wildlife effects monitoring  
23 program.

24 This memorandum of understanding will  
25 also provide additional clarity on how we can work

1 together to develop a mutually acceptable wildlife and  
2 wildlife habitat protection plan. We recognize that De  
3 Beers is working with Aboriginal governments to develop  
4 a process for community engagement in environmental  
5 monitoring and we also look forward to hearing the  
6 results of this work. And I think I'm going to stop  
7 there.

8 MR. GAVIN MORE: Thank you, Mr. Chair.  
9 That concludes our presentation. We can shorten the  
10 question period if you so desire as well.

11

12 QUESTION PERIOD:

13 THE CHAIRPERSON: Thank you. I suspect  
14 that the question period is going to be a little longer  
15 than we've had in the -- in the past little while, so  
16 thank you for your presentation.

17 We will move immediately into questions  
18 from parties. And I'll work my through the -- my -- my  
19 way through this long list again. So we'll begin with  
20 Akaitcho IMA Implementation Office.

21 Oh, I should say that for a brief period  
22 of time the webcast was down. I understand it's  
23 working again, so people who are listening in from afar  
24 can still keep up with us.

25 The next party is Dene Nation...?

1 Deninu Kue First Nation...? Lutsel K'e First  
2 Nation...?

3 MR. MIKE TOLLIS: Thank you, Mr. Chair.  
4 Mike Tollis from the Lutsel K'e Dene First Nation. We  
5 just had one (1) question for the GNWT.

6 We feel that the Government of the  
7 Northwest Territories cannot afford the devolution deal  
8 coming down the pipe and are, therefore, required to  
9 approve all developments in the hope of being able to  
10 support devolution.

11 Taking into account, as the GNWT stated,  
12 that good government listens to its people and the  
13 opinions expressed by Lutsel K'e today and on Monday,  
14 my question for the GNWT is: Do they view the  
15 potential economic benefits over the livelihoods of the  
16 Lutsel K'e Dene, or rather does the GNWT expect the  
17 Lutsel K'e Dene to pay for their potential benefits to  
18 the Territory? Thank you.

19 THE CHAIRPERSON: Thank you. Who is  
20 going to take that one on?

21 MR. GAVIN MORE: Thank you, Mr. Chair.  
22 Gavin More, GNWT. I'll ask -- excuse me. Debbie  
23 DeLancey will field that one, please.

24 MS. DEBBIE DELANCEY: Yes. Thank you,  
25 Mr. Chair. That's a question that's broader than my

1 departmental mandate, needless to say.

2 I believe that the GNWT's position on  
3 devolution is that the government has tried very hard  
4 to engage all Aboriginal groups in moving forward. And  
5 certainly the government's stated position on this  
6 project and any project is that it has to result in --  
7 in a greater number of benefits for all residents. So  
8 I -- I believe the answer to the question, in fact, is  
9 no.

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

12 MR. MIKE TOLLIS: Thank you, Mr. Chair.  
13 No further questions at this time.

14 THE CHAIRPERSON: Thank you. NWT Metis  
15 Nation...? North Slave Metis Alliance...?

16 MS. SUSAN ENGE: Susan Enge, North  
17 Slave Metis Alliance.

18 I'd like to ask the Government of the  
19 Northwest Territories how they intend to identify  
20 community-specific data about the Metis who are  
21 indigenous in the North Slave region in their proposed  
22 socioeconomic agreement their developing with De Beers?

23 THE CHAIRPERSON: Thank you.

24 MR. GAVIN MORE: Gavin More, GNWT.  
25 I'll ask Kelly Kaylo to answer that, please.



1 MS. KELLY KAYLO: Thank you, Mr. Chair.

2 Certainly in terms of any data that's  
3 collected, we'd have to do some consultations. We're  
4 currently in preliminary discussions with De Beers  
5 regarding a socioeconomic agreement, you know, what  
6 that will look like and -- and what a modelling -- or  
7 monitoring reporting might be that would involve data  
8 collection is -- is under discussion. Obviously, the  
9 objectives of those socioeconomic agreement stand as  
10 ensuring that there's a transparent monitoring and  
11 reporting process.

12 So, again, as far as under the  
13 socioeconomic agreement, that's to be discussed and  
14 negotiated. And it is our intent to move to an  
15 agreement very soon with De Beers. As I said, we're  
16 under preliminary discussions at this point. Thank  
17 you.

18 THE CHAIRPERSON: Thank you. Sue  
19 Enge...?

20 MS. SUSAN ENGE: Thank you, Mr. Chair.  
21 I don't believe our question was answered.

22 THE CHAIRPERSON: Do you need it  
23 rephrased? Can you rephrase the question, then,  
24 please.

25 MS. SUSAN ENGE: My question is: Does

1 the Government of the Northwest Territories intend to  
2 identify community-specific data about how the Metis  
3 indigenous to the North Slave region will be impacted  
4 and protected and represented, so to speak, in this  
5 proposed socioeconomic agreement?

6 THE CHAIRPERSON: Thank you.

7 MS. KELLY KAYLO: The GNWT intends to  
8 meet and discuss --

9 THE CHAIRPERSON: Kelly Kaylo, right?

10 MS. KELLY KAYLO: I'm sorry, Mr. Chair.  
11 Kelly Kaylo, ITI. The GNWT intends to meet and discuss  
12 the contents of the socioeconomic agreement with  
13 impacted communities prior to signing. I'm sorry, I  
14 wouldn't have any details, I'm not fully understanding  
15 what -- the kind of data that the Metis would be  
16 looking for. But certainly it would be our intent to  
17 have those discussions about the contents of that  
18 agreement with impacted communities.

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

21 MS. SUE ENGE: Thank you, Mr. Chair.  
22 We look very much forward to hearing from Ms. Kaylo's  
23 department as they develop this socioeconomic  
24 agreement. And failure to do so will result in further  
25 action or discussion with our leadership.

1                   And I would like to follow this up with  
2 another question about the archeology sites. And I'm  
3 wondering what measures or provisions you can provide  
4 us with helping us identify Metis-impacted sites in the  
5 Gahcho Kue area?

6                   MR. GAVIN MORE:   Gavin More, GNWT. We  
7 have an archeologist from the Prince of Wales here,  
8 Glen MacKay and I'd like Glen to answer that question  
9 if he may.

10                  THE CHAIRPERSON:   Sure, that would be  
11 good.

12                  MR. GLEN MACKAY:   This is Glen MacKay.  
13 I'm from the Prince of Wales Northern Heritage Centre,  
14 GNWT. If I understand the question correctly it is how  
15 will sites that are of Metis origin in the Gahcho Kue  
16 area be identified as such.

17                  To that I'd respond that it's virtually  
18 impossible from the type of archeological material  
19 that's typically found in that area to -- to ascribe  
20 who left that material there. The majority of sites in  
21 the Gahcho Kue area are pre-contact, so they consist of  
22 evidence related to stone tool manufacture and pre-  
23 contact life in that area. There are some historic  
24 sites, but the material record that's there would  
25 really preclude being able to know exactly who

1 deposited that -- that material there. Thank you.

2 THE CHAIRPERSON: Thank you. Sue

3 Enge...?

4 MS. SUE ENGE: No further questions,

5 Mr. Chair. Thank you.

6 THE CHAIRPERSON: Thank you. We move

7 on to the Tlicho government.

8 MR. HENRY ZOE: Good afternoon. Henry

9 Zoe, Tlicho government. I'd like to ask the GNWT to

10 comment on the role you see for -- for them in our --

11 the new conceptual Ni Hadi Yati.

12 And how -- how could your ongoing

13 research engage and inform Ni Hadi Yati?

14 THE CHAIRPERSON: Thank you.

15 MR. GAVIN MORE: Gavin More, GNWT. I

16 can answer that question. Our vision right now is that

17 the -- that particular monitoring committee and --

18 amongst the Aboriginal governments and De Beers will

19 form and dis -- frame under their contractual

20 arrangements how the process will work for that

21 committee.

22 We would like the government to stay

23 separate. What we are doing is working with De Beers

24 on two (2) memorandums of understanding: one (1)

25 related to wildlife, one (1) related to air. And what

1 we envision then is we will do our normal job where we  
2 provide comments and work with De Beers, those comments  
3 would go to that particular committee that they would  
4 then be able to use that in their review and discussion  
5 with De Beers. It's -- if you remember back to one of  
6 the bullets, that committee defined that they would be  
7 interested in finding expert advice and then using or  
8 not using that advice. In other words, helping the  
9 forum and add to their own perspective.

10 So what we envision is something not  
11 much different than our normal process where we review  
12 the plans, review the documents, we discuss directly to  
13 the Proponent, and then when there's a need to meet or  
14 provide the information, whether it's in written form  
15 or -- or in discussion that that will happen on a as-  
16 needed basis.

17 We don't envision at this stage that we  
18 would be a formal part of that committee. We would  
19 really like to see a proponent and the Aboriginal  
20 communities engage more directly, and that way increase  
21 the communication with the -- with -- within the  
22 communities through that process.

23 THE CHAIRPERSON: Thank you. Mr. Henry  
24 Zoe, Tlicho Government...?

25 MR. HENRY ZOE: Thank you, Mr.

1 Chairman. I have no further questions.

2 THE CHAIRPERSON: Thank you. The  
3 Yellowknives Dene First Nation...?

4 MR. TODD SLACK: Hi, Mr. Chair. I have  
5 four (4) lines of inquiry with a few questions.

6 Todd Slack, Yellowknives Dene. Thanks  
7 to my colleagues over here --

8 THE CHAIRPERSON: Would that be eight  
9 (8) questions, then?

10 MR. TODD SLACK: The -- the first issue  
11 that I'll address is economic. Mr. Clinton's analysis  
12 predicted a hundred (100) jobs for -- more or less a  
13 hundred jobs for residents of the NWT.

14 I have two (2) questions related to  
15 this: 1) how many do -- how many of those jobs does  
16 GNWT believe will accrue to the Yellowknives Dene? And  
17 2), if that prediction isn't met, what recourse is  
18 available under a potential socioeconomic agreement?

19 THE CHAIRPERSON: Thank you.

20 MR. GAVIN MORE: Gavin More, GNWT.  
21 Just a second, Mr. Chair. I need to talk to ECE and  
22 see what they think about that one.

23

24 (BRIEF PAUSE)

25

1 MS. KELLY KAYLO: Thank you, Mr. Chair.

2 Kelly Kaylo.

3 When we monitor and track the employment  
4 statistics, we don't actually define it by specific  
5 community groups. It's defined by Aboriginal/non-  
6 Aboriginal, resident/non-resident. Certainly in our  
7 monitoring, I think was an aspect of that question as  
8 well, the third-party monitoring is going to be done by  
9 a number of different models, I guess, that we've  
10 experienced over the years, some with varying degrees  
11 of success. And the final model of -- of how this  
12 socioeconomic agreement would be monitored would be  
13 part, again, of the negotiations that we would have  
14 with -- with De Beers.

15 They also -- some of this may be covered  
16 off in -- potentially impact benefit agreements that  
17 would be negotiated directly with the Developer. Thank  
18 you.

19 THE CHAIRPERSON: Thank you. Mr. Todd  
20 Slack...?

21 MR. TODD SLACK: Todd Slack,  
22 Yellowknives Dene. One follow-up, then.

23 With the monitoring that was discussed  
24 there -- sorry, I'll move on.

25 The second issue is -- in relate --

1 relates to air quality monitoring. And the Proponent  
2 adopted two (2) lines of thought here. The first  
3 referenced a number of different areas within the  
4 MVRMA. And this is -- it's a little bit new to me, so  
5 I'm just wondering what enforcement option is  
6 associated with this, and I believe that this would  
7 then be the result -- or the duty of the AANDC  
8 inspectors. If that's the case, has GNWT confirmed  
9 with AANDC that they support this process -- or that  
10 they support this approach?

11 THE CHAIRPERSON: Thank you.

12 MR. GAVIN MORE: I'm Gavin More, GNWT.

13 I don't think at this stage there's been  
14 any specific discussions with the INAC inspectors for  
15 this particular project. The key is that we know of a  
16 number of the board's -- Sahtu Land and Water Board for  
17 one (1), and some other projects where conditions --  
18 terms and conditions related to incinerators, both in  
19 terms of type not necessarily the model, but the -- and  
20 -- and reporting requirements, some monitoring  
21 requirements, those are included in land use permits.  
22 They typically are duplicated also in -- in the water  
23 licence.

24 The bigger issue has -- has -- is -- is  
25 not likely around inspection. The -- the key -- if you



1 think of the kinds of reporting that companies do, for  
2 example, surveillance moni -- monitoring for water  
3 quality. It's up to the -- to the -- to the Proponent  
4 to carry out the -- the sampling, have it analyzed,  
5 have their -- the table of results turned in to a land  
6 and water board, and then the role of the inspectors to  
7 review those.

8                   It's often -- is not done strictly on  
9 the basis of the expertise of the individual  
10 inspectors. People will often hire or, for some  
11 projects, for example, like National Energy Board, they  
12 will send documents to our staff and Environment Canada  
13 review and provide information back. So from our point  
14 of view, the kinds of terms and conditions to relate to  
15 incinerators isn't so much about the inspector and what  
16 the -- the inspector is up to.

17                   We know from, for example, the Federal  
18 Minister response to the -- to the Prairie Creek Mine  
19 that commitments are considered within the scope of the  
20 project. So when a Proponent commits to installing an  
21 incinerator, doing the appropriate monitoring, that  
22 sort of thing, those are very easy then for a land and  
23 water Board to include as -- as terms and conditions.

24                   The bigger issue is what I always phrase  
25 as the "what goes up must come down" debate with the

1 land and water boards. And that relates more to the  
2 general air emissions. Obviously incinerators are one  
3 very important part in terms of some of the -- the  
4 kinds of toxic chemicals that can be produced if  
5 incinerators aren't run properly, but there's lots of  
6 other emissions that -- that occur at a mine site.

7                   And the -- it's in that subject matter  
8 that that idea of the Air Management Plan and then the  
9 MOU with us working with the Company in terms of  
10 reviewing to make sure the plan is adequate, the  
11 reporting is adequate. That's -- that's the whole  
12 purpose of that idea of an MOU, so that even though  
13 there's not necessarily a pure regulator at this stage  
14 that will take that on, that won't fall through the  
15 cracks in terms -- cracks in terms of that important  
16 aspect of reviewing the plans, making sure that the  
17 monitoring and the results are adequate.

18                   Some of that will -- oh sorry. Some of  
19 that material obviously fits in with some of our other  
20 programming in terms of greenhouse gases, tracking  
21 greenhouse gases, that sort of thing. So it's -- that  
22 the -- the air management planning is quite a critical  
23 element, and from our point of view will not drop  
24 through the cracks because of our building relationship  
25 with the Company.

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

3 MR. TODD SLACK: Todd Slack,  
4 Yellowknives Dene. So who is responsible for enforcing  
5 this in that case?

6 THE CHAIRPERSON: Thank you.

7 MR. GAVIN MORE: Gavin More, GNWT.  
8 Restricting it to the air management plan, the MOU that  
9 we're drafting will have, one might call "dispute  
10 resolution." It's not a question of what I would call  
11 "enforcement." The key on the air management plan is  
12 the adequacy of the design of the plan, the adequacy of  
13 the monitoring and reporting. There isn't, at this  
14 stage, a sort of regulator that will enforce it in the  
15 sense that I -- I think Mr. Slack is meaning.

16 THE CHAIRPERSON: Thank you. Mr.  
17 Slack...?

18 MR. TODD SLACK: Thanks. And that's a  
19 good segue. If De Beer -- recognizing that they -- De  
20 Beers has submitted an air quality mon -- or,  
21 management plan, if there was a situation in which the  
22 Company was not fulfilling that what recourse, would  
23 GNWT have to see that plan enacted?

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

25 MR. GAVIN MORE: Gavin More, GNWT.

1 That's part of the purpose of the MOU. If -- if you  
2 look back to the examples with companies that we have,  
3 the solution to it has actually been for the company to  
4 finally sit down and -- and work through with ourselves  
5 and Environment Canada. That's why from our point of  
6 view that concept of enforcement isn't necessarily  
7 required.

8                   What we -- what we need, and have needed  
9 with the other mines, is the willingness to sit down  
10 and live up to the -- the commitments that they've  
11 made, sometimes in environmental agreements, but -- but  
12 the idea of doing a plan and doing an adequate plan.  
13 Then the adequate monitoring becomes the important part  
14 for us. And we've actually had no trouble with all of  
15 the other companies that we've been working with on  
16 that aspect.

17                   THE CHAIRPERSON: Thank you. Mr.  
18 Slack...?

19                   MR. TODD SLACK: Thanks. And my last  
20 question on this. In the past the -- with De Beers the  
21 air quality aspect was addressed under an environmental  
22 agreement. Considering what we've her -- talked about  
23 with Ni Hadi Yati, and the response that we just heard  
24 from GNWT, what limitations are there to that approach  
25 where they want to see the sep -- these items

1 separated?

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

3 MR. GAVIN MORE: Gavin More, GNWT.

4 It's somewhat ironic that people are congratulating the  
5 -- the air aspect of the -- the Snap Lake environmental  
6 agreement. We had already discovered issues with BHP,  
7 and we used the Snap Lake process to outline the  
8 specific contents of the air management plan, that  
9 wasn't included in the prior agreements.

10 And it was that aspect that led to the  
11 development of quite an adequate plan by De Beers for  
12 Snap Lake. We know exactly the kinds of content that  
13 we wish to see in the documents. The draft plans don't  
14 have it all just yet, but because De Beers has already  
15 done one (1) adequate plan for Snap Lake, we're not  
16 that worried that De Beers will not be able to do an  
17 adequate plan for Gahcho Kue.

18 THE CHAIRPERSON: Thank you. Mr.  
19 Slack...?

20 MR. TODD SLACK: I'll move on to  
21 wildlife, the wildlife effects monitoring program.  
22 Does the -- or, sorry, the GNWT submission noted that  
23 the -- this monitoring program may be required. They  
24 used the phrase "if." Does -- so the question I have  
25 is:

1 Does GNWT believe that this is a  
2 requirement?

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

4 MR. GAVIN MORE: Gavin More, GNWT.  
5 I'll pass that to Dr. McCutchen.

6 DR. NICOLE MCCUTCHEN: Nicole  
7 McCutchen, GNWT. Our technical submission made it, I  
8 would argue, fairly clear that a wildlife effects  
9 monitoring program is required. Hence, the emphasis on  
10 regional monitoring and cumulative effects assessment.

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

13 MR. TODD SLACK: Todd Slack,  
14 Yellowknives Dene. And a similar question. If -- at  
15 present, is there any enforcement mechanism that's  
16 available to GNWT if the project were to walk away from  
17 the -- the commitments or the MOU was not successfully  
18 completed?

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

20 MR. GAVIN MORE: Gavin More, GNWT. I'm  
21 not really quite sure I -- I understand that concept of  
22 walking away. One (1) of the reasons I -- I brought  
23 out from De Beers that concept of ISO 140001  
24 environmental management system, De Beers, once they  
25 make that commitment in their system, they have to live

1 up to it.

2                   The second one -- and that's why I re-  
3 mentioned the Federal Minister's letter regarding  
4 Prairie Creek, that once the commitments were included  
5 in the report of environmental assessment and the  
6 Federal Minister had -- had basically signed off on  
7 that report, those commitments are considered within  
8 the scope of the project. In other words, they have to  
9 be done.

10                   The fact that De Beers has provided  
11 drafts of its documentation, De Beers has participated  
12 in our meetings and workshops with other parties to  
13 focus on the development of the -- of particularly the  
14 wildlife effects monitoring program, I -- I really  
15 don't understand the concept of -- or believe that  
16 there's this risk of somebody walking away and not  
17 living up to that commitment.

18                   THE CHAIRPERSON: Thank you. Mr.  
19 Slack...?

20                   MR. TODD SLACK: As a last question,  
21 and even perhaps as a -- in terms of clarity, is -- is  
22 GNWT aware that during the economic slowdown in 2008  
23 Diavik asked about reducing their wildlife monitoring  
24 requirements but weren't able to because of the  
25 environmental agreement?

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

2 MR. GAVIN MORE: Gavin More, GNWT. I  
3 happened to be on EMAB, the environmental monitoring  
4 advisory board, for -- for Diavik at the time when that  
5 happened, so I know perfectly well. The key on that  
6 one was the Company basically laid off certain --  
7 certain activities at its mine.

8 They requested that EMAB not undertake  
9 certain activities, particularly in relation to having  
10 its -- its staff in -- in their office, but they did  
11 not stop much of their environmental monitoring and the  
12 requirements at the mine site. I think that's --  
13 that's the key item. They did -- they did not cease  
14 and desist environmental monitoring at the mine.

15 THE CHAIRPERSON: Thank you. Mr.  
16 Slack...?

17 MR. TODD SLACK: I'll move on to  
18 cumulative effects. Todd Slack for the Yellowknives.  
19 And two (2) quick questions that I'll roll together  
20 here. There was a 2008 workshop on cumulative effects  
21 that the -- a draft report was submitted on the record  
22 for the -- the Wek'eezhii Renewable Resource Board  
23 hearing a couple of years ago.

24 Is this intended to move to finalization  
25 in time for the -- this process?



1 Oh, and, sorry, the second question is:  
2 we've been hearing about the cumulative effects bio-  
3 position for a while. I'm wondering if they're going  
4 to be hired at any point in the near future that might  
5 be able to contribute here as well?

6 THE CHAIRPERSON: Thank you. A two (2)  
7 in one (1) question.

8 DR. NICOLE MCCUTCHEN: Nicole  
9 McCutchen, GNWT. With respect to your first question,  
10 Todd, I'm happy to report that the final -- I'm happy  
11 to report that the final report from that demonstration  
12 workshop was sent to us earlier this week. So this  
13 report will undergo an internal review. And once we've  
14 done that, what we're intending to do is use that  
15 report as a start-off to the workshop that I alluded to  
16 in our presentation on Bathurst caribou and what are we  
17 going to do with respect to cumulative effects.

18 With respect to your second question on  
19 my cumulative effects biologist, I'm happy to report  
20 that as of right now, the -- there are a number of  
21 people who we screened in as potential candidates for  
22 that position. The last person screened in is now  
23 writing the written portion of the interview. And  
24 trust me, whoever can pass that written portion is more  
25 than capable of doing the job.

1                   We will then look at that and evaluate  
2 those written portions and then commence with the oral  
3 interviews, which my hope is that we'll be done before  
4 Christmas if not early January. That person should be  
5 hired, then, by no later than February 1, is my hope.

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

8                   MR. TODD SLACK: Thanks. That's some  
9 good -- good news on the cumulative effects.

10                  Given the recent actions that GNWT has  
11 undertaken with regards to caribou harvesting, have --  
12 has GNWT undertaken any actions that pertain to land  
13 management that may have reduced the impacts to the  
14 caribou we're seeing on the land rather than just  
15 harvesting?

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

17                  MR. GAVIN MORE: Gavin More, GNWT. I'm  
18 not really sure where Mr. Slack wants to go with this,  
19 but the land management, particularly on Crown land, is  
20 under the federal government. And they would likely  
21 need to -- to -- to -- to ask that question of -- of  
22 Aboriginal Affairs rather than GNWT.

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

25                  MR. TODD SLACK: Thanks. I'll just ask

1 it a different way. Has GNWT written to AANDC or  
2 sought any other -- any new actions that may provide  
3 additional relief other than just harvesting from the  
4 land manager, then?

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

6 MR. GAVIN MORE: Gavin More, GNWT.

7 I'll ask Jan Adamczewski to answer that question.

8 MR. JAN ADAMCZEWSKI: Jan Adamczewski  
9 with GNWT Wildlife in Yellowknife. There's nothing  
10 specific, Todd, that -- that we can offer in terms of  
11 what you asked about directly. We obviously  
12 participate in all the environmental assessment  
13 processes like this one. We certainly raise issues  
14 about, you know, the concerns we have about the status  
15 of the caribou herd.

16 But I -- I think in this respect,  
17 project-specific environmental assessment may not be  
18 the best way or the only way to try to approach this.  
19 And to me, it perhaps makes more sense to think in  
20 terms of long-term planning processes, you know,  
21 possibly land use planning, but even long-term  
22 management planning for the Bathurst herd, which we're  
23 kind of trying to get underway with multiple partners.  
24 And I would see that, perhaps, as -- as an avenue to  
25 pursue where the partners would -- should include the

1 Yellowknives and -- and Tlicho and a whole bunch of  
2 other folks.

3                   There's not -- there's no reason through  
4 a planning process like that that recommendations could  
5 not be put forward. That could be as simple as saying  
6 we don't want more than 'X' number of mines in the  
7 herd's range. We don't want to see mines in this area,  
8 but we're okay with this area.

9                   So this is down the road, but I think  
10 that type of planning process, because it looks ahead  
11 rather than reacting to particular projects, that might  
12 be one (1) way to think about putting those kinds of  
13 provisions in place.

14                   THE CHAIRPERSON: Thank you. Just two  
15 (2) more questions. Okay. Thank you.

16                   MR. TODD SLACK: And one (1) of them is  
17 hard, so I understand if the GNWT wanted to take it  
18 away. But the easy one is the same question for land  
19 owners and land managers in Nunavut. What actions has  
20 GNWT undertaken with regards to activity that's going  
21 on in that area?

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

23                   MR. JAN ADAMCZEWSKI: Oh, sorry. My  
24 name hasn't changed, sorry. Jan Adamczewski with GNWT.

25                   That's a kind of a delicate area, Mr.

1 Slack or Mr. Chairman, because we have to respect the  
2 fact that this is another jurisdiction with sovereign  
3 government and its own land claims and Aboriginal  
4 organizations.

5                   There is something just getting underway  
6 under the Nunavut Impact Review Board with respect to  
7 Izok corridor. This is something of some concern to  
8 us, in terms of the Bathurst herd's calving ground,  
9 possible development there.

10                   We will be commenting on those kinds of  
11 development, even if they are in Nunavut, but we do  
12 have to be somewhat cogzi -- cognizant of the fact that  
13 it -- it is a -- it is a different jurisdiction.

14                   The other thing that we will do, in  
15 terms of management planning for caribou herds,  
16 multiple herds, is that we will certainly do what we  
17 can and make sure that Nunavut government and various  
18 Inuit organizations, responsible authorities, are part  
19 of those planning processes. And then, hopefully, by  
20 them being included, we have some influence there.

21                   THE CHAIRPERSON: Thank you. Todd  
22 Slack...?

23                   MR. TODD SLACK: Thanks, and I  
24 appreciate that this is a difficult question that's  
25 come up. In the -- say since the last -- or, the

1 imposition of the harvest actions, could GNWT provide  
2 an idea as to their financial commitment towards  
3 cumulative effects analysis and management so that we  
4 try -- we have a better understanding of where the  
5 priorities are?

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

7 MR. GAVIN MORE: Gavin More, GNWT.  
8 I'll ask Dr. McCutchen to handle that one, please.

9 DR. NICOLE MCCUTCHEN: I'm going to  
10 only give a -- a very rough kind of answer to this. So  
11 cumulative effects assessment, as it relates to the  
12 barren-ground caribou, is referred to in our caribou  
13 management strategy. And I took a look at it again.

14 We do have money put aside, I don't  
15 know, approximately -- or, a suggested amount of -- I  
16 believe it was a hundred and seventy-five thousand  
17 (175,000) for workshops in 2011 and '12. And that --  
18 it was intended then that those workshops would help us  
19 get started. Obviously, we're a little bit behind  
20 schedule, and so we'll have to think about where we're  
21 going in the future for those workshops.

22 I also note that that strategy is really  
23 a guidance document. It would cost approximately \$19  
24 million to implement. Currently, we only get about \$1  
25 million per year for that strategy, and we seek other

1 sources of funding through partnerships and through  
2 other pots of money that the GNWT can access. So we  
3 can't implement everything in that strategy; we focus  
4 on priorities. In terms of -- so that's the high-  
5 level, broad answer.

6 In terms of this particular fiscal year,  
7 we are seeking funds for these workshops through  
8 partnerships as well as internally. And, all told,  
9 there'll probably be about one hundred thousand dollars  
10 (\$100,000) for those three (3) workshops, and I believe  
11 that we can do that. In terms -- and that's just the  
12 basic workshop.

13 In terms of some other things, we are  
14 working with AANDC on the cumulative effects literature  
15 review. And that -- because the RFP has already  
16 closed, I can say that that is about a hundred thousand  
17 dollar (\$100,000) commitment of funds from AANDC.

18 And we are also working on some other  
19 workshops related to demonstration projects related to  
20 actual cumulative effects tools probably in around the  
21 twenty-five thousand (25,000). So probably about two  
22 (2) -- two twenty (220), two twenty-five (225), two  
23 fifty (250) this fiscal is what we would anticipate  
24 spending. And that includes partnership dollars.

25 We're also hiring a cumulative effects

1 biologist, which is not an insignificant amount of  
2 money either, as a full-time indeterminate PY  
3 (phonetic).

4 THE CHAIRPERSON: Thank you. Does that  
5 conclude your questions?

6 MR. TODD SLACK: Yes, it does.

7 THE CHAIRPERSON: Thank you.

8 MR. TODD SLACK: Thanks to GNWT and  
9 thanks to the Chair.

10 THE CHAIRPERSON: Thank you very much.  
11 Aboriginal Affairs and Northern Development...?

12 MR. FRANCIS JACKSON: Francis Jackson,  
13 Aboriginal Affairs. We have no questions.

14 THE CHAIRPERSON: Thank you.  
15 Environment Canada...?

16 MR. CAREY OGILVIE: Thanks. Thank you,  
17 Mr. Chair. Carey Ogilvie, Environment Canada. No  
18 questions, thanks.

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

21 MS. BEV ROSS: Thank you -- thank you,  
22 Mr. Chair. Bev Ross, Fisheries and Oceans Canada. No  
23 questions.

24 THE CHAIRPERSON: Thank you. Natural  
25 Resources Canada...?



1 MR. JOHN KING: John King, Natural  
2 Resources Canada. No questions, thank you.

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

5 MS. ANN RONALD: Ann Ronald, Parks  
6 Canada. We have no questions, thank you.

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

9

10 (BRIEF PAUSE)

11

12 THE CHAIRPERSON: Moving on. De Beers  
13 Canada...?

14 MS. VERONICA CHISHOLM: Veronica  
15 Chisholm, from De Beers. Thank you very much, Mr.  
16 Chair. And thank you GNWT for your presentation, much  
17 appreciated. I just have a few questions, all wildlife  
18 related, just so your -- can arrangement accordingly.

19 So my first question is: If you could  
20 just confirm that on slide 24, the pink area is  
21 actually mine leases and not mine development  
22 footprints.

23 DR. NICOLE MCCUTCHEN: Nicole  
24 McCutchen, GNWT. That is meant to be proposed and  
25 current developments, so, yes.

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

3 MS. VERONICA CHISHOLM: Veronica  
4 Chisholm, from De Beers. I was just simply asking if  
5 those are lease boundaries versus footprint boundaries.

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

7 DR. NICOLE MCCUTCHEN: My apol --  
8 Nicole McCutchen, GNWT. They're lease boundaries.

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

11 MS. VERONICA CHISHOLM: Thank you.  
12 Veronica Chisholm, from De Beers. I'm just wondering  
13 if you could comment on the confidence that you have in  
14 the research and the monitoring on caribou to date and  
15 how that's helped to inform your decision-making or  
16 management decision as part of the caribou management  
17 strategy that you -- you introduced here.

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

19 MR. JAN ADAMCZEWSKI: Jan Adamczewski,  
20 with GNWT. Could I ask for just a little bit of  
21 clarification, Ms. Chisholm? I'm not exactly certain  
22 what you're asking.

23 THE CHAIRPERSON: Yeah, as long as you  
24 come through the Chair, that's fine. A little bit  
25 straight back and forth, rather than that way, but

1 we'll get over --

2 MR. JAN ADAMCZEWSKI: Pardon my --  
3 pardon my manners, Mr. Chairman.

4 MS. VERONICA CHISHOLM: Veronica  
5 Chisholm, from De Beers. Mr. Chairman, I would hap --  
6 be happy to provide some clarification.

7 I just would like the GNWT to comment on  
8 their confidence in the data collected as part of the  
9 caribou management strategy that they defined in their  
10 presentation and how that information has aided them  
11 and informed their decision-making with respect to  
12 management decisions with -- regarding the caribou, the  
13 Bathurst caribou herd.

14 THE CHAIRPERSON: Thank you very much.  
15 GNWT...?

16 MR. JAN ADAMCZEWSKI: Jan Adamczewski  
17 with GNWT, Mr. Chairman. My answer is not going to be  
18 completely short, so please indulge me here.

19 We had a outside review of our -- the  
20 entire barren-ground caribou program in 2008. It was  
21 carried out by the Alberta Research Council. That was  
22 largely driven by a lot of questions raised by caribou  
23 outfitters about our surveys and our programs and how -  
24 - how reliable all that was. So the review was done.  
25 I mean, it's not an easy thing, you know, to have a --

1 sort of a report card like that.

2                   Their basic evaluation was that our --  
3 our overall approach in terms of herd-based management  
4 surveys, et cetera, was sound. But they had a lot of  
5 recommendations for improvement, particularly in terms  
6 of numbers of radio collars on some of our herds,  
7 consistency and regularity of population surveys and  
8 other monitoring surveys, those kinds of things. And I  
9 think some of those criticisms, going back a few years,  
10 we're probably we -- or, at least there was -- there's  
11 definitely room for improvement.

12                   I think since we've had our -- we're not  
13 on our second caribou management strategy. And I know  
14 with some of the analyses on surveys, on collars,  
15 things like that, I think we've actually managed to act  
16 on most of those recommendations. I think we have a  
17 pretty solid program of basic population monitoring on  
18 all our herds now.

19                   We've done our best to refine our  
20 population survey methods to improve precision. The  
21 last Bathurst calving photo survey had the highest  
22 precision we've ever managed to achieve. So I think  
23 our confidence is -- is reasonably good.

24                   In terms of the cumulative effects end  
25 of things, I mean, our basic monitoring of barren-

1 ground caribou is largely designed around population  
2 monitoring. To do justice to cumulative effects  
3 monitoring and assessment, we probably need to be  
4 looking at increasing some of the -- the other kinds of  
5 data that we either collect or perhaps collaborate on -  
6 - on collecting. Thank you.

7 THE CHAIRPERSON: Thank you.

8 MS. VERONICA CHISHOLM: Veronica  
9 Chisholm from De Beers. Thank you very much. I  
10 appreciated the answer. I just have one (1) last  
11 question.

12 And so De Beers is -- is very excited  
13 and interested to learn more about the cumulative  
14 effects assessment workshop that's been proposed here  
15 today. It's going to be hosted by the GNWT as I  
16 understand it.

17 And I'm just wondering, very generally,  
18 what would be the expected deliverable from that  
19 workshop, that I understand is in 2013?

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

21 DR. NICOLE MCCUTCHEN: Nicole  
22 McCutchen, GNWT. So the -- the basic deliverables  
23 would be for us, along with De Beers, as well as other  
24 -- many other interested parties to basically discuss  
25 and decide what the key issues are in terms of

1 cumulative effects for the Bathurst herd. So are we  
2 worried about development? Are we worried about  
3 harvest? Are we worried about fire, et cetera?

4 And then to kind of work together to  
5 decide on, of that, what is going to be, I would guess,  
6 a very large list of factors, what things are key to  
7 monitor, what are priorities, because all programs have  
8 restraints both from -- in terms of people and finances  
9 and then kind of develop a work plan on how to move  
10 forward.

11 Some of the other discussion that might  
12 occur is not just in terms of collecting the data and  
13 how we should collect the data on those different  
14 factors, but what sort of tools we should plug that  
15 information in. So what I'm talking about there  
16 specifically is the type of models, cumulative effects  
17 models that we could use to start making -- projecting  
18 into the future so that we have a better understanding  
19 of how all these different factors work together to  
20 drive the population of the Bathurst herd.

21 So that's just a very rough quest -- or  
22 rough answer to your question.

23 THE CHAIRPERSON: Thank you.

24 MS. VERONICA CHISHOLM: Veronica  
25 Chisholm from De Beers. Thank you very much, that's

1 all our questions.

2 THE CHAIRPERSON: Thank you. We now  
3 move to panel staff and technical advisors.

4 MR. CHUCK HUBERT: Mr. Chair, with your  
5 indulgence, my understanding is that it was time for a  
6 coffee break.

7 THE CHAIRPERSON: They're asking for a  
8 break. The staff are asking for a break. If we do  
9 break now it's definitely going to be -- how long? Ten  
10 (10) minutes?

11 MR. CHUCK HUBERT: Ten (10) minutes is  
12 -- is sufficient, sir, thanks.

13 THE CHAIRPERSON: Okay. We'll  
14 reconvene at three o'clock. Thank you.

15

16 --- Upon recessing at 2:48 p.m.

17 --- Upon resuming at 2:58 p.m.

18

19 THE CHAIRPERSON: Okay. Good  
20 afternoon. We'll -- we'll start again and we're at  
21 panel staff and over to Chuck Hubert.

22 MR. CHUCK HUBERT: Thank you, Mr.  
23 Chair. We'll begin with questions from Brigitte  
24 Masella.

25 MS. BRIGITTE MASELLA: Thank you.

1 Brigitte Masella for the panel. I have only one (1)  
2 question.

3 I understand that from the GNWT's point  
4 of view the socioeconomic impacts of the project will  
5 be monitored, mitigated, and managed by a socioeconomic  
6 agreement between De Beers and the GNWT and IBAs and De  
7 Beer's commitments to the GNWT.

8 So in terms of the involvement of the  
9 Aboriginal parties in determining which socioeconomic  
10 variables are monitored and how they are monitored, you  
11 said that you will meet with the impacted communities  
12 to discuss the contents of a proposed socioeconomic  
13 agreement.

14 And my question is: Are there  
15 additional measures that you foresee in terms of  
16 promoting Aboriginal involvement in monitoring and  
17 mitigating socioeconomic impacts.

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

20 (BRIEF PAUSE)  
21

22 MR. GAVIN MORE: Gavin More, GNWT.  
23 I'll ask Kelly Kaylo to answer that, please.

24 MS. KELLY KAYLO: Thank you, Mr. Chair.  
25 Kelly Kaylo. As I identified that we are in



1 preliminary discussions with De Beers regarding what  
2 the socioeconomic agreement might be, and part of that  
3 discussion will be determining the appropriate model to  
4 apply in respect of this project.

5 Certainly we've had different models  
6 over the years to varying levels of -- of success, and,  
7 again, in those negotiations, it will be clear to, at  
8 that point, identify specifically what other variables  
9 might be contained within the monitoring agreement.

10 Thank you.

11 THE CHAIRPERSON: Thank you.

12 MS. BRIGITTE MASELLA: And -- and so  
13 the extent of discussions with the other concerned  
14 parties in developing those models, is there anything  
15 more to be said or specified? Thank you.

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

17 MS. KELLY KAYLO: Thank you, Mr. Chair.

18 Yes. The GNWT will meet and discuss the  
19 contents of that socioeconomic agreement with the  
20 impacted communities prior to signing.

21 THE CHAIRPERSON: Thank you.

22 MR. CHUCK HUBERT: I'd like to go to  
23 Anne Gunn.

24 MS. ANNE GUNN: Mr. Chair, I have just  
25 two (2) questions, again, of clarification. I'll keep

1 them as brief as possible, so that might mean they  
2 sound a little blunter than otherwise I would have  
3 done.

4 GNWT, the material you've provided  
5 you've made it very clear that range-wide monitoring  
6 will be the responsibility of GNWT, and the reason --  
7 largely, the reason is to test the predictions that De  
8 Beers has made at the scale of cumulative effects.  
9 Their projected effect size for changes in caribou  
10 abundance, they're predic -- projecting a change of 1.2  
11 percent.

12 What is the likelihood that you will be  
13 able to detect these cumulative effects? And if it's  
14 unlikely, what specific steps will GNWT be undertaking  
15 within the next very short time period to be able to  
16 assure everybody that, in fact, you will be able to  
17 detect cumulative effects at the population scale?

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

19

20 (BRIEF PAUSE)

21

22 MR. JAN ADAMCZEWSKI: Mr. Chairman, Jan  
23 Adamczewski with GNWT. Dr. Gunn has a way of asking  
24 interesting questions.

25 There's no simple answer, I guess, Anne,

1 to your question. I think, as you know, the -- the  
2 main population demographic monitoring that we ha --  
3 that we -- program that we have is to look at basically  
4 herd size, trend, calf productivity, things of that  
5 nature. All of those surveys have, within them, a  
6 degree of variance. There's always uncertainty around  
7 the estimates. So detecting changes on the order of 1  
8 percent at a population level, I think, would be an  
9 almost impossible assignment.

10 In terms of the work that De Beers did  
11 in terms of their environmental impact statement, they  
12 did a number of modelling types, they used a  
13 combination of modelling approaches. At previous  
14 meetings, and in correspondence, I've indicated that  
15 the model that they tried to use to connect things to  
16 population scale was probably the weakest of the three  
17 (3). I mean, population viability model and in some  
18 cases projections going as far as twenty-five (25) or  
19 thirty (30) years into the future with the population  
20 modelling that we've done, we keep it fairly short,  
21 because the situation is so dynamic. Things are  
22 changing on a fairly short-term basis.

23 The -- the big challenge -- I guess to  
24 me the biggest challenge of trying to model and assess  
25 cumulative effects of development is that you have all

1 these other things still going on in the background.  
2 There's this natural long-term cycle; there's weather  
3 effects on caribou at all seasons of the year.

4 So we're trying to sort of pull out what  
5 are the effects of, say, one (1) mine or a number of  
6 mines, but always mindful of all those other things  
7 that are -- that are going on and affecting the caribou  
8 herd.

9 So I guess my -- my kind of roundabout  
10 answer to your question is that I -- I don't think  
11 there's anything in our demographic monitoring or in  
12 our cumulative effects modelling that would really  
13 allow us to detect effects or changes on that small a  
14 scale.

15 THE CHAIRPERSON: Thank you.

16

17 (BRIEF PAUSE)

18

19 MS. ANNE GUNN: Anne Gunn, with the  
20 panel. It -- the -- the clarification is not really  
21 there, Mr. Chair, but I think I'll leave it at that.  
22 And I think I'll move to my next question if -- if  
23 that's okay?

24 My next question is we -- the -- the  
25 groups such as Lutsel K'e, the Yellowknives Dene, have

1 made a very strong point about their concerns that this  
2 is the fourth mine and when is enough too many, what's  
3 going to happen to the caribou.

4                   The -- your presentation dealt largely  
5 with your own second iteration of a caribou framework.  
6 Cumulative effects has come up. GNWT has come under --  
7 come up with a response. They were going to understand  
8 cumulative effects and -- and assess it since 1999. I  
9 guess my short question to you is -- is:

10                   When -- like which year will GNWT have  
11 in place not so much to assess cumulative effects,  
12 because the Proponent does that, but actually when will  
13 GNWT be able to say to a panel, We have an approach, a  
14 mechanism with thresholds to mitigate cumulative  
15 effects, to manage them, the timeline?

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

17                   DR. NICOLE MCCUTCHEN: Dr. Nicole  
18 McCutchen, GNWT. I understand your concerns, Anne,  
19 about timeline and the fact that all of this should  
20 have been done a long time ago. I don't disagree.  
21 What we're doing right now -- and -- and I'll answer  
22 your question directly right now. We don't know -- I  
23 can't tell you exactly what your --

24                   THE CHAIRPERSON: I'd prefer if you  
25 answer through the Chair.

1 DR. NICOLE MCCUTCHEN: Oh, sorry.

2 THE CHAIRPERSON: And this is the third  
3 time.

4 DR. NICOLE MCCUTCHEN: My -- my  
5 apologies. Mr. Chairperson, I am -- exact timeline has  
6 not been worked out. What we are working out right now  
7 is a process to understand... Sorry, there's something  
8 going on.

9 What we're trying to do is establish a  
10 process to figure out... Okay.

11 What we're trying to do is -- is  
12 establish a program to assess cumulative effects. And  
13 the first part of that program is figuring out what  
14 information we have, what information we don't have.  
15 That's the intention of those workshops.

16 The other part to that is then  
17 establishing a work plan based on those workshops. And  
18 I think it's from there that a timeline will actually  
19 be established. The other thing that we are doing, and  
20 I've already talked about, is hiring this cumulative  
21 effects biologist. And that person will help provide  
22 us with the expertise that we need to do all this work.  
23 We haven't had that before, and we do now -- or, we  
24 will now, very -- hopefully very soon.

25 So I can't answer the question directly,

1 but that's the best answer I can give.

2 THE CHAIRPERSON: Thank you.

3 MR. CHUCK HUBERT: I'd like to go to  
4 Terry Antoniuk, please.

5 MR. TERRY ANTONIUK: Terry Antoniuk.  
6 I'd just like to talk about your reference to the  
7 regional monitoring work that's -- that's underway and  
8 been committed to by De Beers and others, wolverine and  
9 grizzly bear, as an example of your approach to  
10 cumulative effects management. I just would like to  
11 understand how that information will be used to change  
12 project-specific and/or regional mitigation harvest  
13 regulations, et cetera.

14 So once in -- you know, the -- the  
15 trends will be clear, but how will that information be  
16 used for decision-making? Thank you.

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

18 DR. NICOLE MCCUTCHEN: Nicole  
19 McCutchen, GNWT. So what the regional monitoring  
20 programs will do for any species, but grizzly bears and  
21 wolverines in particular, is it would help us tell --  
22 will help tell us how those populations are doing at an  
23 appropriate scale, meaning at the population scale.

24 So, to me, having a good understanding  
25 of how your population is doing is the first step in a

1 cumulative-effects-assessment-type framework because it  
2 is the population that is your absolutely main  
3 indicator: if it's going up, if it's going down, if  
4 it's stable.

5                   When you combine that with other  
6 information on how you think things -- like, harvest  
7 effect to those populations, like development, like  
8 climate change, like all those other things. You throw  
9 that into a cumulative-effects-type model or projection  
10 model you can tease out -- or, hopefully tease out, as  
11 been done for other species like Boreal caribou, what  
12 factors are most likely to impact a population. So  
13 maybe in your analysis you find out that development  
14 accounts for 10 percent of the variation of the  
15 population trends, whereas fire accounts for 50  
16 percent.

17                   I'm just throwing this out here --  
18 there; don't take what I'm saying too -- too literally.  
19 In that case, based on that information, the  
20 recommended course of action, the decision that would  
21 be made based on that information was, if we want to  
22 maintain this population, we need to do fire  
23 management. That's -- that kind of how I see that  
24 rolling out.

25                   Chair -- Mr. Chairperson, I just want to



1 seek clarity from Mr. Antoniuk that I've answered his  
2 question.

3 THE CHAIRPERSON: Thank you.

4 MR. TERRY ANTONIUK: Just -- just a  
5 follow-up. The -- my -- I appreciate that and some of  
6 the factors that are being -- that would be considered.

7 Some of the recommendations that have  
8 been made on the record by YKDFN and TG and others are  
9 to actually get ahead of the game and to rec -- to  
10 identify management objectives or action levels before  
11 so that responses in populations can actually be linked  
12 to those.

13 Is that something that -- that you've  
14 considered as part of this program?

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

16 DR. NICOLE MCCUTCHEN: Nicole  
17 McCutchen, GNWT. Certainly you could -- I -- I guess  
18 the quick answer is that we haven't really gone too far  
19 in our thinking as respect to setting out thresholds at  
20 this point.

21 And I think that reflects the fact that  
22 our understanding of how all these factors combined  
23 affect grizzly bears or Bathurst caribou or wolverines  
24 is still imperfect, because we've -- we have, for some  
25 of our species, like the Bathurst herd, a good

1 monitoring program; for others we're just getting  
2 started. And so we need to establish that. Then you  
3 need to establish a good understanding of how  
4 everything else impacts those populations.

5 I think there is certainly -- in the  
6 literature, there is certainly examples of -- of some  
7 generic thresholds, like -- some of - at what point in  
8 time do you actually reduce connectivity of the habitat  
9 enough to impede movement? I believe that threshold --  
10 no, I won't actually say that, because I can't quite  
11 remember the name -- number.

12 We know from the example from --  
13 recently released from the National Recovery Strategy  
14 for Boreal Caribou that that threshold is about 35  
15 percent. So there is information out there -- sorry --  
16 there is information out there to do that. But I think  
17 for my part, you would want to get good information and  
18 then move forward now and -- and figure out what those  
19 thresholds were.

20 Because setting a threshold is -- and it  
21 - the implications of setting a threshold is not  
22 insignificant. Just look at the Boreal Caribou  
23 Recovery Strategy. You go over 35 percent you're in  
24 total fire management and you are in a no-development  
25 situation. And as a government, our role is not just

1 to make sure that our wildlife are sustainable, but to  
2 also provide economic opportunities for our -- our  
3 residents, for the Northerners. And it's -- it's -- I  
4 mean, that's not an easy decision to make and you don't  
5 make it lightly.

6 THE CHAIRPERSON: Thank you.

7 MR. CHUCK HUBERT: Mr. Chair, two (2)  
8 final questions from Carol Luttmer.

9 MS. CAROL LUTTMER: Carol Luttmer,  
10 panel staff. I'll try and be as short as possible.

11 In the Government of the Northwest  
12 Territories technical report, in the section on  
13 wildlife, recommendation 7, GNWT asked De Beers for  
14 information on the structure and function of the  
15 Adaptive Management Advisory Committee, including  
16 describing how decisions will be made.

17 In De Beers's response, they stated they  
18 are continuing dialogue with Aboriginal groups and the  
19 Government of the Northwest Territories.

20 Since the Adaptive Management Advisory  
21 Committee has been replaced with the Ni Hadi Yati --  
22 apologies if I said that wrong -- has De Beers been in  
23 discussions with the Government of the Northwest  
24 Territories on how decisions will be made, specifically  
25 adaptive management as reper -- as referenced in

1 recommendation 7?

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

3 MR. GAVIN MORE: Gavin More, GNWT. We  
4 recognize that -- in fact, we asked De Beers to con --  
5 and the Aboriginal party on Wednesday to confirm that  
6 the advisory committee will no longer be one (1) of the  
7 ideas; in other words, it's off the table.

8 From our perspective then, the -- our  
9 direct discussions that will happen with De Beers will  
10 be through the Wildlife MOU and the discussion of the  
11 wildlife effects monitoring program and the wildlife  
12 and wildlife habitat plan. So that's how we'll take  
13 care -- address that one.

14 THE CHAIRPERSON: Thank you.

15 MS. CAROL LUTTMER: I just have one (1)  
16 follow-up question.

17 Will the MOU also address the  
18 outstanding issues that you raised in recommendation  
19 number 2 about the wildlife monitoring plan? Those  
20 were looking for more statistical robustness, as well  
21 as a proper follow-up program.

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

23 MR. GAVIN MORE: Gavin More, GNWT.  
24 Yes, that's how it'll happen, and -- and I should  
25 emphasize that the same thing will be happening in the

1 discussions of that committee with De Beers. So, there  
2 will that two (2) perspectives that will be in  
3 discussion with De Beers. De Beers will likely be the  
4 group to have to field and -- and continue as they  
5 finalize.

6                   The other idea, and this came from Mr.  
7 Slack today, how will we engage by -- and I believe the  
8 original bullet was "lending our staff". So we -- we  
9 assume that there will be discussions that will take  
10 place between our GNWT staff and that committee and De  
11 Beers as well.

12                   THE CHAIRPERSON: Thank you.

13                   MR. CHUCK HUBERT: Thank you, Mr.  
14 Chair. That concludes questions from panel staff.

15                   THE CHAIRPERSON: Thank you. We move  
16 to legal counsel.

17                   MR. JOHN DONIHEE: Thank you, Mr.  
18 Chairman. My name is John Donihee. I'm counsel to the  
19 panel. I have a number of sort of questions in a  
20 variety of areas, all quick ones, but they're -- I'm in  
21 a clean-up position here.

22                   So I think the first one I'd like to  
23 ask: You were present for the presentation -- the  
24 joint presentation by De Beers Canada and the  
25 Aboriginal groups about the Ni Hadi Yati concept, and

1 I'm sure you've had the opportunity to look at the  
2 measures that they're requesting that the panel include  
3 in its report, one (1) of which calls for the panel to  
4 include a measure that requires government to lend  
5 experts to Ni Hadi Yati as they require it.

6 And so my question is fairly simple:  
7 Will the Government of the Northwest Territories make a  
8 commitment to provide this assistance to the Ni Hadi  
9 Yati group if and when they get their negotiations  
10 completed and start to require expertise that is within  
11 the possession of the GNWT?

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

13 MR. GAVIN MORE: Gavin More, GNWT. I  
14 can guarantee that we won't accept the word "lend" our  
15 experts. The role that we normally play in reviewing  
16 documents, providing advice, both to Land and Water  
17 Boards, other groups, the willingness to meet. So, for  
18 example, we meet with the current monitoring agencies  
19 to the other mines on a request basis.

20 So the key is that we will continue to  
21 carry out our normal functions of reviewing and -- and  
22 providing advice to groups as required, but not to lend  
23 our staff.

24 THE CHAIRPERSON: Thank you.

25 MR. JOHN DONIHEE: Thank you, Mr.

1 Chairman. John Donihee. Those words weren't mine; but  
2 nevertheless, your answer sounds a little bit equivocal  
3 to me. You know, it sounds like business as usual.

4 And I -- I think, you know, with an  
5 organization like this, if they really need somebody to  
6 work with them for a while, the -- the question is  
7 really whether the Government of the Northwest  
8 Territories will make that assistance available in the  
9 form -- or in a way that's, I guess, mutually  
10 acceptable but in -- in a form that suits the needs  
11 identified by Ni Hadi Yata -- Yati.

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

13 MR. GAVIN MORE: Gavin More, GNWT. I -  
14 - I think when you look at -- at the level of the  
15 discussion of the group, that idea of a carte blanche  
16 where we would lend people is -- is not the way we  
17 would word it.

18 I think you'll look at certain topics  
19 like air. The GNWT and Environment Canada, I think,  
20 are well recognized by all the groups that we provide  
21 very good advice on air in our review. We would  
22 continue to review the material that De Beers does,  
23 their monitoring reports. If the group needs  
24 discussion, we would do that, but not in the sense of  
25 sitting down and writing their material.

1                   And the other reason for that, I think  
2   you have to look at the other bullet. One of the  
3   bullets said, We will listen to the advice of other  
4   people, and then we will use it or not use it. In  
5   other words, they're looking for something to add to  
6   their perspective but not, again, to be bound by the  
7   recommendations.

8                   If -- if you look at the existing  
9   monitor agencies, when they hire a consultant to put in  
10   comments, they normally review it and then provide it  
11   to the mine. And I think you have to be -- watch the -  
12   - the -- the breaking apart so that groups aren't bound  
13   to follow what they hear from us. And I think that's  
14   the important element that we're looking for of the  
15   independence of the communities and the Company from  
16   the government, and I think that's a very important  
17   thing for -- for -- to -- for that particular group to  
18   maintain.

19                   We will continue also to work in our  
20   normal capacity in reviewing documents and providing  
21   advice to land and water boards or directly to the  
22   Company. And that's how we see the relationship would  
23   work with that committee.

24                   THE CHAIRPERSON:    Thank you.

25                   MR. JOHN DONIHEE:   Thank you, Mr.



1 Chairman. John Donihee again. I'll leave that between  
2 you and them at the time, then, Mr. -- Mr. More.

3 The -- I have another couple of  
4 questions, I guess, about these -- you're proposing a  
5 wildlife MOU that you now indicate you're going to  
6 negotiate directly with De Beers Canada and  
7 socioeconomic agreement. And certainly the way that  
8 you've presented the -- these ideas and these  
9 intentions, I guess, on behalf of government, you've  
10 already started, according to your evidence, with the  
11 socioeconomic agreement negotiations.

12 But I take it that these -- that GNWT  
13 views these initiatives, these agreements, if and when  
14 they materialize, as mechanisms to mitigate impacts  
15 that may result from the project.

16 Would that be fair?

17 THE CHAIRPERSON: GNWT...?

18 MR. GAVIN MORE: Gavin More, GNWT.  
19 I'll answer the first part on the environmental side,  
20 and then I'll ask Kelly Kaylo to -- to discuss the  
21 socioec side.

22 Certainly on the wildlife and the air  
23 MOU, what we're mostly seeking is to make sure that  
24 there's a commitment on the side of both parties to  
25 engage, engage both in terms of reviewing and ensuring

1 that the -- the management plans that are discussed  
2 include or meet our expectations.

3           The other part is to make sure that  
4 there's also an arrangement for reviewing monitoring  
5 information. Those basically are the standard  
6 functions that exist under environmental agreements for  
7 those so-called regulatory gaps. The key is, is that  
8 we recognize that, particularly as we work towards  
9 devolution, there likely will be legislative changes.

10           And from our point of view, we do not  
11 necessarily want to lock into longer-term arrangements  
12 that may have difficulties when it comes to -- to  
13 future legislation. And I'll use as an example the --  
14 the proposed Wildlife Act, which will have some  
15 elements of wildlife monitoring plan requirements.

16           So the -- the key is there -- the issue  
17 that we're trying to do is have the bridge between  
18 ourselves and the Company, and then this other  
19 committee will have the bridge between the Aboriginal  
20 communities and the Company. And I -- I think that  
21 separation is pretty close to what you see now for the  
22 Snap Lake Environmental Monitoring Agency. There is  
23 actually no involvement of the government in that  
24 particular committee.

25           And the one (1) that's being discussed,

1 I rather suspect will be formalized a little along that  
2 lines, but with more direct relationship between us as  
3 sort of advisors to the group on a -- on a necessary  
4 basis. And with that I'll pass the mic over to Kelly  
5 for the answers on the socioec agreement.

6 MR. JOHN DONIHEE: Mr. Chairman, pardon  
7 the interruption. It might be more efficient if I try  
8 to re-direct this a little bit before we get Ms.  
9 Kaylo's answer, because I -- I think Mr. More took this  
10 -- his answer took me someplace that I didn't want to  
11 go and if -- if I'm going to get more of that it's not  
12 going to be helpful.

13 I -- what I'm trying to get at here is  
14 you talk about an MOU, you talk about a commitment to  
15 engage, you talk about reviewing monitoring data. I  
16 guess my question for you is how does that mitigate  
17 anything?

18 The -- the panel isn't going to be here  
19 when you change the legislation. The panel is going to  
20 write a report as soon as we can after the hearing is  
21 over. And I guess the concern I have is if there are  
22 impacts that are to be addressed by the GNWT and  
23 mitigation to be developed, how -- all you're telling  
24 us is that you're going to have an MOU and an agreement  
25 that you haven't negotiated yet. And frankly, to put

1 it into lawyer's terms, that's not evidence of  
2 mitigation at all.

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

4 MR. GAVIN MORE: Thank you. I'm  
5 actually glad that it was phrased that way. I think  
6 the thing that I see people missing is the mitigations  
7 and the planning are the responsibility of the  
8 Proponent. The Proponent has turned in those drafts.  
9 The concept of the follow-up, which is the longer-term  
10 monitoring is what we see where people are closer to  
11 testing the predictions and -- and adjusting either  
12 mitigations in the future.

13 So I don't see the -- the MOU as -- as  
14 being something that's going to fill this -- this  
15 impact mitigation aspect. I see the work of the  
16 Proponent as being what -- what will give the Board  
17 that -- or excuse me, the panel, that information and  
18 that confidence.

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

21 MR. JOHN DONIHEE: Well, sir, I -- I  
22 interrupted Ms. -- Ms. Kaylo, and certainly if you have  
23 -- if you'd like to try and answer to my question in  
24 relation to the socioeconomic agreement I'd be most  
25 grateful.

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

2 MS. KELLY KAYLO: Thank you, Mr. Chair.

3 Kelly Kaylo, GNWT. We view socioeconomic agreements  
4 really as the most effective mechanism for follow-up  
5 with regard to socioeconomic commitments that are made  
6 through the environmental assessment or through the  
7 environmental impact review process.

8 Certainly it gives us the information  
9 when we monitor the commitments made, enough to follow-  
10 up with any mitigations required. And I think the  
11 mitigations are evident in the various programs then  
12 that the Government of the Northwest Territories  
13 manages and delivers.

14 And so I can go into some of those, but  
15 there's a great length of those across the Government  
16 of the Northwest Territories that are designed to  
17 benefit Northern residents and maximize opportunities  
18 from these various projects.

19 THE CHAIRPERSON: Thank you.

20 MR. JOHN DONIHEE: Thank you, Mr.  
21 Chairman, John Donihee again. Perhaps -- and given the  
22 way that your con -- your -- the two (2) answers are  
23 sort of conceptualizing this, I -- I just want to be  
24 clear in terms of how we should consider this in terms  
25 of our advice to the panel.

1                   Is the best way then to conceptualize  
2 the outcomes of these negotiations that the end result,  
3 I guess, will be what, a follow-up program under the  
4 MVRMA? I -- I know you mentioned that in your, I think  
5 in -- in -- one (1) of you mentioned it in the -- in --  
6 in the verbal presentation.

7                   Is -- is that the way that the GNWT is  
8 con -- considering or conceptualizing what function  
9 these agreements will -- will play after the -- after  
10 the panel's report is out?

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

12                  MR. GAVIN MORE: Gavin More, GNWT.  
13 Definitely for the socioeconomic agreement that's the  
14 way we've always framed it. It's always been framed as  
15 a follow-up agreement as defined under the MVRMA.

16                  There are some slight differences -- and  
17 I would not -- personally I -- I suppose the MOUs can  
18 be seen as a form of follow-up in the form of continued  
19 discussion and agreement between us and De Beers to  
20 review their monitoring information and provide advice  
21 to De Beers over the longer term.

22                  I see, though, that there -- there's a  
23 potential if -- if one confuses some of the roles of  
24 the -- of the land and water board. There -- there's  
25 the ability to have terms and conditions in the land-

1 use permits, water licences that relate to handling of  
2 waste. And if you look at many of our wildlife issues,  
3 handling waste is one (1) of the major mitigations to  
4 reduce wildlife issues.

5 And then the other aspect for land and  
6 water boards is wildlife habitat. And if you think  
7 about closure, closure planning, there's a very strong  
8 relationship with the regulatory role of -- of those  
9 groups.

10 So I'm not sure that you'll -- you'll  
11 get every single impact mitigation at this stage  
12 because there are later stages to the process, both  
13 regulatory -- and our agreement with the Company to  
14 work with them look -- works (sic) at some of those  
15 aspects that will fall under the regulatory. But at  
16 the same time, it's also to set in motion a long-term  
17 discussion arrangement between us and them, largely  
18 because of the -- of the criticism of regulatory gaps.  
19 And we believe that these processes will fill --  
20 augment and -- and fulfil those gaps that people are  
21 indicating.

22 THE CHAIRPERSON: Thank you.

23 MR. JOHN DONIHEE: Thank you, Mr.

24 Chairman. I have two (2) more. And I'll -- I'll just  
25 pick up on that theme -- theme about gaps.

1                   You seem to be of the view that, you  
2 know, this issue of air management is something that  
3 the only -- the only home for this is over at the land  
4 and water board's office. And I guess I'm -- I'm just  
5 curious because the presentation made by the young lady  
6 here -- I apologize, I don't know your name, but the --  
7 the air quality expert here -- indicated that, you  
8 know, this was not a federally-occupied field. It's  
9 something that the Government of the Northwest  
10 Territories brings up on an ongoing basis in -- in  
11 front of both the Review Board -- panel is a one (1)  
12 time deal, but it's here now -- and regularly brings up  
13 in front of land and water boards as well.

14                   And I guess my -- my question is simply:  
15 You know, if this is a matter -- an area where GNWT  
16 obviously has already invested resources and has  
17 concerns, it's not federally regulated, why haven't the  
18 GNWT simply legislated and why don't you just take care  
19 of this yourselves?

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

21                   MR. GAVIN MORE:   Gavin More, GNWT.  
22 Again, I'll stress the separation of incinerators and  
23 incinerator management as being very clearly under the  
24 regulator land and water board. I -- I think that it's  
25 absolutely clear in the Mackenzie Valley Land Use Regs



1 that that -- it -- the aspect of being an equipment and  
2 being able to -- to be managed properly on site is  
3 quite critical, particularly for the bigger projects.

4                   The air emissions, air quality aspect,  
5 we acknowledge that it's been presented a number of  
6 times to land and water boards. As I mentioned before,  
7 it's kind of on that "what goes up must come down"  
8 issue. And -- and that's not been accepted, despite  
9 many of the diagrams that -- that really show what  
10 happens to -- to particulate matter when it goes in the  
11 air.

12                   It's also related to greenhouse gases.  
13 I think what you'll see after devolution is people to -  
14 - to move to fill that because the primary federal  
15 regulator, i.e., Aboriginal Affairs, does not fulfil  
16 the typical provincial program where they cover matters  
17 that down south are covered by the provinces. So I  
18 think there has been a gap all the way through in terms  
19 of federal departments, in terms of their taking it on.

20                   I think you will see a change, but it  
21 won't take place until after devolution.

22                   THE CHAIRPERSON: Thank you.

23                   MR. JOHN DONIHUE: Thank you, Mr.  
24 Chairman. I -- so -- so that I don't tell a fib, I'm  
25 going to have to put two (2) questions into one (1)

1 here. So the first -- the first part of the question  
2 is: In the GNWT's view, are any of your ministers  
3 responsible ministers for purposes of review of the  
4 panel's report pursuant to the Mackenzie Valley  
5 Resource Management Act? That's the first part.

6 And the second part is then: Have you  
7 ever given any consideration to Section 136(2) --  
8 subsection 136(2) of the MVRMA which says essentially  
9 that, you know, the responsible ministers have a legal  
10 obligation to carry out the decisions made by a Board -  
11 - or, pardon me, a panel -- to the extent of their  
12 respective authority?

13 So I -- you know, a lot of your -- your  
14 presentation here, in -- in particular things related  
15 to air, is premised on the fact that you don't seem to  
16 think the GNWT has any authority to do these things.  
17 And I'm just wondering whether you've ever given  
18 consideration to Section 136 of the Act.

19 THE CHAIRPERSON: Thank you. I -- I  
20 would appreciate shorter answers, too. Thank you.

21 MR. GAVIN MORE: Gavin More, GNWT.  
22 Yes, we consider ENR to be the RM for the purposes of  
23 the MVRMA. Yes, we always give consideration to  
24 Section 136. And one (1) of the -- and not necessarily  
25 in the way you were looking at it that, for example,

1 the panel recommending that the GNWT create an air  
2 management act. We always look now at 135 before we  
3 look at 136, and 135 is base -- is, from our learning  
4 over the years, is very critical.

5 And -- and since it's my last hearing, I  
6 will -- probably should say this: We know it is very  
7 difficult to follow up on measures that aren't already  
8 close to what we're already doing as a government, and  
9 to try to run territorial-wide programming on a  
10 project-by-project basis, which I think is always a  
11 temptation put in front of the Board or -- or a panel  
12 is really tough for us.

13 And one of the reasons why 135 becomes  
14 quite critical is there will be -- there could be areas  
15 that we could not contemplate accepting because we  
16 couldn't live up to the extent of our authority under  
17 136 as a result of those.

18 THE CHAIRPERSON: Thank you.

19 MR. JOHN DONIHEE: Thank you, Mr.  
20 Chairman. I'll leave it there.

21 THE CHAIRPERSON: Thank you. We'll go  
22 to panel members now and start on my left, your right.

23 Panel member, Rachel Crapeau...?

24 MS. RACHEL CRAPEAU: I -- I was just  
25 thinking about how things seem to be the same from

1 twenty (20) years ago, ten (10) years ago, and to  
2 today. And I was just curious about the air quality  
3 issues, but John Donihee's asked the question so I  
4 don't need to ask you about that.

5 And I'll be interested to see how work  
6 comes along in the future with lending or borrowing,  
7 and maybe we can get something better in that respect.  
8 I'm just kind of wondering about that. But since that  
9 question got asked, I don't have any further questions.  
10 Thank you.

11 THE CHAIRPERSON: Thank you. Panel  
12 member, James Wah-Shee...?

13 MR. JAMES WAH-SHEE: Thank you, Mr.  
14 Chair.

15 In regards to your -- your presentation,  
16 I do have a -- initially I had three (3), but I think  
17 I'll leave it at two (2), I guess.

18 First of all, I think we are well aware  
19 that the Government of the Northwest Territories has  
20 the -- the responsibility and jurisdiction in the area  
21 of education, training, employment. Given the -- the  
22 concerns expressed by the First Nations that have made  
23 presentation in Lutsel K'e, the community of Lutsel  
24 K'e, Dettah, and also over here, this really has to  
25 deal with the -- with the employment opportunities of

1 Aboriginal people. And -- and the competition involved  
2 in regards to how Aboriginal people are -- are hired,  
3 what takes place in the workplace, whether there's any  
4 opportunity for advancement in regards to training.

5               So given the concerns that have been  
6 expressed, given the history of the three (3) diamond  
7 mines -- and this is the concern that I understood from  
8 the presentation of the Tlicho, of Yellowknife First  
9 Nation, Lutsel K'e, and also by the Metis.

10              That initially the -- the mines,  
11 generally speaking, would hold meetings with the people  
12 in the communities, particularly Aboriginal communities  
13 and expressing the variety of benefits that will be  
14 available in regards to resource development.

15              Now, given the history where -- once the  
16 -- a certain number of Aboriginal people are employed,  
17 there seems to be a decline. Initially when the mines  
18 open up, they're usually -- it's a certain percentage,  
19 and then as the mine proceeds into operation and then  
20 it gets into closure the -- the numbers of Aboriginal  
21 people that are employed seems to be declining and --  
22 and that's probably including the Northern residents as  
23 well.

24              But then what happens is that the mines  
25 use a lot of southern hire and I can understand why.

1 Because the -- if there's a lack of a number of skills  
2 workforce in the Territories then, obviously, for the  
3 mines to operate they -- they need skilled workers.

4 So I guess my question here is that:  
5 Since the Government of the Northwest Territories is --  
6 has that responsibility in the area of education and  
7 training and employment, and I would assume that would  
8 include apprenticeship programs.

9 Now does the Government of the Northwest  
10 Territories have a long-term plan in regards to  
11 increase the Northern workforce which would include the  
12 Aboriginal workforce? In other words, we would like to  
13 see, I'm sure, given the concerns expressed that we'd  
14 like to see an increase in the skill workforce pool in  
15 the -- in the North so that the people of the North  
16 would benefit.

17 So could you indicate to me whether you  
18 have any long-term plan within -- given that focus and  
19 -- and how -- how would you address those concerns that  
20 have been expressed by the -- the people that have  
21 appeared before the panel? Thank you.

22 THE CHAIRPERSON: Thank you. GNWT?

23 MR. GAVIN MORE: Thank you, Mr. Chair.  
24 Gavin More, GNWT. Just give me one second to confer  
25 with Janet.

1 (BRIEF PAUSE)

2

3 MS. JANET GRINSTED: Mr. Chairman,  
4 Janet Grinsted, ECE. Certainly it is a concern of the  
5 Government of the Northwest Territories to increase the  
6 education and training and skilled workforce that is  
7 available, as we've said.

8 And in terms of what programs we have or  
9 what plan we have for that, it -- it involves not only  
10 the programs that we have in terms of education and  
11 training in -- for adults, such as for instance, we  
12 have labour -- labour market agreements and -- and  
13 labour market development agreement funding where we  
14 provide funding for regional training partnerships who  
15 consult together to decide what are those training  
16 areas in their region that would be of most benefit to  
17 the people of the region.

18 And -- but in addition to that, we  
19 recognize that in order to have people ready for those  
20 training programs, we also have to pay attention to  
21 both the K to 12 education system, and even before  
22 that, early childhood. So we do have an early  
23 childhood program that -- that we're working in  
24 conjunction with Health and Social Services on to try  
25 and -- and make the best start possible even that

1 young.

2 And in terms of the K to 12 program, we  
3 have the Aboriginal student achievement plan as well to  
4 address those areas. We also have apprenticeship  
5 supports for over four hundred (400) apprentices in the  
6 Territories. We also have adult literacy and basic  
7 education supports as well.

8 So in -- in all of these things, we're  
9 seeking to build Northern capacity certainly and  
10 increase workforce readiness and participation.

11 THE CHAIRPERSON: Thank you.

12 MR. JAMES WAH-SHEE: Mr. Chairman, I do  
13 have a follow-up to that. I'm not sure whether you  
14 have answered my question. I think the -- first of  
15 all, the question is, okay, we all know that GNWT is --  
16 is the responsible government in those three (3) areas.  
17 You are getting money from the federal government to  
18 carry out those jurisdiction.

19 And anyway, the -- the concerns  
20 expressed in regards to the limited benefits that -- in  
21 terms of opportunity for Aboriginal people, mainly it -  
22 - it really has to deal with a lack of training or a  
23 lack of education. The minimum requirement I believe  
24 is, what, grade 11 or 12 to get into the apprenticeship  
25 program, depending on what type of trades.



1 But I think the concern of the  
2 Aboriginal people, as I understand it, is that they  
3 don't want to see this issue continue to be an ongoing  
4 concern, because obviously the Aboriginal people that  
5 reside in the Territories would like to see tangible  
6 ben -- benefits.

7 And training is one (1) thing, but I  
8 think to -- to have the skills necessary to compete in  
9 the workforce currently and also to be better prepared  
10 for resource development that occurs in the Territories  
11 so that Aboriginal people benefit not only through the  
12 IBA and -- and payouts and so forth. I think what  
13 Aboriginal people are looking for is -- is employment  
14 opportunities and -- with the skills.

15 And it's not only the lower level of the  
16 category of the operation and management of the mine.  
17 There's no reason why in the future the Aboriginal  
18 people cannot compete as well in -- in the management  
19 areas. I don't think Aboriginal people would be  
20 satisfied just to be in the labour force. I think they  
21 want to get into -- so -- so my question is:

22 Have you -- has the GNWT ever sat down  
23 with the various Aboriginal groups to work out some  
24 type of strategy or plan based on the past experience  
25 of the three (3) mines and to ensure that there is real

1 improvement in the future so that this will not be an  
2 ongoing concern? That's my question.

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

4 MS. JANET GRINSTED: Thank you, Mr.  
5 Chairman. Janet Grinsted. One of the major  
6 consultations that we engaged in with the leadership of  
7 Aboriginal governments was in the area of K to 12  
8 education because, as you mentioned, you need that  
9 foundation in order to be prepared for other types of  
10 training that we might be providing.

11 And it was through that consultation  
12 that the Aboriginal Student Achievement Plan came into  
13 being, and that includes continuing consultation with  
14 Aboriginal leadership.

15 In addition to that, there are also  
16 regional training partnerships which operate then on a  
17 regional level to really identify specific training  
18 needs in that area, and that includes the Aboriginal  
19 governments in that area as well. And they decide on  
20 priorities for that -- that year, they make a training  
21 plan, and the funding that ECE provides is put into  
22 what they have decided are priorities.

23 So in -- in those ways, we are  
24 collaborating with Aboriginal leadership and moving  
25 forward in trying to provide the -- both the foundation

1 and the -- the further training needed to make use of  
2 these opportunities.

3 THE CHAIRPERSON: Thank you.

4 MR. JAMES WAH-SHEE: Mr. Chairman, just  
5 one (1) short follow-up. You mentioned that you will  
6 be negotiating a socioeconomic agreement between the  
7 Government of Northwest Territories and De Beers  
8 Canada. Now, the question I have is that aside from  
9 ensuring that there is tangible benefits that go to  
10 Aboriginal people and Northern residents in regards to  
11 training and employment opportunities, the -- I believe  
12 that a follow-up and monitoring would be required in  
13 regards to the socioeconomic agreement, which really  
14 has to deal with what do you call -- monitoring the  
15 workplace to endure that Aboriginal people are treated  
16 with equality, respect, and so forth, and -- and to --  
17 and also to be a real partner in the workplace.

18 In your socioeconomic agreement, will  
19 that include monitoring the -- an agreement between the  
20 -- the Government of the Northwest Territories and De  
21 Beers to ensure that they monitor the workplace as  
22 well? Will -- will that be one (1) of those things  
23 that could be considered as well? Thank you.

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

25

1 (BRIEF PAUSE)

2

3 MS. KELLY KAYLO: Thank you, Mr. Chair.

4 In terms of monitoring the socioeconomic agreements  
5 there is a number of models, I think, as mentioned  
6 previously, that have been applied and utilized over  
7 the years. Certainly the specific model that we will  
8 use to monitor this particular socioeconomic agreement  
9 will be determined through the negotiations between the  
10 Developer and the Government of the Northwest  
11 Territories. And so I think at that point in time  
12 there's the opportunity to identify specific monitoring  
13 applications that might be unique to some of the  
14 questions that you're asking.

15 I know, for example, however, there are  
16 items that have been identified in terms of the  
17 workplace that's already on the public registry that  
18 the Government of the Northwest Territories has  
19 committed to. I can read those to you, or I can  
20 certainly identify those to you at a later time. Thank  
21 you.

22 THE CHAIRPERSON: Thank you.

23 MR. JAMES WAH-SHEE: Thank you very  
24 much. Thank you.

25 THE CHAIRPERSON: Panel member Peter

1 Bannon?

2 MR. PETER BANNON: Thank you, Mr.  
3 Chair. At the risk of going over the timeline I do  
4 have a -- a couple of questions.

5 During YKDFN's questioning, Mr. Slack  
6 mentioned workshop results and the GNWT res --  
7 responded that they are in possession of a final report  
8 on that and it should be released soon. Does the GNWT  
9 feel that the contents of that report could inform the  
10 panel in its deliberations ahead of it?

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

12

13 (BRIEF PAUSE)

14

15 MR. JAN ADAMCZEWSKI: Mr. Chairman, Jan  
16 Adamczewski, for GNWT. There's a little bit of  
17 confusion, I think, because I think there's actually  
18 two (2) reports that are sort of -- sort of in the  
19 works here. One (1) is workshop -- a report on a  
20 workshop that we staged in February 2008 where we  
21 brought together about seventy (70) people to talk  
22 about cumulative effects in barren-ground caribou. We  
23 looked at three (3) different model types. Some of  
24 your -- your panel consultants are -- were part of  
25 that, and there is a report on -- on what came out of

1 that.

2                   And then the demonstration project on  
3 the Bathurst summer range was more or less born at that  
4 workshop as a project to follow up on that -- that  
5 larger public meeting. That workshop -- or, sorry,  
6 that demonstration project report got delayed for a  
7 number of reasons, but we do have something in fairly  
8 solid shape. It's probably not quite at a stage that  
9 we would normally just release to the general public.

10                   I don't think it's going to radically  
11 change everyone's understanding of the cumulative  
12 effects. The main focus of that project was to use  
13 three (3) different modelling types and try and get  
14 them to work together sort of as a tool development  
15 essentially.

16                   But, I mean, if it would be useful to  
17 the Board to -- to have access to those two (2)  
18 reports, I -- I don't see why that would be an issue.  
19 I would just need -- need to clear it with perhaps more  
20 senior people in my department first.

21                   THE CHAIRPERSON:    Thank you.

22                   MR. PETER BANNON:    Thank you, Mr.

23 Chair. If you think of -- it will be of some value to  
24 the panel, or if the GNWT feels that it should be --  
25 could be of some value to the panel's deliberations,

1 perhaps an undertaking could be developed to submit  
2 them. And recognizing them -- they might not -- not be  
3 the final edit.

4 THE CHAIRPERSON: Thank you. Would  
5 that -- would that be an undertaking that you would  
6 want to do? And if so, it would be Undertaking number  
7 3.

8 MR. GAVIN MORE: Certainly there's not  
9 problem taking it as an undertaking, Mr. Chair, but  
10 with the caveat that Jan mentioned that for one (1) of  
11 the reports, it will be necessary for him to receive  
12 approval, and if we have that, then we will turn both  
13 reports in.

14 THE CHAIRPERSON: Thank you.

15 MR. JOHN DONIHEE: Mr. Chairman, sorry,  
16 but if you're going to undertake to give it to us,  
17 undertake to give it to us. And I think the other  
18 issue really is the -- the deadline for submissions  
19 from the parties is the 21st of December, so it would  
20 have to be filed before then so that parties had the  
21 opportunity to look at it and, of course, De Beers will  
22 see it and have more time if they want to respond to it  
23 in their -- their closing argument, as well.

24 But -- so, you know, if the approvals  
25 process is going to take a long time, it doesn't make

1 much sense to have the undertaking. That's my only  
2 point. So I guess if you feel that you can get that  
3 approval in the space of a couple of days, then I'd ask  
4 that you file a -- that report by the 14th of December  
5 or so, about a week's time. And that will give  
6 everybody a week to look at it before they send their  
7 final arguments in.

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

9 MR. GAVIN MORE: Gavin More, GNWT.

10 Yes, and we'll actually try to get it much sooner than  
11 that. Thank you, Mr. Chair.

12 THE CHAIRPERSON: Thank you.

13

14 --- UNDERTAKING NO. 3: GNWT to submit to the Panel

15 by December 14, 2012, two

16 documents:

17 1. Demonstration Project on  
18 Cumulative Effects.

19 Authors: Nishi and Gunn

20 2. 2008 Workshop Report for  
21 Cumulative Effects

22 Manuscript Report 233.

23 Author: Adamczewski et al.

24

25 MR. PETER BANNON: I have another



1 question, as related to cumulative effects monitoring  
2 and management. Considering that the federal  
3 government has a role in approving industrial  
4 development and industrial development is one of the  
5 candidates for the cause of the decline of the Bathurst  
6 herd, what does the GNWT see as a federal role in  
7 cumulative impact monitoring and management?

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

9 DR. NICOLE MCCUTCHEN: Nicole  
10 McCutchen, GNWT. I think our -- our presentation and  
11 our technical report make it fairly clear that we feel  
12 anything to do with cumulative effects is a joint  
13 effort amongst governments, co-management boards,  
14 Aboriginal governments, communities, everyone.  
15 Particularly, given the fact that currently the federal  
16 government is the land manager, I -- I really can't see  
17 how we could do cumulative effects -- build a  
18 cumulative effects program without them.

19 THE CHAIRPERSON: Thank you.

20 MR. PETER BANNON: Thank you, Mr.  
21 Chair. I have no more questions.

22 THE CHAIRPERSON: Thank you. Panel  
23 member, Richard Mercredi?

24 MR. RICHARD MERCREDI: I'd just like to  
25 thank the Government NWT for their presentation. I

1 have no questions at this time.

2 THE CHAIRPERSON: Well, thank you. I  
3 actually do have a question. Get the last word in.  
4 The GNWT has recommended a measure regarding the  
5 socioeconomic agreement, and we've heard from De Beers  
6 Canada and the GNWT that there's a commitment to -- to  
7 do that. And that being said, if the socioeconomic  
8 agreement is included before we finalize our report, it  
9 would look kind of silly, wouldn't it?

10 So what is the driving force of the GNWT  
11 -- GNWT asking the panel to include that as a measure?  
12 Thank you.

13 MS. KELLY KAYLO: Thank you, Mr. Chair.  
14 Could you please repeat the question?

15 THE CHAIRPERSON: Why is the GNWT  
16 asking this panel to have a measure on the  
17 socioeconomic agreement when De Beers Canada and the  
18 GNWT have both indicated that a commitment has been  
19 made to do that and, therefore, there's opportunity to  
20 conclude that before we finalize our -- our report?

21 So what is driving that -- that request  
22 or recommendation? Thank you.

23 MS. KELLY KAYLO: Thank you, Mr. Chair.  
24 Kelly Kaylo, GNWT. We are recommending that the SEA be  
25 a -- a condition, as you've identified, as part of

1 project approval. And it's really to ensure that we  
2 formalize the benefits under the socioeconomic  
3 agreement to Northern residents and businesses.

4 Certainly, as it is a project approval  
5 condition, we basically guarantee that the  
6 socioeconomic agreement will be negotiated in good  
7 faith between the Developer and the Government of the  
8 Northwest Territories. and I -- I think that we've  
9 proven in the past, where those socioeconomic  
10 agreements exist, there has been documented evidence of  
11 benefits. So it is certainly our intent that it would  
12 be of benefit to all Northern residents if that  
13 socioeconomic agreement were part of the project  
14 approval. Thank you.

15 THE CHAIRPERSON: That concludes  
16 questions to the GNWT. Thank you very much for your  
17 presentation, and we appreciate all the heavy hitters  
18 that you brought out, and I understand there's a few  
19 more in the -- in the audience. So good presentation,  
20 good discussion. Thank you very much.

21 We -- we want to keep moving, because we  
22 now are behind schedule, which is something that I  
23 really don't like doing. So we'll ask the DFO and  
24 Environment Canada people to come to the table and get  
25 organized as quickly as possible. Thank you.

1 (BRIEF PAUSE)

2

3 THE CHAIRPERSON: Okay. How are we  
4 making out? Are we about to begin? As I understand it  
5 this is a joint presentation beginning with DFO and  
6 then Environment Canada. And we want to work through  
7 the presentations right away if possible, thank you.

8

9 JOINT PRESENTATION BY DFO AND ENVIRONMENT CANADA:

10 MS. JULIE DAHL: Good afternoon, Mr.  
11 Chair and panel members. My name is Julie Dahl, I'm  
12 with the Department of Fisheries and Oceans. And I  
13 will try not to cough and hack and sniffle too much  
14 here. DFO appreciates the opportunity to provide the  
15 presentation on our technical report and our  
16 recommendations.

17 Our presentation will provide a brief  
18 overview of DFO's regulatory mandate and provide a  
19 summary of our technical review comments and  
20 recommendations that were provided in our technical  
21 report that were -- that was submitted in October.

22 So as a brief reminder, DFO is  
23 responsible for developing and implementing policies  
24 and programs in support of Canada's scientific,  
25 ecological, social, and economic interests in oceans

1 and fresh waters. Guiding legislation includes the  
2 Fisheries Act which confers responsibilities on the  
3 Minister for management of fisheries, habitat, and  
4 aquiculture.

5                   The relevant sections of the Fisheries  
6 Act that apply to the proposed project include:  
7 Section 22, which provides for sufficient flow for the  
8 passage of fish;

9                   Section 30, that requires fish guards  
10 and screens to avoid entrainment of -- of fish into  
11 intakes, for example;

12                  And Section 32 prohibits the killing of  
13 fish by any means other than fishing and this could  
14 include such things as the use of explosives in or near  
15 fish bearing waters and fish stranding due to de-  
16 watering;

17                  Section 35 prohibits the harmful  
18 alteration or disruption or destruction of fish  
19 habitat, it's commonly referred to as a HADD of fish  
20 habitat and this means that any work, undertaking, or  
21 activity that may result in a HADD of fish habitat is a  
22 contravention of the Fisheries Act unless authorized  
23 pursuant to the Act;

24                  And Section 36 prohibits the deposit of  
25 dilatory substances into fish frequented waters. And

1 this section of the Act is administered by Environment  
2 Canada.

3                   So DFO has been engaged in the review of  
4 the proposed project at Kennady Lake since the early  
5 exploration and first consideration of mining con --  
6 concepts back in the late '90s. And since 2006 DFO has  
7 participated in the review of the project proposal.

8                   DFO participated in the development of  
9 the -- of the Environmental Impact Statement  
10 Guidelines, or the Terms of Reference, two (2) rounds  
11 of Information Requests. We've participated in numerous  
12 technical sessions, and we have -- we have met with De  
13 Beers on several occasions to discuss fish and fish  
14 habitat related components of the project, and we -- as  
15 I had said earlier, provided our technical report in  
16 October.

17                   The first issue identified in DFO's  
18 technical review was that related to inconsistencies in  
19 the approaches to collecting and analysing fish and  
20 aquatic baseline data. In order to effectively and  
21 confidently detect changes due to mine effects during  
22 construction, operations, and closure, adequate  
23 baseline data collected in a consistent and defensible  
24 manner is essential in order to properly assess  
25 potential effects from the mine.

1                   Our recommendation was that the  
2   Proponent commit to adopting and using standardized  
3   repeatable methods for baseline data collection and  
4   that appropriate data be collected prior to any  
5   development. We further recommended that baseline data  
6   include data from reference lakes and an assessment of  
7   natural variability.

8                   The Provo -- Proponent provided a  
9   response in November and committed to using  
10   standardized and repeatable methods for all aquatics  
11   and fishery sampling in the aquatic effects monitoring  
12   plan. DFO interprets this commitment to include the  
13   collection of baseline data, including data from  
14   reference sites. Reference data should be collected  
15   prior to development to support a robust and effective  
16   aquatic effects monitoring program.

17                  The next issue that DFO identified in  
18   its technical report is related to overwintering  
19   habitat. Overwintering is a sensitive time for fish,  
20   and adequate overwintering habitat can be critical for  
21   fish survival. Kennady Lake provides important  
22   overwintering habitat that may be otherwise limited in  
23   the watershed.

24                  DFO recommended that the Proponent  
25   provide a revised table that included, in addition to

1 the information that they provided on ice thickness,  
2 information on water body size, maximum depth,  
3 dissolved oxygen, and sampling dates. A revised table  
4 was provided to DFO in November. DFO has not yet  
5 completed an assessment of overwintering potential in  
6 the project area lakes and has noted some data gaps and  
7 data inconsistencies in the information provided. And  
8 we will follow up with the Proponent to address these  
9 items.

10                   The placement of perimeter dikes around  
11 Kennady Lake and changes to flows out of Kennady Lake  
12 are anticipated to impact streams flowing to and from  
13 the lake. Therefore, adequate baseline data on the  
14 streams are required to determine existing conditions  
15 of the streams within the study area and to monitor  
16 changes as a result of the project.

17                   DFO recommended the Proponent commit to  
18 providing a revised tabulated summary of the pre-  
19 impacted study area streams, including a detailed  
20 description of the existing substrates within these  
21 streams. This was to include all streams potentially  
22 impacted by the project, not only tho -- not only those  
23 physically altered directly by mine infrastructure  
24 footprints.

25                   Having an understanding of the pre-



1 development conditions of these streams is essential  
2 for monitoring changes, for example, from increased  
3 siltation and flow changes, and to inform habitat  
4 compensation considerations.

5                   To date, a revised table has not been  
6 provided, although the updated draft no-net-loss plan  
7 or compensation plan submitted in November provides  
8 additional data on streams, including a description of  
9 substrates to be impacted by the project. DFO  
10 recommends that the tabulated summary of stream data be  
11 provided to inform development of the aquatic effects  
12 monitoring program.

13                   The next issue pertains to the  
14 alternatives analysis. It is understood that as a  
15 result of the proposed mine plan, water levels  
16 throughout Kennady Lake are to be lowered or basins  
17 completely drained to facilitate the construction of  
18 infrastructure and development of the pits.

19                   The issue identified is with the loss of  
20 habitat in Area 7 due to draining to facilitate the  
21 construction of Dike K between Areas 6 and 7. The  
22 draining of this basin to construct the dike in the dry  
23 will impact overwintering habitat that supports fish in  
24 Areas 7 and 8.

25                   It is DFO's understanding that, although

1 lake levels and habitat function of Area 7 could be  
2 maintained with an in-the-wet construction approach,  
3 the Proponent has not proposed to construct Dike K in  
4 the wet. And in their alternatives analysis document,  
5 identified the potential for additional construction  
6 cost and project delays.

7                   Related to the issue of dike  
8 construction in Area 7 is the potential for sediment  
9 release into the -- into the basin and downstream  
10 during dike construction.

11                   Maintaining Area 7 habitat would help  
12 maintain fish populations that reside in Area 7 as well  
13 as in Area 8, and these self-sustaining populations  
14 would help support a more rapid recolonization of  
15 Kennady Lake upon closure. As well, avoiding the  
16 draining of Area 7 would also decrease the amount of  
17 turbid water to be managed and/or treated. Therefore,  
18 DFO recommended that the Proponent further evaluate  
19 alternatives which allow Area 7 to be retained. The --  
20 the goal for DFO as well is to reduce overall project-  
21 related impacts and eliminate the need for  
22 authorization under the Fisheries Act where possible.

23                   As proposed, draining Area 7 would be  
24 subject to authorization. However, impacts to Area 7  
25 may be avoidable, thus removing the need for DFO to

1 consider authorization for the loss of this basin.

2 Therefore, DFO recommends that a mine plan that avoids  
3 draining of Area 7 be further considered with access  
4 maintained for fish between Area 7 and 8.

5 Furthermore, and in support of this  
6 first recommendation, DFO recommended that the  
7 Proponent commit to developing and implementing a  
8 sediment management plan for dike construction, which  
9 includes the use of best management practices such as  
10 the use of silt curtains to mitigate potential sediment  
11 release into fish habitat. It was recommended that  
12 this plan should include contingencies to be followed  
13 should the proposed mitigation not work as intended.

14 DFO acknowledges that the Proponent has  
15 agreed to developing a plan for sediment management and  
16 use of best management practices such as silt curtains  
17 should be applied to the construction of Dike K to  
18 minimize impacts due to sediment release in Area 7.

19 The mine plan includes water withdrawal  
20 for mine and camp use, for flow augmentation, and other  
21 water management needs, and the discharge of water.  
22 The issue is with -- the issue that I -- that DFO  
23 identified in their tech report is with potential  
24 impacts to fish and fish habitat resulting from changes  
25 in water levels due to water withdrawal from lakes,

1 including Area 8.

2                   The Proponent is proposing to recycle  
3 water throughout the mine in order to limit the amount  
4 of fresh water required to be withdrawn from water  
5 sources. There's also the potential for erosion from  
6 water discharge and the loss of habitat use in  
7 turbulent zones created at the discharge points.

8                   To address this issue and protect  
9 littoral habitats in all water bodies used as water  
10 sources, DFO recommended that minimum water level  
11 thresholds be established with a mitigation action plan  
12 to be initiated should these thresholds be approached.

13                   To facilitate this, total water volume -  
14 - totor -- total water withdrawal estimates from all  
15 sources compared to the available volumes are needed.  
16 DFO recommends that withdrawal limits and water level  
17 thresholds be established and monitored as part of the  
18 -- as part of the aquatic effects monitoring program.

19                   With respect to potential impacts from  
20 water discharge, DFO did not have a -- a  
21 recommendation. However, the Proponent has committed  
22 to minimizing erosion and impacts to fish habitat. It  
23 is DFO's expectation that careful site selection and  
24 implementation of mitigation will minimize effects on  
25 fish and fish habitat.

1                   The next issues are associated with dike  
2 construction and the impact of perimeter diking on  
3 streams and lakes that flow into Kennady Lake, as well  
4 as the proposed pumping of water with high total  
5 suspended solids concentrations, from the southern  
6 basins of the lake to the isolated northern basins in  
7 order to facilitate complete draining to access the  
8 kimberlite pipes. The input of sediment laden waters  
9 from the dewatered southern basins have the potential  
10 to delay habitat recovery at mine closure in the  
11 northern part of the lake.

12                   DFO recommended that the Proponent  
13 commit to addressing impacts to stream and lake habitat  
14 from changes in draining patterns due to the loss of  
15 connection to Ken -- to Kennady Lake. The Proponent  
16 provided a revised draft no-net-loss plan that  
17 identifies impacts to streams due to placement of  
18 perimeter dikes. However, it is unclear how loss of  
19 habitat function due to changes in flow will be  
20 addressed.

21                   DFO will work with the Proponent to  
22 finalize the scope of impacts to these water courses  
23 and water bodies and appropriate offsets. DF -- DFO  
24 acknowledges the Proponent's commitment to minimize  
25 impacts to downstream habitats of Kennady -- Kennady

1 Lake.

2 In addition to the Proponent's plan to  
3 utilize in situ flocculation to reduce impacts from  
4 sediment discharge within the northern basins, DFO also  
5 recommended that the Proponent assess and implement  
6 best management practices to further mitigate impacts  
7 of sediment to fish habitat, particularly in relation  
8 to the transfer of sediment-laden water during drawdown  
9 of the southern basins.

10 Minimizing the input of sediment to the  
11 northern basins would assist recov -- with recovery of  
12 fish habitat at closure, thereby supporting the goal of  
13 returning Kennady Lake to a functioning aquatic  
14 ecosystem, as well as assisting the Proponent in  
15 meeting their assumptions that there will be no change  
16 in sediment composition or depth in the Northern  
17 basins, as identified in their draft no-net-loss plan.

18 Changes in flow can have impacts on fish  
19 and fish habitat, including limiting access to and  
20 quality of spawning and rearing areas and overwintering  
21 habitats. Given the project proposes to incorporate  
22 controlled discharge from an isolated Kennady Lake to  
23 downstream systems, changes in timing, duration, and  
24 magnitude of peak flows can have detrimental effects on  
25 the usability of downstream habitat, especially for

1 fish species that rely on stream habitats to complete  
2 their life cycles.

3 DFO recommended that the Proponent  
4 develop and implement a revised flow mitigation plan --  
5 plan, one that is adaptable and adjusts for site-  
6 specific change and flow requirements. DFO also  
7 recommended that the revised plan include downstream  
8 flow measurements to validate flow modelling and  
9 include site-specific monitoring data, including the  
10 out-migration of adult and juvenile graining --  
11 grayling and that monitoring plans be included.

12 The Proponent has provided a draft flow  
13 mitigation plan, and it is expected that a revised plan  
14 will incorporate the details included in this  
15 recommendation. DFO will review the final flow  
16 mitigation plans, once completed, in order to ensure  
17 that there is sufficient flexibility in terms of  
18 adapting managed discharges to meet flow timing,  
19 volume, and duration needs.

20 It will also be important to ensure that  
21 water bodies used as sources to augment downstream  
22 flows are not negatively impacted due to water  
23 withdrawal.

24 The next issue is that related to  
25 offsetting for the losses of fish habitat. When

1 projects are proposed that will have impacts on fish  
2 habitat, DFO's goal is to ensure that fish habitat  
3 losses are balanced with fish habitat gains. DFO works  
4 with project proponents to identify mitigation to  
5 reduce impacts. And when impacts to fish habitat  
6 cannot be avoided, efforts to develop or enhance fish  
7 habitat are required to be implemented by the  
8 proponent.

9           The proponent develops a plan as part of  
10 the environmental assessment documents that describes  
11 the fish habitat impacts and possible way to compensate  
12 for those losses. And we call this also offsetting.  
13 This is -- this document is referred to as the no-net-  
14 loss plan.

15           So a plan for offsetting fish habitat  
16 impacts was required, and the Proponent provided a  
17 revised draft no-net-loss plan to DFO in November. And  
18 review of this document is ongoing.

19           Although the draft no-net-loss plan  
20 submitted identifies the potential fish habitat impacts  
21 at Kennady Lake, issues with accounting methodologies,  
22 definition of impacts that require compensation, and  
23 impacts to water bodies outside of Kennady Lake need to  
24 be addressed.

25           DFO will continue to work with the



1 Proponent and Aboriginal groups to finalize the no-net-  
2 loss plan for application in the regulatory phase. A  
3 combination of physical habitat enhancement projects  
4 and research ops -- options to reduce uncertainty are  
5 being discussed with both DFO and Aboriginal  
6 organizations.

7                   The issue pertaining to closure is that  
8 to achieve the goal of re-establishing Kennady Lake as  
9 a self-sustaining ecosystem. The slow growth of  
10 aquatic and riparian vegetation and the condition of  
11 the aquatic ecosystem prior to reintroducing fish in  
12 terms of water quality, sediment quality, and habitat  
13 availability need to be considered.

14

15                   (BRIEF PAUSE)

16

17                   MS. JULIE DAHL: DFO recommended that  
18 during the refilling of Kennady Lake that all fish  
19 species and life stages be excluded until the impacted  
20 areas are restored to the extent that they can support  
21 fish. If breaching of dikes is required to facilitate  
22 refilling of Kennady Lake, it will be important that  
23 fish from upstream systems do not gain access to  
24 Kennady Lake before lake con -- conditions can be  
25 confirmed.

1                   The Proponent has committed to implement  
2 measures to limit potential for fish to access the lake  
3 until restored.

4                   DS -- DFO also recommended a  
5 comprehensive aquatic and riparian revegetation plan be  
6 developed and implemented as soon as possible to ensure  
7 that -- that vegetation efforts were establishing as  
8 intended. The Proponent has committed to developing a  
9 revegetation plan including for aquatic systems as part  
10 of the interim closure and reclamation plan. The plan  
11 would also consider opportunities for implementation of  
12 revegetation efforts as soon as possible.

13                  With respect to some of the terms and  
14 definitions used in the impact assessment -- and I  
15 believe we heard some of these same concerns raised by  
16 Lutsel K'e regarding some of the definitions of terms -  
17 - DFO identified a number of terms that were used in  
18 the environmental impact statement that needed to be  
19 defined due to their importance when considering  
20 potential impacts. Terms such as "persistence" --  
21 excuse me, sorry about that. Almost made it. So  
22 close.

23                  Terms such as "persistence" and  
24 "desired" are qualitative and cannot be used to  
25 quantify thresholds and objectives. The Proponent

1 defined "permanent" as a non-reversible impact, even if  
2 that impact lasted for a hundred years.

3 DFO recommended that the Proponent  
4 provide a clear definition for the terms "desired" and  
5 "persistence". The Proponent has clarified that these  
6 terms are not intended to be quantitative, and DFO  
7 acknowledges the commitment to develop thresholds and  
8 objectives that are -- that are quantitative and  
9 measurable.

10 With respect to assessing impacts to  
11 fish and fish habitat, DFO considers impacts beyond the  
12 life cycle of the key fish species -- for example,  
13 greater than approximately twenty (20) years for lake  
14 trout -- to be permanent and not temporary. Likewise,  
15 a seven (70) plus year timeframe for recovery of a  
16 functioning ecosystem in Kennady Lake would be  
17 considered a permanent impact for the purpose of  
18 determining habitat -- required habitat offsets.

19 And in conclusion, it is DFO's position  
20 that, with the application of appropriate mitigations,  
21 follow-up and monitoring programs, and with the  
22 development of a plan to provide adequate compensation  
23 for residual habitat losses, impacts to fish and fish  
24 habitat for the Kennady Lake project can be addressed.  
25 Thank you.

1 THE CHAIRPERSON: Thank you very much.  
2 We'll turn to Environment Canada now, and I will say  
3 that Fisheries and Oceans were very good. They're ten  
4 (10) minutes ahead of schedule on their presentation.  
5 And that's your challenge.

6 MR. CAREY OGILVIE: Thank you, Mr.  
7 Chairman. Carey Ogilvie, with Environment Canada.  
8 I'll just quickly introduce our folks that we've got  
9 here today.

10 I'm the head of Environmental Assessment  
11 North, which is Northwest Territories and Nunavut. To  
12 my right is Ms. Lisa Lowman. She's our senior  
13 environmental assessment coordinator on this project,  
14 and she'll be leading the presentation today. To her  
15 right is Mr. Erik Allen. He's a senior expert support  
16 officer out of our Edmonton office. And to his right,  
17 Dr. James Hodson with the Canadian Wildlife Service.  
18 And on the telephone we've got Ms. Corrina Watt. She's  
19 an air quality specialist.

20 The review team is actually bigger than  
21 that, but these are the folks we thought we'd need here  
22 today. Thank you.

23

24 (BRIEF PAUSE)

25

1 MS. LISA LOWMAN: Mr. Chair, panel  
2 members, Elders, ladies and gentlemen, my name is Lisa  
3 Lowman and I'm a senior environmental assessment  
4 coordinator with Environment Canada here in  
5 Yellowknife, under the Prairie and Northern Region.

6 This technical presentation to the  
7 Gahcho Kue panel is made on behalf of Environment  
8 Canada regarding the proposed De Beers Gahcho Kue  
9 diamond mine project. The presentation is based on  
10 Environment Canada's technical report submitted to the  
11 panel on October 22nd, 2012, to assist them in their  
12 determination on the merits of this project.

13 Technical responses were received by De  
14 Beers on November the 9th, 2012. Environment Canada is  
15 participating in the review of the proposed project in  
16 order to provide special expertise within our mandate  
17 to the panel.

18 Environment Canada will not be issuing  
19 permits or authorizations for the proposed project;  
20 however, the department is responsible for legislation  
21 and regulations that are reflected in the content of  
22 the commentary we will be discussing. It should be  
23 noted that Environment Canada may wish to provide  
24 additional advise or expertise with respect to any new  
25 information presented to the panel.

1                   The structure of this intervention  
2 presentation will consist of a brief overview of  
3 Environment Canada's role and involvement in the  
4 environmental assessment process, followed by a number  
5 of issues identified within the environmental impact  
6 statement and supplementary documentation which fall  
7 under the department's mandated responsibilities and  
8 are captured under the following broad categories; and  
9 that is freshwater environment, terrestrial  
10 environment, and atmospheric environment.

11                  For each of the topics listed, a brief  
12 overview of key issues of concern, rationale, and  
13 recommendations will be presented followed by some  
14 closing remarks, which will conclude the presentation.

15                  Environment Canada reviews developmental  
16 proposals for potential environmental impacts falling  
17 within our mandate. These areas typically relate to  
18 water quality and quantity, migratory birds and species  
19 at risk, and air quality. In that context, for  
20 projects in the Northwest Territories, the department  
21 provides recommendations and advise to the panel.

22                  Environment Canada and De Beers have  
23 held many useful discussions and resolved many matters  
24 of initial concern. On November 9th, 2012, De Beers  
25 provided their technical report responses to

1 Environment Canada's technical submission dated October  
2 22nd, 2012. Within their response, we -- we were  
3 pleased to see that they have committed to a number of  
4 Environment Canada's recommendations.

5 Environment Canada's primary interest in  
6 the context of the project proceeding is that the  
7 Proponent implement effective monitoring programs to  
8 validate and, as necessary, adjust their management  
9 plans to accommodate any changes that are observed in  
10 the preconstruction model predictions. This will  
11 address the current gaps in baseline knowledge and  
12 ensure that an adaptive management approach is taken  
13 and address the cur -- the current uncertainties. And  
14 this will be reflected in the slides that are to  
15 follow.

16 The first issue relates to monitoring  
17 and adaptive management, and the concern and rationale  
18 is as follows. De Beers has done extensive modelling  
19 work using a broad base -- baseline data set. However,  
20 there are inherent uncertainties associated with  
21 modelling complex ecosystems. By periodically  
22 regularly updating input data and rerunning models,  
23 uncertainties will reduce -- be reduced, and models can  
24 be calibrated to actual conditions.

25 Environment Canada's recommendation is

1 for -- for further front-end design be carried out on a  
2 comprehensive aquatic effects monitoring program, with  
3 monitoring to be conducted during construction,  
4 operation, and closure phases of the project; and  
5 monitoring data be compared to predictions and  
6 periodically used to update and rerun models predicting  
7 future water quality. Environment Canada suggests  
8 every three (3) to five (5) years would be appropriate.  
9 At closure, modelling predictions for lake quality be  
10 supplemented with bioassay testing, and that is chronic  
11 and acute, prior to reconnection of Kennady Lake with  
12 Area 8. And De Beers has committed to these  
13 recommendations.

14 Issue 3.2 relates to water and sediment  
15 quality objectives. Environment Canada is concerned  
16 that within Kennady Lake the use of a whole lake  
17 average will allow for inclusion of a gradian or  
18 pockets of poor water quality with areas of  
19 unacceptably high chronic toxicity occurring. There  
20 will be seasonal variations in water quality as well as  
21 potential pulses of contaminant releases. These would  
22 be masked by averaging concentrations with the whole  
23 lake.

24 To be protective of biota, which migrate  
25 into the reconnected lake basin, objective should be



1 met at areas of maximum concentrations in the lake.

2                   With respect to derivation of the  
3 objectives, Environment Canada has concerns with how  
4 regional maxima were employed. These were used to  
5 determine upper bounds for natural variability in the  
6 concentrations of specified parameters and subsequently  
7 used as the benchmark where they were higher than  
8 relevant guideline concentrations.

9                   Environment Canada recommends that for  
10 substances predicted to be above the AEMP benchmarks,  
11 the 95th percentile baseline concentration be used as  
12 the benchmark. Monitoring to track water quality  
13 changes in Kennady Lake during closure should include  
14 measurement of deeper areas and water column profiles  
15 as well as the waters overlying the mine pits.

16                   Assessment of the lake water quality.  
17 Suitability for reconnection should be based on  
18 individual maxima rather than whole-lake mixed  
19 averages.

20                   Issue 3.3 relates to water quality  
21 during dewatering and at closure as well as treatment  
22 contingency planning. The concern is that De Beers has  
23 modelled Kennady Lake water quality at closure taking  
24 into account the various contaminant inputs and  
25 processes. Environment Canada does -- does not

1 disagree with the conclusions reached in the specific  
2 modelling context, but again notes the uncertainty  
3 associated with even the best modelling of multiple  
4 processes and physical behaviours in the project  
5 environment.

6                   Similar to the recommendations made by  
7 both DFO and Aboriginal Affairs and Northern  
8 Development Canada, Environment Canada recommends that  
9 De Beers plan for the need to actively minimize levels  
10 of contaminants in the system. A treatment contingency  
11 plan which identifies feasible treatment methods for  
12 the operational and closure stages should be developed.

13                   Environment Canada also notes that  
14 dewatering and closure activities will be subject to  
15 the pollution prevention provisions of the Fisheries  
16 Act. And De Beers has committed to this  
17 recommendation.

18                   Issue 3.4 relates to mercury methylation  
19 due to flooding of shoreline areas, D2, D3, and E1, and  
20 Kennady Lake. The concern is the formation of  
21 methylmercury following inundation of shorelines is a  
22 well-documented phenomenon.

23                   The Proponent identifies potential  
24 mitigation strategies, vegetation removal and  
25 monitoring, and has modelled mercury levels in water,

1 sediment, and fish. Given the small stature of  
2 vegetation and the potential for surface erosion  
3 associated with removal, Environment Canada questions  
4 whether this mitigative measure would be effective or  
5 whether this disturbance would lead to problems with  
6 sedimentation and/or potentially thermal erosion.

7 Environment Canada recommends that De  
8 Beers identify what specific management response  
9 actions would be feasible in the event mercury  
10 concentrations approach benchmarks or predicted levels  
11 in water, fish, and sediments.

12 The Department acknowledges that De  
13 Beers has committed to looking at mercury in fish  
14 tissue, although not in water and sediments.  
15 Environment Canada recommends De Beers also monitor  
16 mercury increases in water and sediments as an early --  
17 earlier indicator for implementing mitigation measures  
18 before levels in fish get too high.

19 In addition to informing management  
20 response, monitoring environmental mercury  
21 concentrations over time will provide information that  
22 can be compared to and validate predictions and also be  
23 used to refine predictions for closure rewatering of  
24 Kennady Lake.

25 I'm now going to hand it over to Dr.

1 James Hodson, our environmental assessment coordinator  
2 with the Canadian Wildlife Service, to present on the  
3 terrestrial portion of this presentation. Thank you.

4 DR. JAMES HODSON: Thank you, Mr.  
5 Chair. This is James Hodson with the Canadian Wildlife  
6 Service. I'll be giving a brief overview of the five  
7 (5) key issues of concern, our rationale, and  
8 recommendations related to these issues.

9 Our first issue relates to avoiding the  
10 incidental take of migratory birds and their nests and  
11 eggs. The Proponent has identified a risk of damaging  
12 or destroying bird nests due to flooding of terrestrial  
13 habitat during the migratory bird breeding season  
14 following the construction of Dikes F and Dikes G --  
15 Dike G.

16 Construction of these dikes is expected  
17 to raise water levels by 2.8 metres in lakes D-2 and D-  
18 3, and by 0.79 metres in Lake E-1. This will lead to  
19 flooding of roughly 60 hectares of terrestrial habitat  
20 over a period of three (3) years.

21 The largest increases in water level are  
22 expected to occur during the month of June in each year  
23 due to the spring freshet which corresponds to the  
24 period when migratory birds may be establishing their  
25 nests in these areas that are going -- will be flooded.

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There's also a risk of incidental disturbance or destruction of nests and eggs of migratory birds during land-clearing activities if these proceed during the nesting season.

The disturbance and the destruction of nests and eggs and migratory birds is prohibited under the Migratory Birds Regulations. There is no legal mechanism available by which EC could authorize via permit or an exemption the incidental take of nests and eggs. So it is up to the project Proponent to ensure that they take measures to ensure -- to ensure that they comply with the legislation.

So Environment Canada has recommended a number of general mitigation measures to avoid incidental take of nests and eggs during land clearing. We recommend that De Beers avoid clearing land during the migratory breeding seasons.

And in the event that clearing can't be scheduled outside of the nesting season, areas should be checked for active nests using a scientifically sound approach at least four (4) days before habitat clearing or destruction occurs. And these surveys should be carried out by an avian biologist or naturalist with experience with migratory birds.

1                   If act -- active nests are found De  
2   Beers should use the recommended set-back distances  
3   which we have provided in our technical report to  
4   protect nests. And we have recommended that De Beers  
5   include these set-back distances in their Wildlife  
6   Effects Mitigation and Management Plan. In cases where  
7   it might not feasible to implement these setbacks we  
8   recommend that they develop nest-specific guidelines to  
9   protect these nests in these cases.

10                   And nests should be monitored to  
11   determine whether the mitigation measures are  
12   successful, and these results of monitoring should be  
13   included in their wildlife monitoring reports.

14                   THE CHAIRPERSON: Just excuse me for a  
15   second. I'm just doing a time check and I note that  
16   the assigned time for your Department was twenty (20)  
17   minutes. We're fifteen (15) minutes into it and we  
18   have twenty-nine (29) slides and we're on slide number  
19   16.

20                   Is there a way that we can get -- skip  
21   the issues and get to the recommendations? That might  
22   be helpful to move things along because I think we're -  
23   - you're going to be over time.

24                   MR. JAMES HODSON: Yes, thank you.  
25   It's James Hodson. I can skip to the recommendations.

1                   These are our recommendations pertaining  
2 to avoiding incidental take due to flooding of  
3 terrestrial habitat. We met with De Beers on two (2)  
4 occasions to discuss this issue and we're recommending  
5 that De Beers provide EC with an assessment of the  
6 feasibility of pumping water into lakes D-2 and E-1  
7 from Kennady Lake to raise the water levels in these  
8 areas outside of the breeding season.

9                   We've also recommended that they  
10 undertake field surveys next summer to determine the  
11 species of birds that are using these areas and to  
12 identify areas where shrub removal might be used as --  
13 to make these areas less attractive to birds. We've  
14 also recommended that prior to construction De Beers  
15 provide EC with a plan to avoid incidental take of  
16 nests and eggs from flooding. And De Beers has agreed  
17 to these recommendations.

18                   Our next issue was pertaining to the  
19 contamination risk to birds that were using the water  
20 management ponds and water collection ponds within the  
21 site.

22                   We've recommended that De Beers include  
23 surveys of waterbird use of the collection ponds and  
24 water management ponds as part of their wildlife  
25 surveillance monitoring program and that they include

1 further details of this component of their monitoring  
2 plan in the next iteration of their wildlife effects  
3 mitigation and management plan. And the results of  
4 monitoring should be provided in annual reports, and  
5 Environment Canada should be notified of any incidents  
6 involving injury or mortality of a migratory bird.

7                   The next issue was pertaining to De  
8 Beers's proposed monitoring program for upland breeding  
9 birds. De Beers had proposed to use a monitoring  
10 protocol which is based on one that is currently used  
11 by the Canadian Wildlife Service, and we're  
12 recommending that De Beers go ahead with the  
13 implementation of this monitoring program. And we look  
14 forward to working with them in the future on  
15 elaborating the monitoring plan further.

16                   With respect to avian species that are  
17 designated as species at risk, we're recommending that  
18 the primary mitigation measure should be avoidance,  
19 using the nest-specific -- or, species-specific set-  
20 back distances that we provided in our technical  
21 report.

22                   Monitoring should be undertaken to  
23 ensure that mitigant -- mitigation measures are  
24 successful, and monitoring results should be provided  
25 to the relevant agency with management authority for



1 each species at risk.

2 We are also recommending that De Beers  
3 ensure that their mitigation and monitoring is  
4 consistent with status reports, recovery strategies,  
5 action plans, and management plans that may become  
6 available for species at risk throughout the duration  
7 of the project.

8 And our last concern was pertaining to  
9 aircraft disturbance of migratory birds. We are  
10 recommending that De Beers increase the minimum  
11 altitude for aircraft overflights of the sites to 650  
12 metres to minimize disturbance to birds, and to inform  
13 pilots of these recommendations in areas within the  
14 site that are known to have concentrations of migratory  
15 birds. And De Beers has accepted those  
16 recommendations.

17 That is all for the wildlife section.  
18 Thank you.

19 MS. LISA LOWMAN: Okay. It's Lisa  
20 Lowman, with Environment Canada, Mr. Chair. I'm going  
21 to proceed with the atmospheric environ -- environment  
22 section, and I'll provide a brief overview of the  
23 recommendations.

24 So issue 5.1 relates to commitments for  
25 management plans. Environment Canada supports the

1 commitments made by De Beers and recommends that De  
2 Beers provide a commitment table outlining all  
3 commitments to management plans, including those  
4 related to air quality and incineration management, and  
5 the Board include the development and implementation of  
6 these plans as a Board measure. De Beers has committed  
7 to the recommendation A above.

8                   So just some closing remarks. While the  
9 revised environmental impact statement is greatly  
10 improved, Environment Canada maintains its view with  
11 respect to the need for a precautionary approach and a  
12 rigorous and comprehensive monitoring program that can  
13 be address -- that can address gaps in baseline  
14 knowledge, detect project-related impacts in the face  
15 of substantial natural variation, and inform adaptive  
16 management to minimize further impacts as the project  
17 proceeds.

18                   Environment Canada is of the opinion  
19 that the conclusions drawn by De Beers are in general  
20 supported by the analysis. As well, Environment Canada  
21 acknowledges and appreciates the efforts that De Beers  
22 has and will continue to invest in monitoring.

23                   And, furthermore, the additional  
24 monitoring requested will ensure that the project-  
25 related impacts can be detected and adaptive management

1 decisions are based on accurate baseline information.

2                   We hope that this presentation provided  
3 a useful overview of some of the key recommendations  
4 from Environment Canada's technical submission and are  
5 useful in the Gahcho Kue panel's decision-making  
6 process. Environment Canada would like to thank the  
7 panel for providing the department with the opportunity  
8 to speak at today's proceedings, and in closing, we  
9 will be happy to address any questions the panel or  
10 other parties may have with respect to our submission.  
11 Thank you.

12                   THE CHAIRPERSON: Thank you very much.  
13 And I very much appreciate how you picked up the pace.  
14 It was really good.

15                   It's been two (2) hours since we even  
16 had a stretch break. And you know I'm pushed for time,  
17 but at the same time people need bathroom and -- and  
18 refilling coffee. I'm suggesting ten (10) minutes  
19 sharp, and then we'll -- we'll get back to questions by  
20 parties. Thank you.

21

22 --- Upon recessing at 4:50 p.m.

23 --- Upon resuming at 4:58 p.m.

24

25 QUESTION PERIOD:

1 THE CHAIRPERSON: Okay. We are about  
2 to begin. Please be seated. We're going to go through  
3 that long list of -- of parties again for questions  
4 from parties. And I'll begin with Akaitcho IMA  
5 Implementation office...? Seeing nobody.

6 I'll move on to the Dene Nation...?

7 On to Deninu Kue First Nation...?

8 Lutsel K'e First Nation...? NWT -- oh,  
9 yes. Go back to Lutsel K'e Dene First Nation.

10 MR. MIKE TOLLIS: Sorry, Mr. Speaker.  
11 Just one (1) question for -- for DFO. Sorry, Mike  
12 Tollis from Lutsel K'e.

13 How will Lutsel K'e be included in the  
14 compensation decisions?

15 THE CHAIRPERSON: Thank you.

16 MS. JULIE DAHL: Julie Dahl, Fisheries  
17 and Oceans. The development of the compensation plan  
18 is led by the Proponent, and the Proponent is required  
19 to consult with the -- with the various Aboriginal  
20 groups in the development of that plan so that when  
21 they come to DFO they have a plan that we're assured  
22 has elements that are supported by the Aboriginal  
23 groups.

24 So our expectation is that Lutsel K'e  
25 will be given that opportunity to -- to review the plan

1 and provide input to the plan, along with all the --  
2 the other Aboriginal groups.

3 THE CHAIRPERSON: Thank you.

4 MS. BEV ROSS: Bev Ross, Fisheries and  
5 Oceans Canada. I was just going to add that we do  
6 understand that the Proponent has been meeting with  
7 Aboriginal parties, respecting the plan that they're  
8 developing.

9 THE CHAIRPERSON: Thank you.

10 MR. MIKE TOLLIS: That's good for me,  
11 Mr. Chair. Thank you very much.

12 THE CHAIRPERSON: Thank you. NWT Metis  
13 Nation...? North Slave Metis Alliance...?

14 MS. SUSAN ENGE: Sue Enge, North Slave  
15 Metis Alliance.

16 We have one (1) question about the  
17 Navigable Waters Act. I don't know I'm -- if that's  
18 the proper title, but it's -- was included in the  
19 Omnibus Act that was passed on Wednesday in parliament.  
20 And my question is, will these conditions for fish  
21 habitat be grandfathered or will that new act with new  
22 fish habitat conditions change anything at this level  
23 here?

24 THE CHAIRPERSON: Okay. Thank you very  
25 much. DFO...?

1 MS. JULIE DAHL: Julie Dahl, Fisheries  
2 and Oceans.

3 I was a little confused there when I  
4 heard reference to the Navigable Waters Act. That's  
5 under Transport Canada, and that's strictly for  
6 navigation. Could I just get clarification if she's  
7 referring to the announced proposed changes to the  
8 Fisheries Act?

9 THE CHAIRPERSON: Okay. Thank you.  
10 Sue Enge...?

11 MS. SUSAN ENGE: Sue Enge, Metis  
12 Alliance.

13 I -- well, it could be the Fisheries  
14 Act, but it refers directly to the fish habitat  
15 measures, and it's part of the Omnibus bill also. I  
16 might have the name of the act wrong, but it does deal  
17 with fish habitat conditions.

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

19 MS. JULIE DAHL: Julie Dahl, Fisheries  
20 and Oceans.

21 Yes, the -- the bill that was passed did  
22 propose changes to what have been known as the habitat  
23 protection provisions of the Fisheries Act, and  
24 proposing a change to a fisheries protection. And  
25 right now, some changes are in place. And the changes

1 that are in place are to what people are aware of as  
2 the habitat provision. There has been a -- a bit of an  
3 expansion of that where currently the prohibition is on  
4 activities as well that may affect fish habitat. So  
5 I'm not sure what other question was in there.

6 THE CHAIRPERSON: Thank you. Sue  
7 Enge...?

8 MS. SUSAN ENGE: No further questions.  
9 Thank you.

10 THE CHAIRPERSON: Thank you. Tlicho  
11 government...?

12 MR. HENRY ZOE: Henry Zoe, with Tlicho  
13 government, question for DFO. How do you propose the  
14 Proponent address the intangible aspects of the loss of  
15 fisheries, the historical, spiritual, and cultural  
16 aspects that's been raised by the community members of  
17 Lutsel K'e?

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

19

20 (BRIEF PAUSE)

21

22 MS. BEV ROSS: Bev Ross, Fisheries and  
23 Oceans Canada. That's a -- a pretty challenging  
24 question and I think that we would be interested in  
25 going back to the guidance from the affected parties

1 and look to their guidance on how those should be  
2 addressed. I would also look to perhaps something like  
3 the group that's being proposed, Ni Hadi Yati, to have  
4 some discussion around some of those greater  
5 intangibles as well.

6 THE CHAIRPERSON: Thank you. Tlicho  
7 government...?

8 MR. HENRY ZOE: Thank you, Mr.  
9 Chairman. My question is to Environment Canada. It's  
10 vital to have Environment Canada review and engage in  
11 Ni Hadi Yati. Can you comment on your department's  
12 willingness to join us to review and guide De Beers's  
13 progress?

14 THE CHAIRPERSON: Thank you.  
15 Environment Canada...?

16

17 (BRIEF PAUSE)

18

19 MS. LISA LOWMAN: Mr. Chair, it's Lisa  
20 Lowman, from Environment Canada. Based on the  
21 conceptual model presented for Ni Hadi Yati at this  
22 hearing, Environment Canada is open to considering the  
23 possibility of participating as a technical advisor  
24 with respect to areas captured under our mandate, which  
25 would include the AEMP, the WEMP, sorry about the



1 acronym, it's the wildlife effects monitoring program,  
2 air quality monitoring management, and possibly  
3 cumulative effects.

4 In regards to Measure 3, Environment  
5 Canada would request additional consultation from De  
6 Beers and First Nation parties in providing further  
7 detail in terms of expectations and level of technical  
8 resources sought from the various departments,  
9 including Environment Canada.

10 THE CHAIRPERSON: Thank you. Tlicho  
11 government...?

12 MR. HENRY ZOE: Thank you, Mr.  
13 Chairman. I'd also like to ask the same question to  
14 DFO.

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

16 MS. JULIE DAHL: Julie Dahl, Fisheries  
17 and Oceans. Can I please ask to have the question  
18 repeated?

19 THE CHAIRPERSON: Tlicho government...?

20 MR. HENRY ZOE: It's vital to have DFO  
21 review and engage in Ni Hadi Yati. Can you comment on  
22 your department's willingness to join us to review and  
23 guide De Beers's progress?

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

25 MS. JULIE DAHL: Julie Dahl, Fisheries

1 and Oceans. The Habitat Management Program of DFO here  
2 in the territories has always been available to assist  
3 the -- the various monitoring agencies that have been  
4 developed, and we've always engaged with them and we  
5 always assisted where -- where we could.

6 And I -- I would see that where those --  
7 the -- the monitoring programs or reports that the --  
8 that any new group would be looking at was relevant to  
9 our mandate, we would certainly offer the assistance  
10 where we could.

11 Now, that said, I'm -- I'm not in a  
12 position to say that we will have a number of experts  
13 available up here to fully engage in -- in that,  
14 because our program is undergoing quite a few changes  
15 right now. But I fully expect that we would continue  
16 with the way we have always dealt with the various  
17 monitoring agencies up here.

18 THE CHAIRPERSON: Thank you. Tlicho  
19 government...?

20 MR. HENRY ZOE: Thank you, Mr.  
21 Chairman. I have no further questions. Thank you.

22 THE CHAIRPERSON: Thank you.  
23 Yellowknives Dene First Nation...?

24 MR. TODD SLACK: Thanks, Mr. Chair.  
25 Todd Slack for the Yellowknives.

1 I have two (2) questions for DFO, and I  
2 apologize, they're a little bit wordy, but -- we heard  
3 -- on Monday, we heard that the water management pond  
4 will have a depth of ten (10) metres or so. And at the  
5 other mines, they had a different fish-out plan where  
6 they lower the water and then continue their fishing  
7 effort to concentrate the fish in the available volume  
8 of water. So the first question is: Does DFO believe  
9 that this project will be able to complete a full fish-  
10 out for the area that will constitute the water  
11 management pond?

12 THE CHAIRPERSON: Thank you. DFO...?

13 MS. JULIE DAHL: Julie Dahl, Fisheries  
14 and Oceans.

15 Thank you for that question. We -- we  
16 have required other companies to conduct fish-outs as  
17 part of authorizations for lakes that are being  
18 impacted, and our department has developed a fish-out  
19 protocol, a very detailed protocol that defines the  
20 methods to be followed such that we could deem a lake  
21 to be fished out. Certainly the bigger the lake, the  
22 greater the effort required. However, if a proper  
23 requi -- effort is applied and the protocol is  
24 followed, we're confident that -- that a fairly --  
25 fairly significant fish-out could -- could occur.

1 THE CHAIRPERSON: Thank you. Todd  
2 Slack, Yellowknives Dene First Nation...?

3 MR. TODD SLACK: Thanks. And part 2 of  
4 that question is, then, does DFO agree that if there  
5 are fish remaining, it would be illegal under the  
6 Fisheries Act, Section 36-3 to deposit the kimberlite  
7 and runoff from the waste rock piles? And just to be  
8 clear, the -- 36-3 reads, and I'm sure the DFO knows  
9 this, but it reads that:

10 "no person shall deposit a  
11 deleterious substance of any type in  
12 water frequented by fish."

13 THE CHAIRPERSON: Thank you. DFO...?  
14

15 (BRIEF PAUSE)  
16

17 MS. JULIE DAHL: Julie Dahl, Fisheries  
18 and Oceans.

19 It -- it's correct that that is what  
20 Section 36 of the Act does state, that it is prohibited  
21 to deposit to a fish-bearing water body, fish-  
22 frequented water body. And we recognize that as part  
23 of the mine plan, the many basins of Kennady Lake will  
24 undergo significant impacts. We do know that the  
25 activities will constitute perimeter diking, internal

1 diking, draw down, and that -- and that sort of thing.

2                   And we do -- we anticipate that these  
3 impacts to -- to the lake basin will result in an  
4 isolated basin that has been impacted. And it's those  
5 impacts that will be subject to authorization under the  
6 Fisheries Act.

7                   And the lake basin that -- that -- that  
8 remains will be subject to controlled discharges. And  
9 this isolated basin, once that -- that occurs, once the  
10 authorizations are in place for all of those physical  
11 impacts of the fish and fish habitat, and once -- once  
12 a compensation plan is in place to allow for  
13 compensating for that impacted basin, DFO will not  
14 consider that those confined basins of Kennady Lake to  
15 be subject to further application of the Fisheries Act.

16

17                   And, as such, the use of those  
18 authorized areas for subsequent mine waste would not be  
19 subject to application of the Fisheries Act. However,  
20 discharges from any confined basin would continue to be  
21 subject to the strict prohibitions of the Fisheries  
22 Act, as well as any licence conditions that would be in  
23 place.

24                   THE CHAIRPERSON:    Thank you.   Todd  
25 Slack...?

1 MR. TODD SLACK: Thanks. And just a  
2 point -- or a question to clarify that. It was my  
3 understanding that this -- the authorizations in this  
4 case to deposit this could be permitted under the MMER,  
5 but as this project doesn't fall under that I wasn't  
6 aware that it could be authorized. Can you provide  
7 some additional comment and context for me?

8 THE CHAIRPERSON: Thank you. DFO...?

9 MS. JULIE DAHL: Julie Dahl, Fisheries  
10 and Oceans. You're correct. The metal mining effluent  
11 regulations which are formed under Section 36 of the  
12 Fisheries Act apply only to metal mines and they do not  
13 apply to diamond mines. So you're correct, there is no  
14 regulation that allows the direct deposit of -- of  
15 waste.

16 But as I say, we are deeming this --  
17 this basin of the lake to be authorized under 35 for  
18 all of the physical -- physical impacts that will  
19 create an isolated, controlled basin, managed basin  
20 that we would not subject to the Act further.

21 THE CHAIRPERSON: Thank you. Todd  
22 Slack...?

23

24 (BRIEF PAUSE)

25

1 MR. TODD SLACK: Mr. Chair, I know that  
2 there's a -- a follow-up question to that, but I just  
3 don't have it at hand. And in the -- in the interest  
4 of time we'll try to address that in our follow-up --  
5 or, our final comments.

6 THE CHAIRPERSON: Thank you, Mr. Slack.  
7 We move onto Aboriginal Affairs and Northern  
8 Development Canada.

9 MR. FRANCIS JACKSON: Francis Jackson,  
10 Aboriginal Affairs. We have no questions.

11 THE CHAIRPERSON: Thank you.  
12 Government of the Northwest Territories...?

13 MR. SHAFIC KHOURI: Shafic Khouri,  
14 GNWT. We have no questions. Thank you very much.

15 THE CHAIRPERSON: Thank you. Natural  
16 Resources Canada...?

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

19 THE CHAIRPERSON: Thank you. Parks  
20 Canada...?

21 MS. ANN RONALD: Parks Canada, Ann  
22 Ronald. We have no questions. Thank you.

23 THE CHAIRPERSON: Thank you. Transport  
24 Canada...?

25

1 (BRIEF PAUSE)

2

3 THE CHAIRPERSON: De Beers Canada...?

4 MS. VERONICA CHISHOLM: Veronica

5 Chisholm, from De Beers. I'd like to thank Environment  
6 Canada and Department of -- or, I guess it's Fisheries  
7 and Oceans Canada for their presentations. We have no  
8 questions.

9 THE CHAIRPERSON: Thank you. Panel  
10 staff and technical advisors...?

11 MR. CHUCK HUBERT: Chuck Hubert, with  
12 panel staff. Technical advisor Kathy Racher has three  
13 (3) questions.

14 DR. KATHY RACHER: Kathy Racher, for  
15 the panel. My first question is for DFO -- or  
16 Fisheries and Oceans Canada as -- as we have been  
17 corrected. So De Beers has predicted that after post-  
18 closure that they can refill Kennady Lake. They will -  
19 - it looks like they're going try to restore some  
20 habitat in there and -- and eventually facilitate the  
21 return of a sustainable fish community in Kennady Lake.

22 And I -- I guess I saw everything in  
23 your -- in your technical but something that said you  
24 supported those predictions, that those are reasonable  
25 predictions, based on the information that we have in



1 front of us right now.

2 So do you support those predictions?

3 THE CHAIRPERSON: Thank you.

4

5 (BRIEF PAUSE)

6

7 MS. JULIE DAHL: Julie Dahl, Fisheries  
8 and Oceans. I think your question is: Do we support  
9 those conclusions that they can achieve these closure  
10 goals? We do in as far as they have done detailed  
11 modelling predictions and that they will be monitoring  
12 as they go.

13 They've committed to -- to trying to  
14 implement measures to ensure that it -- that these  
15 closure goals were met. And in our presentation we  
16 provided a few miti -- a few mitigation measures that  
17 we feel will help them meet those closure goals, and  
18 we're hoping that those will still be considered and  
19 applied. And one (1) of those is perhaps trying to  
20 control the amount of sediment that is introduced into  
21 the northern basins so that you don't significantly  
22 change the composition or quality of that sediment so  
23 that it can be more -- more readily restored at  
24 closure. and we've offered some suggestions on how  
25 that may -- that might work.

1                   You know, some of their proposed plans  
2 to put the higher saline water into the deep pits and  
3 overlay it with more of the -- of the -- if you would  
4 call it the fresh water, a number of the measures that  
5 they're talking about seem as if they would be -- would  
6 be achievable.

7                   Again, it's going -- it -- it's all  
8 based on modelling. It's based on predictions. And I  
9 guess none of us will know for sure until the  
10 monitoring results. And as we see, Environment Canada  
11 has recommended monitoring every three (3) to five (5)  
12 years to ensure that we know that we're on track for  
13 achieving those closure goals.

14                   THE CHAIRPERSON:   Thank you. Dr. Kathy  
15 Racher...?

16                   DR. KATHY RACHER:   Kathy Racher, for  
17 the panel. Thank you. That was very -- a very helpful  
18 clarification. So I have two (2) more questions for  
19 Environment Canada. In Section 3.2 of your technical  
20 report you talk about a few of your concerns about how  
21 De Beers derived their site-specific water quality  
22 objectives.

23                   And as I did with Aboriginal Affairs, I  
24 just want to check to make sure that those concerns  
25 were just related to the development of water quality

1 objectives for the purpose of -- of deriving discharge  
2 limits and/or monitoring as opposed to any issues with  
3 De Beers's predictions of no significant effects due to  
4 water quality changes.

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

7

8 (BRIEF PAUSE)

9

10 MS. LISA LOWMAN: Mr. Chair, it's Lisa  
11 Lowman, from Environment Canada. We're just requesting  
12 if that question can be repeated one (1) more time.  
13 Thank you.

14 THE CHAIRPERSON: Thank you.

15 DR. KATHY RACHER: Kathy Racher, from  
16 the panel. So in your technical report you did raise a  
17 few issues about how De Beers arrived at their -- or  
18 derived their site-specific water quality objectives.  
19 And I just want to make sure that the -- the derivation  
20 method they use, that the issues that you have don't  
21 affect conclusions of -- or predictions of no signifa -  
22 - significant effects, that I'm assuming that you're --  
23 you're just wanting to put these concerns out on the  
24 record so that during the regulatory phase we can deal  
25 with site-specific water quality objectives for the

1 purposes of setting EQC.

2 THE CHAIRPERSON: Thank you.

3 MS. LISA LOWMAN: Lisa Lowman, from  
4 Environment Canada. In response to that question, we  
5 would say, yes, that is correct.

6 THE CHAIRPERSON: Thank you.

7 DR. KATHY RACHER: Kathy Racher, for  
8 the panel. Okay, one (1) more question. Your  
9 recommendation 3-4 asked De Beers to identify specific  
10 response actions in the event that mercury  
11 concentrations approach benchmarks. And I was left  
12 with the question of at what stage of the process were  
13 you thinking these actions should be developed. Do you  
14 mean during water licensing, after the water licence  
15 has been issued? And a further question to that is are  
16 you aware of any further mitigations that De Beers  
17 could employ?

18 THE CHAIRPERSON: Thank you.

19

20 (BRIEF PAUSE)

21

22 MS. LISA LOWMAN: Mr. Chair, if I could  
23 just have one (1) minute just to confer. Thank you.

24

25 (BRIEF PAUSE)

1 MS. LISA LOWMAN: Lis -- Mr. Chair,  
2 Lisa Lowman, from Environment Canada. In response to  
3 the first part of the question, in terms of specific  
4 management response actions, we would, you know,  
5 anticipate that that would be covered in the regulatory  
6 phase of -- of that process.

7 And to answer the other part of the  
8 question I'm just going to hand it off to Erik Allen to  
9 respond. Thanks.

10 MR. ERIK ALLEN: Thank you, Mr. Chair.  
11 It's Erik Allen. I'm with Environment Canada. I'm  
12 just going to respond to the second part of the  
13 question, which had to do with, I believe, if I  
14 understood it correctly, other available options for  
15 mitigation. And I assume she referred to in a post-  
16 flooding situation.

17 And De Beers has been on the record in a  
18 couple of areas with possible mitigation options, both  
19 in response, I believe, to several IR requests. And I  
20 -- I believe I also saw it in their -- in their EIS in  
21 terms of listing some of the options that are  
22 available. So if it -- if it's useful for the panel  
23 for me to specify some of those at this point, I can,  
24 but it is on the record, so.

25 THE CHAIRPERSON: Thank you.

1 DR. KATHY RACHER: Kathy Racher, for  
2 the panel. If it's on the record, that's fine. It was  
3 just the last -- it was in your -- it was a request in  
4 your technical report so I assumed it was an  
5 outstanding issue, but if it's not that's -- that's  
6 fine.

7 THE CHAIRPERSON: Thank you. Any more  
8 questions from...?

9 MR. CHUCK HUBERT: Chuck Hubert, panel  
10 staff. That concludes questions from the staff.

11 THE CHAIRPERSON: Thank you. Questions  
12 from legal counsel...?

13 MR. JOHN DONIHEE: Thank you, Mr.  
14 Chairman. John Donihee. I have no questions for this  
15 panel.

16 THE CHAIRPERSON: Thank you. We can go  
17 to panel members. Panel member, Rachel Crapeau...?

18 MS. RACHEL CRAPEAU: Masi cho. No  
19 questions. Thank you.

20 THE CHAIRPERSON: Thank you. Panel  
21 member, James Wah-Shee...?

22 MR. JAMES WAH-SHEE: Mr. Chair, this  
23 place is getting really hot. I'm doing my best to  
24 comprehend the presentation, but I -- it's a good  
25 presentation, and I would like to thank DFO and -- and

1 Environment Canada for their presentation. I have no  
2 questions. Thank you.

3 THE CHAIRPERSON: Thank you very much.  
4 Panel member, Peter Bannon...?

5 MR. PETER BANNON: Thank you, Mr.  
6 Chair. I have one (1) question for Environment Canada.

7 We have two (2) levels of government  
8 giving us good and valuable advice on air quality and  
9 air emissions, yet we don't seem to have a willingness  
10 or an ability, perhaps, to regulate those emissions.  
11 And my recollection is in the 1970s there was a clean  
12 air act under federal law with several regulations  
13 related to emissions, including one (1) specifically  
14 for Arctic gold mining that had only application to the  
15 -- North of 60. I'm just wondering what has happened  
16 since the -- 1980 to -- were there court cases, or was  
17 it a policy decision, or what has happened to make you  
18 vacate the field for regulating emissions?

19 THE CHAIRPERSON: Thank you.  
20 Environment Canada...?

21 MS. LISA LOWMAN: Mr. Chair, it's Lisa  
22 Lowman with Environment Canada. We just need to confer  
23 with our group. Thank you.

24

25 (BRIEF PAUSE)

1 MS. LISA LOWMAN: Mr. Chair, it's Lisa  
2 Lowman from Environment Canada. We're not able to, I  
3 guess, provide some historical content in terms of what  
4 was in place in the '70s unfortunately. We could take  
5 that as an undertaking.

6 In terms of our role with respect to air  
7 quality, currently we don't occupy a regulatory role.  
8 And our role within this review process is to provide  
9 technical advice to the panel for their consideration.  
10 And De Beers has committed to outlining all commitments  
11 to management plans, including those related to air  
12 quality and incineration management.

13 And additionally, Environment Canada has  
14 recommended that the Board include the development and  
15 implementation of these plans as a Board measure. So  
16 if you want further information, we can take that as an  
17 undertaking.

18 THE CHAIRPERSON: Thank you. If you  
19 take it as an undertaking, basically you're going to  
20 give us a history of the evolving role of Environment  
21 Canada in the -- North of 60 from 1960 -- hopefully  
22 you'll do it in point form. Let me ask -- let me go to  
23 the asker of the question.

24 MR. PETER BANNON: Peter Bannon. I  
25 don't think it requires an undertaking. I'm just



1 wondering why there's an unwillingness to regulate  
2 emissions when there seems to be a legislative  
3 authority that was there before. Thank you.

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

6 MR. CRAIG OGILVIE: Thank you, Mr.  
7 Chairman. It's complex, I guess. In some ways, I  
8 guess, the decision to regulate air in the Northwest  
9 Territories by Environment Canada is made at another  
10 level than what the folks at the table here.

11 And all I can offer, Mr. Chairman, is  
12 that the territory -- you know, you've got Aboriginal  
13 Affairs Northern Development Canada acting like a  
14 provincial government. We've got federal lands, so the  
15 Government of the Northwest Territories is reluctant to  
16 regulate those here on federal lands. Yeah, I don't --  
17 I don't really have an answer for you.

18 THE CHAIRPERSON: Thank you. Panel  
19 member, Peter Bannon...?

20 MR. PETER BANNON: Thank you, Mr.  
21 Chair. I'm satisfied with that answer.

22 THE CHAIRPERSON: Thank you. Panel  
23 member, Richard Mercredi...?

24 MR. RICHARD MERCREDI: Yeah, I'd just  
25 like to thank both parties for their presentation and

1 have no questions.

2 THE CHAIRPERSON: Thank you. And the  
3 Chair has no questions. But I would like to thank the  
4 presenters for their time and effort, very much  
5 appreciate it, thank you.

6 Now we're getting close to the end and  
7 we -- we'll ask De Beers Canada for a closing  
8 statement, please.

9

10 CLOSING COMMENTS BY DE BEERS CANADA:

11 MS. VERONICA CHISHOLM: Veronica  
12 Chisholm, from De Beers. I'm going to ask our Chief  
13 Operating Officer, Glen Koropchuk, to provide those  
14 closing statements. And he will keep those fairly  
15 brief, I think.

16 MR. GLEN KOROPCHUK: Good afternoon,  
17 Mr. Chairman, members of the panel, community and  
18 regulatory participants. I'm Glen Koropchuk, Chief  
19 Operating Officer for De Beers in Canada. Thank you  
20 very much again for this opportunity to participate in  
21 this very important forum and now to address this  
22 meeting at its closure.

23 When I had the pleasure of bringing you  
24 opening greetings on behalf of De Beers on Wednesday  
25 morning, I, along with colleagues at De Beers and

1 Mountain Province, our joint venture partner, were  
2 pretty excited about this important milestone in the  
3 development of the Northwest Territories's next diamond  
4 mine.

5 As these five (5) days and public  
6 hearings draw to a close our team has listened to the  
7 people, listened to the panel, listened to the  
8 regulatory board members, and government participants.  
9 And we've taken away a great deal.

10 Mr. Chair, you are to be commended for  
11 your fair and balanced oversight of the hearings here  
12 in Yellowknife and the previous community hearings in  
13 Dettah and Lutsel K'e on Friday and Monday. And it's  
14 not an easy job, and we appreciate the hard work that  
15 it took to get us through this on time.

16 All these sessions, they stayed  
17 focussed, they stayed on the timeline, they stayed on  
18 the agenda. But also, I believe that all the parties  
19 did have a fair opportunity to hear and to be heard in  
20 a very respectful environment. In addition, we all  
21 worked together to gain a better understanding of the  
22 technical and social aspects of this proposed project.

23 To the members of the panel thank you  
24 for the quality of your questions. You did a lot to  
25 clarify issues, to make sure that people understood

1 what was being said. You had a firm grasp of the  
2 various elements that were presented and we appreciate  
3 that.

4 I would also like to extend my sincere  
5 thanks to all of those community members and government  
6 regulatory bodies who have participated, not just in  
7 this last public process during -- during the last  
8 week, but in the many years of meaningful engagement  
9 that has led up to the key -- to this key moment in the  
10 Gahcho Kue project's life.

11 We at De Beers understand clearly this  
12 is a very long-term commitment and we've approached  
13 this project with sustainable development and community  
14 engagement as key elements for overall success. As the  
15 panel retires to consider all the submissions received  
16 our team looks forward to continuing our meaning  
17 dialogue with our community partners to enhance our  
18 project further and to finalize the various impact  
19 benefit agreements currently under negotiation and  
20 bring this new very inno -- innovative Ni Hadi Yati  
21 forum to a successful implementation in the coming  
22 months.

23 De Beers takes their role as Canada's  
24 leading diamond company very seriously and we realize  
25 our strength comes from a hundred and twenty-five (125)

1 years of diamond mining experience and of partnerships  
2 with the communities and governments in the areas in  
3 which we operate.

4                   Also, many hundreds of millions of  
5 dollars in investment, the six hundred and seventy  
6 (670) construction jobs, the three hundred and seventy  
7 (370) operational jobs, and -- and the 3.9 billion GDP  
8 impacts on the economy of the Northwest Territories are  
9 all very important.

10                   I would also like to strongly reiterate  
11 that De Beers understands and respects the importance  
12 of the land, the water, the wildlife, and the culture  
13 in these Northern communities. We also understand that  
14 future generations need the ability to pursue new  
15 business and career opportunities without losing their  
16 connection to the land and their way of life, this is  
17 very important.

18                   Our years of working together has  
19 produced a solid technical plan that respects local  
20 concerns, and we believe will have no long-term  
21 significant adverse effects on the environment. We  
22 have all come a long way during the past fifteen (15)  
23 years or so since the Gahcho Kue deposit was  
24 discovered, but we've still got a long ways further to  
25 go together. And this isn't the end; it's the

1 beginning. We look forward to working with the panel  
2 and our community partners throughout the remainder of  
3 the regulatory process in order to secure a timely  
4 approval of this project.

5                   Finally, in conclusion, Gahcho Kue is  
6 important for De Beers and our partners, Mountain  
7 Province, but is equally -- it is equally important to  
8 the government and the peoples of the Northwest  
9 Territories. This project will contribute to the  
10 responsible economic development of Canada's North and  
11 the provision of future employment opportunities for  
12 the youth of today and for tomorrow.

13                   Really, to gain the most from this  
14 project, and we've heard it over the last few days, we  
15 all must continue to work together. To maximize the  
16 pon -- positive benefits, we must continue to  
17 cooperate, to listen, to learn, and continue in this  
18 environment of mutual respect to resolve our concerns  
19 and to overcome any challenges. There will be more  
20 challenges. That's -- that's what life's about.

21                   But we think we can get there together.  
22 Thank you again for your time and for this opportunity  
23 to provide these closing comments. On behalf of De  
24 Beers and Mountain Province, my sincere best wishes to  
25 you and your families for a safe Christmas and a very

1 nice holiday season. Thank you.

2

3 CLOSING COMMENTS BY THE CHAIRPERSON:

4 THE CHAIRPERSON: Thank you very much.

5 We have arrived at the end of the Gahcho Kue hearings.

6 Before closing the hearing, I will clarify final

7 process steps for parties and the developer. During

8 the next three (3) weeks parties and the developer will

9 submit post-hearing filings prior to the closure of the  
10 public record.

11 Post-hearing filing material includes  
12 official hearing transcripts, undertakings, and final  
13 arguments from parties and the developer. Post-hearing  
14 filing dates are as follows: December 14th, filing of  
15 undertakings; December 21st, final written arguments  
16 from parties, including any information on traditional  
17 knowledge and traditional use; January 3rd, final  
18 arguments from De Beers; January 3rd, closure of the  
19 public record.

20 If the developer chooses to submit its  
21 final argument prior to January 3rd the public record  
22 will close on the date of the developer's final  
23 argument. The panel will fully consider the views of  
24 all parties and individuals who spoke to the panel over  
25 the course of these hearings. Your views and opinions

1 will be considered in the panel's deliberations and in  
2 the wri -- the writing of the report of Environmental  
3 Impact Review.

4                   The work plan for the Gahcho Kue Project  
5 states that the report of Environmental Impact for  
6 review will be completed by July 2013. I hope we have  
7 demonstrated to everyone that timeliness is something  
8 that is a high priority of the panel and as a result we  
9 will endeavour to complete the report before that date.

10                   Once the panel has finalized the report,  
11 it will be submitted to the Minister of Aboriginal  
12 Affairs and Northern Development for his -- for its  
13 consideration. The panel's recommendation to the  
14 Minister will be based on the evidence on the record --  
15 on the public record. This includes written material  
16 submitted over the course of the -- this review --  
17 panel review, as well as transcripts from people who  
18 spoke during the community and public hearings.

19                   I would like to thank the following  
20 individuals who helped make this hearing successful.  
21 I've got a long list; I'm going to group them. I think  
22 we should start with the people who own the facilities.  
23 It was a little bit tight but they looked after us very  
24 well, and they opened up the other side for breaks  
25 which was -- was very welcome.



1                   We are in debt to the caterer who fed us  
2 and brought as coffee; and the caterer was The Gourmet  
3 Cup.

4                   Pido Productions and their technicians,  
5 Trevor Bourque and Cori Francis, were invaluable. They  
6 made it -- made things work and everything went very  
7 well.

8                   We are indebt to our interpreters who  
9 assisted in the communication process. The  
10 interpreters for the Tlicho language are Lena  
11 Drygreese, Peter Huskey, and Berna Martin. For  
12 Chipewyan language, Anne Biscaye, Bertha Catholique,  
13 and Tom Unka.

14                  We're indebt and would like to  
15 acknowledge the tremendous amount of work put into this  
16 project from De Beers Canada, eighteen (18) or nineteen  
17 (19) binders to begin with, and many, many pieces of  
18 paper in effort to bring this project to this stage of  
19 the Hearing.

20                  We're indebt to the parties. We know  
21 that there's a tremendous amount of work that was  
22 involved in -- in your -- your presentations and review  
23 of the material and I know it was a large task and we  
24 very much appreciate your contribution, both the  
25 Aboriginal organizations and the government regulatory

1 bodies.

2                   We wouldn't be here without the great  
3 advice and support of the board staff and our technical  
4 advisors; very, very important to us. And our  
5 transcripts are done by Lorraine Douglas back there,  
6 and she hasn't whipped me too much for keeping names in  
7 order.

8                   I'm indebt to my panel colleagues who  
9 showed a lot of patience and kept prompting me to  
10 ensure that I maintained the schedule.

11                   I would now like to invite a very, very  
12 respected Yellowknivies's Elder who is ninety-nine (99)  
13 years old. He patiently sat here all afternoon because  
14 he was asked to assist us in the closing prayer. So,  
15 Michele Paper, ninety-nine (99) year old Elder from the  
16 Yellowknives Dene will assist us in closing prayer.

17

18                   (CLOSING PRAYER)

19

20                   THE CHAIRPERSON: Thank you so much  
21 Michel Paper. We very much appreciate it. The  
22 Hearings for the Gahcho Kue Project are officially  
23 closed, and I wish -- on behalf of the panel, I wish  
24 you all the best of the season. Thank you.

25

1 --- Upon adjourning at 5:47 p.m.

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7 Certified Correct,

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12 Lorraine Douglas, Ms.

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