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MACKENZIE VALLEY ENVIRONMENTAL
IMPACT REVIEW BOARD

PUBLIC HEARING

DEBOGORSKI DIAMOND EXPLORATION PROJECT
Environmental Assessment 1112-001

Mackenzie Valley Review Board Staff:

Richard Edjericon	Chairperson
Richard Mercredi	Member
Danny Bayha	Member
Peter Bannon	Member
James Wah-Shee	Member
Darryl Bohnet	Member
Percy Hardisty	Member

HELD AT:

N'Dilo, NT
October 12, 2011
Day 1 of 1

APPEARANCES

1
2 Alan Ehrlich) MVEIRB staff
3 Darha Phillpot)
4 Nicole Spencer)
5 Jessica Simpson)
6 John Donihee) Board counsel
7
8 Alex Debogorski) self
9
10 Todd Slack) YKDFN
11
12 Stephanie Poole) For Treaty 8 Tribal
13) Corporation - Akaitcho
14) IMA Implementation Office
15
16 Gavin More) GNWT
17 Tom Andrews)
18 Dean Cluff)
19 Bruno Croft)
20
21 Matthew Spence) NPMO
22 Kate Hearn) AANDC
23 Marc Lange)
24 James Lawrance)
25 Jason Steele) Counsel

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1 --- Upon commencing at 9:09 a.m.

2

3 THE CHAIRPERSON: I want to -- before we
4 start this public hearing, I want to start off the
5 meeting with an opening prayer, so I've asked Albert
6 Boucher, then I'll go into the public hearing. So, I'll
7 get Albert Boucher to do the opening prayers, so if
8 somebody could give him a mic.

9

10 (OPENING PRAYER)

11

12 THE CHAIRPERSON: Mahsi, Albert Boucher,
13 from Lutsel K'e for doing the opening prayer for us here
14 today. I'm just going to go directly into the Chair's
15 comments, and then we're going to start this public
16 hearing.

17 I just want to say good morning to
18 everyone here. My name is Richard Edjericon. I'm the
19 Chair for -- of the Mackenzie Valley Environmental Impact
20 Review Board.

21 The Mackenzie Valley Environmental Impact
22 Review Board was established under Part 5 of the
23 Mackenzie Valley Resource Management Act, in December of
24 1998. We are the main instrument for environmental
25 impact assessments and environmental impact review in the

1 Mackenzie Valley.

2 Over the course of the day, the Mackenzie
3 Valley Environmental Impact Review Board will conduct a
4 hearing into the proposed mineral exploration program
5 southeast of Burnt Island in the Drybones Bay area.

6 The development is -- is proposed by Alex
7 Debogorski. The Environment Assessment EA-1112-001,
8 began on April 14th, 2011, when the Mackenzie Valley Land
9 and Water Board referred the proposed development to the
10 Env -- Environmental Assessment on the basis of public
11 concern.

12 On May 27th, the Review Board issued a
13 final work plan including direction on the scope of the
14 environmental assessment. On May 27th, the Yellowknives
15 Dene First Nation sent a request for ruling to the Review
16 Board, requesting the Board make a summary decision to
17 reject the proposed development without any environmental
18 review. Because of the Review Board obligation to be
19 fair, and because the EA was in early stages of the
20 progress, at that time the Board determined it was too
21 soon to make a decision under Section of -- 128 of the
22 Mackenzie Valley Resource Management Act. The Review
23 Board dismissed the request as premature.

24 On July 20th, 2011, the Review Board
25 hosted an information session on the proposed development

1 in Dettah. On October 3rd, 2011, the Review Board staff
2 and counsel held a pre-hearing conference with all
3 interested parties to set the agenda for this hearing.
4 The parties were instructed to file their hearing
5 submissions no later than noon, October 7, 2011. The
6 Review Board received submission from the developer, Alex
7 Debogorski, Yellowknives Dene First Nation, the
8 Government of the Northwest Territories, the North Slave
9 Metis Alliance, the Akaitcho Treaty 8 Tribal Corporation
10 IMA Implementation Office.

11 This hearing was originally scheduled for
12 September 14th/15th, but to -- but due to scheduling
13 conflicts with key parties, the date was revisit --
14 revisited to October 12 and 13. After the pre-hearing
15 conference, it'll -- became apparent that one (1) day
16 will be sufficient. Today we will sit from 9 a.m. until
17 we conclude. We will be back for lunch at noon. A
18 catered lunch will be provided by Muriel Betsina from the
19 community. We will also take the appropriate breaks in
20 the morning and afternoon.

21 The Board asks for your cooperation in
22 being prepared to make your presentation in the order set
23 out in the agenda and to be organized, and focus on your
24 questing -- questioning on other parties as well.

25 There are a few housekeeping items that I

1 would like to address. First, the washroom, again, is in
2 the back located just behind us here. And also, the
3 front entrance is the main door to come into the
4 facility, and there's also a door over here for emergency
5 exits. You entered -- sorry, the -- the only one you
6 entered into second, located here in the gym is just a
7 reminder -- sorry, the one you entered in second, located
8 here, the gym. And just a reminder to please put your
9 cell phone on vibrate mode, and we ask that we do that
10 throughout the day.

11 Also, the order of proceedings will be as
12 follows. A presentation by the developer, Alex
13 Debogorski, first. Then presentation by parties in this
14 order: the Yellowknives Dene First Nation, the Government
15 of Northwest Territories, Akaitcho Treaty 8 Tribal
16 Corporation IMA Implementation Office, the North Slave
17 Metis Alliance.

18 Following each presentation, parties will
19 have the opportunity to question the presenters in the
20 following order: the developer Alex Debogorski,
21 Yellowknives Dene First Nation, GNWT, Akaitcho Treaty 8
22 Tribal Corporation, North Slave Metis Alliance, Board
23 legal counsel and staff, and Board members.

24 Because of this community hearing, we also
25 allow members of -- of the public to ask questions of the

1 presenters once the parties and the boards are done. In
2 the interest of time, we will allow up to three (3)
3 questions following each presen -- presentation. If you
4 want to ask a question please identify yourself to the
5 staff member with a microphone; in this case it would be
6 Jessica Simpson here roaming the floor.

7 We also have two (2) Government agencies
8 present today that are not presenting. Aboriginal
9 Affairs and Northern Affairs Development is a party to
10 the Debogorski Environmental Assessment file. Northern
11 Project -- Northern Project Management Office is not a --
12 a party to the Debogorski EA, but officials from the
13 Northern Project Management Office have indicated they
14 will be available for questioning.

15 So, if you recall, we had a CGV hearing
16 here last month. We're probably going to do that same
17 scenario, where we ask those guys to come up, sit at the
18 table, and then parties and people could ask questions
19 there.

20 Also, we -- we ask, however, that the
21 parties to ask only questions that are within the scope
22 of the deb -- the Debogorski Environment Assessment file.
23 So, again, we re -- reiterate that, you know, this is an
24 opportunity for you to speak and -- and for the public
25 record, as well.

1 The Board wants this hearing to be an --
2 informal as possible. However, as a quasi-judicial body,
3 we are bound by the rules of procedural fairness, and as
4 the Chairman, I'm responsible for the conduct of this
5 hearing and I would ask that all comments and any
6 requests be addressed through the Chairman. Once
7 everyone has the opportunity to speak, the registered
8 Intervenors, and then the Applicant will have an
9 opportunity to present their closing comments.

10 I would like to take a moment to introduce
11 the members of the Board. And I'll just go to my far
12 right and then I'll start off with Mr. Bayha.

13 MR. DANNY BAYHA: Thank you, Mr. Chair.
14 Danny Bayha, Board member.

15 MR. PETER BANNON: Peter Bannon, Board
16 member.

17 MR. RICHARD MERCREDI: Richard Mercredi,
18 Board member.

19 MR. DARYL BOHNET: Good morning. Daryl
20 Bohnet, Board member from Yellowknife.

21 MR. JAMES WAH-SHEE: James Wah-shee,
22 Board member.

23 MR. PERCY HARDISTY: Yes, good morning.
24 My name is Percy Hardisty and I'm a Board member. Mahsi.

25 THE CHAIRPERSON: Thank you. And I also

1 have staff here; Darha Phillpot is the Environmental
2 Assessment Officer on this file, so she's here in the
3 back here.

4 We also have Nicole Spencer, Environmental
5 Assessment Officer on the side.

6 Jessica Simpson, Community liaison
7 officer. She would be the one with the mic and roaming
8 around.

9 And also Alan Ehrlich, Manager of
10 Environmental Impact Review Assessment, and he's in the
11 back.

12 We also have our legal counsel, John
13 Donihee, in the back here as well.

14 And I'd like to recognize, Wen -- Wendy
15 Warnock is the -- also the -- she's doing the
16 transcription of this public hearing, so she's also on
17 the side over here, as well.

18 And not to mention that we also have our
19 translators in the back, both in Chipewyan and Wel --
20 Weledeh language today. We do have Lina Drygeese and
21 Berna Martin for the Weledeh language. And also we have
22 Ann Biscaye and Bert -- Bertha Catholique, is providing
23 the Chipewyan translation in the back as well, so I want
24 to recognise them.

25 I would like to make a note that these

1 proceedings are being transcribed, therefore I ask that
2 when you speak, please proceed your -- proceed your
3 presentation with your name and who you represent. Our
4 court reporter is Ms. Wendy Warnock. Again, if you have
5 any questions about the transcripts, please direct them
6 to -- to her -- and at -- once -- at the break.
7 Transcripts will be available on our website at a later
8 time.

9 I also ask that you please be mindful that
10 we have an inter -- interpreters here again and that
11 these proceedings are being interpreted. So, when
12 speaking or presenting please pace yourself accordingly.
13 And I -- what I'll do, is if we're speaking a little bit
14 to fast, then I'll interject and maybe slow -- get you to
15 slow down a little bit.

16 So with that I -- again, I want to thank
17 you. I will now turn it over to the developer, Alex
18 Debogorski, for this presentation. Mahsi.

19

20 PRESENTATION BY MR. ALEX DEBOGORSKI:

21 MR. ALEX DEBOGORSKI: Thank you. My name
22 is Alex Debogorski. I'm the developer. I staked -- I
23 have one (1) claim in the Northwest Territories I staked
24 about 2005. I had a couple of Section 81s, which means
25 that because of mitigating cir -- circumstances, one

1 can't do work on the claim, that we could set the work
2 off for a couple of years.

3 This process basically started August of
4 2010 when INAC, they -- they gave me a Section 81, but at
5 the same time told me that I had to make an effort to
6 develop -- to develop the property. Of course -- so
7 then I applied to the land -- to the land use people.
8 They passed me onto this Board.

9 I'm not happy about being embroiled in
10 what I consider a jurisdictional dispute between Canada
11 and our First Nations, and I feel that the Drybones area
12 should have a blanket Section 81, with an option to apply
13 for a developer. So, if a person has a mineral claim out
14 there and feels that it's -- he'd like to develop it,
15 that he could apply through the Board, of course, to do
16 development. But if he'd rather not be embroiled in some
17 of the ongoing arguments that he could put it off until a
18 plan has been developed, or other things have calmed down
19 in this area.

20 This -- the -- my development plan, and my
21 claim, includes part of Burnt Island and the Snowfield's
22 camp.

23 (BRIEF PAUSE)

24

25 MR. ALEX DEBOGORSKI: This is -- this is

1 the area on the map, 85-I-4. This -- this area in
2 particular is the Drybones itself, and our -- our
3 proposal is right in here off of this spot I call a Sharo
4 -- Shallow Cove and Pebble Beach.

5 This is an aerial -- aerial photo of the
6 Snowfield's camp, which is included in the claim. This
7 area we call Pebble Beach, this is where the barge comes
8 in to unload.

9 This Shallow Cove in the back, there's
10 actually a float plane dock. When the water is high
11 enough, the planes can dock right here. There is a -- a
12 road of sorts that comes up from -- comes up from the
13 dock, back in around here, and up to the Snowfield's
14 camp. Also there's another roadway that's much better
15 used, which goes out from the camp.

16 I guess my finger's a little too big.

17 There's another road that goes up from the
18 Pebble Beach, the Snowfield's camp, and goes up and over
19 the rock back to where Snowfield's dug their -- dug their
20 test pit.

21 My proposed areas to drill would be on
22 this roadway here, not far from the dock, and this drill
23 hole would be 300 feet to go underneath this cove. My
24 other -- first -- that's actually the second hole.

25 The first hole would be over here beside -

1 coming -- Pebble Beach, with the -- where the barge
2 unloads, would be right back in here.

3 And this is the roadway, the beginning of
4 it, going up to the Snowfield's test pit. And the -- the
5 place -- this is -- the place where we would like to
6 drill is actually just to the left by this Bombardier
7 behind this shack where we'd set up the drill, drill
8 across underneath this road. This is actually the -- the
9 spot between the Bombardier and the shack where I thought
10 we'd set up the drill, and drill under this road, under
11 the swamp.

12 This is looking the other way. Now, Great
13 Slave Lake and Pebble Beach where the barge docks is
14 behind us, and the Snowfield pit is in this direction
15 about half a mile.

16 I think we've pretty well covered it all,
17 as far as what we're looking at doing there.

18

19 (BRIEF PAUSE)

20

21 THE CHAIRPERSON: So, Mr. Debogorski, is
22 that your presentation?

23 MR. ALEX DEBOGORSKI: Yes, sir.

24

25 QUESTION PERIOD:

1 THE CHAIRPERSON: Thank you. We're going
2 to go into questioning now from the Intervenors as
3 mentioned earlier, based on the presentation here today.
4 So, we're going to go to YKDFN if there's any questions
5 in regards to Mr. Deb -- Debogorski's presentation.

6 MR. TODD SLACK: Todd Slack, YKDFN, no
7 questions for the developer.

8 THE CHAIRPERSON: Thank you. I'm going
9 to go to the Government of Northwest Territories.

10 MR. GAVIN MORE: Gavin More, GNWT. We
11 have no questions other than we note that the proponent
12 didn't describe the future plans for the other eight (8)
13 holes that are involved in this project, and we were just
14 wondering if there could be something put on the record
15 related to the -- the future program that the proponent
16 has in mind?

17 THE CHAIRPERSON: Okay. Thank you. I'm
18 going to go to Mr. Debogorski.

19 MR. ALEX DEBOGORSKI: The second hole
20 would depend on what we find in the first hole, and after
21 drilling two (2) holes then we'd decide after that where
22 we'd put the next eight (8) holes. It depends on the
23 geology we'd find in that 300 feet we drill.

24 THE CHAIRPERSON: Okay. Thank you, Mr.
25 Debogorski. I'm going to go back to the GNWT. Did that

1 answer your -- your question? Okay, for the record?

2 MR. GAVIN MORE: Yes, thank you.

3 THE CHAIRPERSON: Okay, and thank you.

4 I'm going to go to the Akaitcho IMA Office. Anybody
5 here?

6

7 (BRIEF PAUSE)

8

9 THE CHAIRPERSON: Okay. Thank you. I'm
10 going to go to the North Slave Metis Alliance, if there's
11 any questions for Alex Debogorski on his presentation?

12

13 (BRIEF PAUSE)

14

15 THE CHAIRPERSON: Nobody. Okay. I'm
16 going to go to the Review Board legal counsel, Mr. John
17 Donihee.

18 MR. JOHN DONIHEE: Thank you, Mr.

19 Chairman. I -- John Donihee, I have no questions.

20 THE CHAIRPERSON: Thank you. I'm going
21 to go to the Review Board staff. Any questions for Mr.
22 Debogorski?

23 MS. DARHA PHILLPOT: This is Darha
24 Phillipot, Environmental Assessment officer. I did have
25 one (1) question for Mr. Debogorski.

1 In your presentation, Mr. Debogorski, you
2 said that you would be asking for a blanket Section 81.
3 Can you please describe in your mind how you think that
4 would work. A little bit more detail on what it is that
5 you are asking for when you say, "a blanket Section 81."
6 Thank you.

7 THE CHAIRPERSON: Thank you. Mr.
8 Debogorski...?

9 MR. ALEX DEBOGORSKI: Thank you. Section
10 81 is something we apply for when we have a claim that we
11 feel that there's extenuating circumstances that we can't
12 do work, that we ask INAC to give us permission not to do
13 work for that year because of those circumstances. A
14 blanket Section 81 would be that the people that hold
15 mineral claims in the area would be able to apply for
16 Section 81 and get it until such a time that this -- the
17 disputes -- the shoreline plan has been finished and some
18 of these disputes have been mitigated.

19 Of course, I say with an opt -- option to
20 develop, which means if you do have -- if one had
21 property there and they wanted to go -- go ahead and
22 develop, then they would be able to go through the --
23 the land use and -- and Mackenzie Valley Review Board to
24 get permission to go ahead.

25 THE CHAIRPERSON: Okay. The Review

1 Board staff...?

2 MS. DARHA PHILLPOT: No further
3 questions. Thank you.

4 THE CHAIRPERSON: Thank you. Before I
5 go to the Board members, I'm going ask anybody from the
6 public that have any questions for Mr. Debogorski on his
7 PowerPoint presentation? If you have any questions
8 maybe people can put their hands up so we can see who you
9 are.

10

11 (BRIEF PAUSE)

12

13 THE CHAIRPERSON: Okay. If not -- okay,
14 thank you. I'm going to go to Board members. I'm going
15 to go to my far right. I'm going to go to Mr. Danny
16 Bayha.

17 MR. DANNY BAYHA: Thank you, Mr. Chair.
18 I just had more of a question -- I think that earlier
19 GNWT asked about the locations of the other eight (8)
20 holes, or seven (7) holes, I guess, In your slide on the
21 aerial photograph, identified approximately three (3)
22 holes.

23 Can you maybe -- the other eight (8)
24 holes, can you just sort of, on the map, possibly could
25 sort of indicate where those drill -- other eight (8)

1 holes might be on your map you had on the aerial. Thank
2 you.

3 MR. ALEX DEBOGORSKI: Thank you.

4 THE CHAIRPERSON: Thank you, Mr. Bayha.
5 Mr. Debogorski...?

6 MR. ALEX DEBOGORSKI: I -- at this time,
7 no, I can't until we actually drill. Possibly after the
8 first hole, once we see the geology underground, then I
9 might be able to come up with a couple more targets. But
10 at this time, no, it's -- I'm not very good at dousing to
11 see what's underground. Thank you.

12 THE CHAIRPERSON: Okay. Thank you. Mr.
13 Bayha...?

14 MR. DANNY BAYHA: Thank you, Mr. Chair.
15 Of the three (3) drill holes you identified in your
16 aerial photograph, could you maybe see which ones you're
17 going to start with? And then that -- is that what
18 you're trying to say, is if you drill one (1) tar -- one
19 (1) hole, and then from there you'll figure out where all
20 the other nine (9) holes would be? I'm just trying to
21 get a clarification where the concentrations of holes
22 might be in your -- in your aerial photograph. Thank
23 you.

24 THE CHAIRPERSON: Thank you, Mr. Bayha.
25 Mr. Debogorski...?

1 MR. ALEX DEBOGORSKI: So, basically,
2 there is only two (2) holes there. The first hole would
3 be on the pad where the picture of the Bombardier --
4 between the Bombardier and the shack, and the second hole
5 would be on the roadway beside -- between -- between the
6 -- the road going straight up to the Snowfield's camp and
7 the dock.

8 I expect that we'd have to drill both
9 holes depending, I -- I guess it depends on the first
10 hole, you know. If we -- if we drill a hole 300 feet and
11 we hit kimberlite -- 2 feet of kimberlite -- 6 inches of
12 kimberlite, then a person may want to step out from here
13 and stay in that area to see if we -- the kimberlite
14 thickens. If we don't, then we drill the second hole to
15 see if there's -- if we can hit kimberlite under this
16 Shallow Cove.

17 Again, if we hit kimberlite 6 inches or,
18 you know, even a sniff, or 10 feet -- goodness knows
19 what's under there, or it may be nothing. Let's say we
20 did hit kimberlite, then we'd want to probably drill in
21 the area around the cove to see how -- what the
22 thicknesses are, and see if there is any diamond content
23 in it. Otherwise, if both holes are -- does, well, maybe
24 we wouldn't drill anymore, or we might move to a
25 different area farther, you know, maybe back in the

1 corner, or, you know, possibly out on the ice.

2 THE CHAIRPERSON: Thank you, Mr.
3 Debogorski. Mr. Danny Bayha...?

4 MR. DANNY BAYHA: Thank you, Mr. Chair.
5 Thank -- thank you for the clarification.

6 The other question stems from the -- the
7 Section 81 blanket that should -- you -- you feel that
8 should happen. I'm just trying to -- curious to how that
9 would work in -- in your mind? Like, if -- if you're
10 granted a Section 81 relief from doing any work, would
11 that extend your -- your time that you have lease in
12 these areas, a claim?

13 Would that -- would that automatically
14 extend the time because you don't have to do any work in
15 that area, or that lease would be just set for let's say
16 ten (10) years, or whatever it is, and -- and it's not
17 going to extend because of the Section 8 -- 81 relief?

18 Could you try to -- I mean, I wanted to
19 know if you had any ideas, if that -- how that would
20 work. Thank you.

21 THE CHAIRPERSON: Thank you, Mr. Bayha.
22 Mr. Debogorski...?

23 MR. ALEX DEBOGORSKI: I don't have a
24 lease; I just have a claim. As long as the required
25 dollars worth of work are done every year you can keep

1 the claim. Section 81 allows you not to do that work,
2 and that work accumulates until you're supposed to --
3 until you're allowed -- you have to work again, and then
4 you'd have to do all that work.

5 So, yes, it would extend your time holding
6 the claim without doing work, but at -- at some point,
7 once Section 81 is not allowed, then all that work has to
8 be done.

9 Maybe I can expand a little bit on some of
10 my reasoning behind asking for Section 81. Because I've
11 lived -- I've lived here in Yellowknife about thirty-five
12 (35) years, and -- and some of the smaller operators have
13 done the same, maybe lived here longer than myself, and
14 we find that in -- you know, in the disputes involved in
15 some of these areas, you know, we -- the First Nations
16 people, we -- we go to -- you know, we go to school with
17 them, we shop with them, we go to church, and -- and we --
18 - we -- you know, basically we live with each other, and
19 I find it -- when -- when you're in the middle of a
20 dispute like that you end up creating hard feelings
21 between families and individuals in the community, which
22 may be not as big a deal for somebody coming in from
23 Vancouver, or Toronto to -- to drill. And personally I'd
24 rather not be -- I'd like to have the option not to be
25 involved in -- in that type of dispute. Thank you.

1 MR. DANNY BAYHA: Thank you.

2 THE CHAIRPERSON: Okay. Thank you,
3 Bayha.

4 MR. DANNY BAYHA: That's all I had, Mr.
5 Chair.

6 THE CHAIRPERSON: Okay, thank you, Mr.
7 Bayha. I want to go to Mr. Peter Bannon.

8 MR. PETER BANNON: Thank you. Peter
9 Bannon. I have no questions. Thank you.

10 THE CHAIRPERSON: Mr. Richard
11 Mercredi...?

12 MR. RICHARD MERCREDI: Thank you, Mr.
13 Chairman. No questions at this time.

14 THE CHAIRPERSON: Thank you. Mr. Daryl
15 Bohnet...?

16 MR. DARYL BOHNET: Thank you, Mr. Chair.
17 I have no questions.

18 THE CHAIRPERSON: Thank you. Mr. James
19 Wah-Shee...?

20 MR. JAMES WAH-SHEE: Just one (1)
21 question, in regards to the dispute. If I understand you
22 correctly, you're saying that you're -- you're prepared
23 to have the -- the issue of dispute settled between
24 Canada and First Nations prior to any work being done on
25 your property.

1 Am I assuming correctly?

2 THE CHAIRPERSON: Thank you, Mr. Wah-
3 Shee. Mr. Debogorski...?

4 MR. ALEX DEBOGORSKI: I don't ex -- I --
5 the dispute -- I don't know about the total land claims
6 package, but as far as the sensitivity of the -- you
7 know, the shoreline study, and development plan in the
8 area, I -- I would -- I -- I think I'm -- I'm referring
9 to that. I suppose if it -- if it goes on for too long a
10 time, then one would have to probably come and apply to
11 do development work on it. My understanding that -- that
12 these things are sort of in the works, and -- and they
13 may be resolved over a reasonably short period of time.

14 THE CHAIRPERSON: Thank you. I'm going
15 to go to Mr. James Wah-Shee.

16 MR. JAMES WAH-SHEE: Thank you for that
17 clarification. No further questions.

18 THE CHAIRPERSON: Thank you. I'm going
19 to go to Board member Percy Hardisty.

20 MR. PERCY HARDISTY: Mahsi, Mr. Chair. I
21 don't have any questions. Mahsi.

22 THE CHAIRPERSON: All right. Thank you.
23 Okay. What I'll do then now is that -- I want to say
24 thank you for -- Alex, for your presentation, and what
25 I'll do now is I'm going to ask YKDFN if -- if they can

1 come up and get set up.

2 While we do that, maybe we'll take a quick
3 five (5) minute break.

4

5 --- Upon recessing at 9:41 a.m.

6 --- Upon resuming at 9:48 a.m.

7

8 THE CHAIRPERSON: Okay. Maybe -- maybe
9 I'll get everybody to sit down. We -- get ready to start
10 in about a couple seconds here. Before I start, I just
11 wanted to acknowledge some Elders here, as well, from the
12 community.

13 We have the -- our eldest Elder here from
14 Dettah, Michel Paper. I just want to welcome you to our
15 meeting here today. So, he's in the back here, Michel
16 Paper.

17 Also, I want to acknowledge the acting
18 chief from Lutsel K'e, as well, is Albert Boucher. He's
19 here as well.

20 And Elders Sam Boucher and -- and we also
21 have a young fellow from Lutsel K'e here, Dale Cassaway
22 (phonetic). I want to welcome you guys to our public
23 hearing here today.

24 I also recognize former Chief Fred
25 Sangris. I believe he's here somewhere. I just wanted

1 to acknowledge him, as well.

2 So with that, I'm going to continue on.
3 I'm going to get YKDFN to do their presentation, and I'll
4 get you to introduce yourself.

5

6 PRESENTATION BY YKDFN:

7 MR. TODD SLACK: Thanks, Mr. Chair. It's
8 Todd Slack, with YKDFN. I'm a staff person working in
9 the Land and Environment department. And for -- for this
10 environmental assessment, it's just going to be me. It
11 was felt within YKDFN that the Elders and the -- the
12 leadership spoke at the -- the CGV hearing, and as that's
13 on this transcript, we decided to just put a staff
14 presentation together.

15 So, I thought the best place to start this
16 presentation was to consider the historical -- or the
17 historic determination of impacts. And this starts at
18 the end of the -- the CGV present -- or hearing that was
19 three (3) weeks ago.

20 We all recognize that there's a fast
21 amount of information and history already within the
22 registry, within the CGV, Snowfield, New Shoshoni, North
23 American General Resources. And then we had a second
24 CGV, or Encore, and Sidon added considerable information
25 to the 2003 registries.

1 So, given this, we decided not to try and
2 repeat everything that this Board has already heard and
3 read, and we just want to touch on the tip of the
4 iceberg, and the -- the fundamental statements that lay
5 out the landscape of impacts that are happening.

6 As far as the YKDFN in concern -- is
7 concerned, these are certain truths that should be
8 evident to all of the parties.

9 So, the key phrases that we selected were
10 generally from the 2007 Environmental Assessment Report.
11 And I'll just read them, and these were raised at CGV, as
12 well, and that I'm sure the Board is well familiar with
13 them, but nonetheless.

14 "The Review Board is of the opinion
15 that these cumulative cultural impacts
16 are at a critical threshold. Unless
17 certain management actions are taken,
18 this threshold will be surpassed. If
19 this threshold were surpassed, it would
20 result in a significantly diminished
21 cultural value of this particular area
22 to Aboriginal peoples. This would be
23 an unacceptable cultural cumulative
24 impact on Aboriginal land users. The
25 Review Board views the cumulative

1 culture impact described by the
2 parties, and, particularly, the YKDFN,
3 as likely significant and adverse."

4 All of the underlines here are -- are my
5 added.

6 "Later in the ER, these measures are
7 intended to be taken as a suite.
8 Collectively these measures will avoid
9 or reduce otherwise significant impacts
10 that would have occurred."

11 And again later in the same ER:

12 "The Review Board finds that cultural
13 impacts are at a critical threshold.
14 Unless certain actions will -- are
15 taken, this would result in diminished
16 cultural value of this particular
17 area."

18 I hope that these quotes are sufficient to
19 sort of establish the baseline of impacts which not just
20 the YKDFN have been saying, but the Board themselves
21 established. And this project is additive to those.

22 The Board, and the Yellowknives, are not
23 just concerned about Mr. Debogorski's project, but rather
24 the series of projects and impacts to the area that have
25 already occurred, are in progress, and new projects which

1 will soon be applying to the regulators.

2 In terms of an example, like, we saw in
3 Mr. Debogorski's presentation the road to the docks and
4 the associated infrastructure that already exists, but he
5 also mentioned the test pit that Snowfield has dug. None
6 of these are -- have to be remediated under the Mackenzie
7 Valley land use regs and will be there for a considerable
8 amount of time, until nature itself can reclaim them.

9 Mr. Debogorski's project is the first of a
10 series of claimholders who have previously been granted
11 relief under the Canada mining regs, but who and -- AMC
12 (phonetic) is pushing into applying for permits, despite
13 their previously admitted history of inaction with
14 regards to previous environmental assessment reports.
15 Had the Crown implemented a meaningful response to the
16 Review Board's earlier suggestions, that would be one (1)
17 thing, but to do this after years of inaction is to once
18 again force all the parties into this -- into the system,
19 once again repeating history.

20 Now, this being a staff presentation it's
21 worth describing the considerable YKDFN pre --
22 involvement in previous environmental and regulatory
23 processes. This Board has heard extensively on the
24 cumulative impacts to this area and on the importance
25 that it holds for the cultural identity and health of the

1 Yellowknives Dene First Nation.

2 On September 12th and 13th, the Elders,
3 the current leadership, and all of the past chiefs
4 submitted their views and recommendations, but YKDFN are
5 again forced to make their case. As that transcript is
6 part of the registry, I'm not going to go very deeply
7 into what was said, but I would just touch on one (1) of
8 the thoughts that they left with us.

9 This was in the YKDFN letter that was
10 signed by all the past chiefs.

11 "The Drybones Bay area is a special
12 place to the YKDFN. Culturally this
13 area is without parallel and the
14 highest level of protection is needed.
15 The people's use of this area has been
16 significantly impacted by the level of
17 development and the subsequent effects
18 that arise out of these impacts, and we
19 have seen our treaty rights
20 considerably degraded over the last
21 decades.

22 Six (6) times we've asked the Review
23 Board to help protect this area, but we
24 are still facing the same impacts, and
25 this will continue until real measures

1 and real mitigations are put into
2 place."

3 In addition to the elders and the chief's
4 comments, the Yellowknives Dene members have repeatedly
5 mentioned that they have felt as though they were being
6 pushed off the land, that the game they relied on and
7 their ability to exercise their traditional rights was
8 being taken from them. The large fire is just an example
9 of this and it has increased these impacts. The land has
10 changed and because of the specialness of this area the
11 membership cannot simply move elsewhere. There is no
12 substitute area for Drybone Bay.

13 This is the seventh Environmental
14 Assessment in this area, the eighth hearing. With each
15 of these there has been a -- a similar land use permit,
16 or water licence application, various amendments and
17 modifications, and a limited amount of supporting work.
18 YKDFN have participated in all of these processes, and
19 since 2003 hundreds of documents, hundreds of people, and
20 hundreds of thousands of dollars have been expended in
21 these regulatory processes. And in the end, I'd suggest
22 that we're not very far from the situation that existed
23 in 2003, at least in terms of land management.

24 From the YKDFN's perspective, the impacts
25 have continued to build and the effects have been

1 magnified. Just considering the YKDFN's participation in
2 the EA processes alone. During the last Hearing I did a
3 quick non-scientific count, and I figure that 2 percent
4 of the adult YKDFN membership have spoken on the record
5 before this Board. When you think about this, this is
6 close to 15 or 20 percent of the adult membership of
7 YKDFN that reside in the Weledeh area.

8 There can be no argument on the level of
9 community concern. To suggest that this is not a lev --
10 a significant level of concern is an untenable position.

11 Together, this has resulted in almost
12 seventeen hundred (1,700) pages of proceedings, yet
13 little seems to have changed in terms of management.
14 This project description is similar to that of the 2003
15 environmental assessments. There remain no management
16 structures and there is no plan for minimizing the
17 impacts of development. Other than the New Shoshoni
18 rejection there has been very little meaningful
19 mitigations to the commutative effects that have been
20 happening over the last years in -- in Drybones Bay.

21 Turning to this project, in particular.
22 Now this is similar to the other environmental
23 assessments that have taken place, but one (1) key
24 difference is that it continues to expand these lan --
25 or, these impacts across another portion of the

1 landscape. Loosely stated, the impacts from 2003
2 environmental assessments focussed on the central part of
3 Drybones Bay, while 2005 EAs extended the area to the
4 north and to the east, and this project extends the
5 impacts south and west into and along the shore of Great
6 Slave Lake, the area which is, and has been, the site of
7 the highest level of use over generations and is the
8 critical landscape feature within the shoreline zone.

9 This project adds to the cumulative
10 effects being felt across the landscape, not just in
11 terms of additional development occurring within that
12 shoreline area, but within this new area that hasn't seen
13 recent development pressures. This area, and Burnt
14 Island in particular, is home to important area where
15 members often stop to practice their traditional
16 practices; this is hunting for birds, eggs, picking
17 berries, picnics, and taking shelter from bad weather.
18 These are just some of the activities that occur here.

19 The -- so, the impacts associated with acc
20 -- accidents and malfunctions remain. As we've seen with
21 the Snowfield fire the risks associated with drilling in
22 keystone areas mean that any potential accident can des -
23 - destroy critical pieces of the cultural fabric and
24 environment. As stated in the 2003 EA, the Board -- or,
25 pardon me, the Board stated:

1 "Any activity conducted in the vicinity
2 of burial grounds could have
3 significant adverse impact on the
4 social and cultural environment. The
5 effect of development is not physical,
6 but represents a diminished value of
7 sacred sites, because the bur -- burial
8 sites are viewed as sacred."

9 Though there is no doubt of the
10 developer's good intentions, accidents and malfunctions
11 in this area remain a significant concern to YKDFN.
12 Should anything happen in this area, the impacts will
13 always be significant, and as a result are very difficult
14 to mitigate beforehand.

15 There's a fair amount of project
16 uncertainty associated with this proposal. YKDFN have
17 identified two (2) particular areas of uncertainty: the
18 location of the balance of the drill holes, which was
19 subject -- part of the questioning; and the long-term
20 camp location.

21 Without knowing where these drill holes
22 are, it is very difficult to properly evaluate the
23 impacts associated with this program. The initial map
24 submitted to the Land and Water Board indicated ten (10)
25 sites, but it is unclear to YKDFN if these were the

1 intended drill locations.

2 Subsequently, only two (2) of the ten (10)
3 drill holes have been -- have identified locations, or
4 areas attached to them. These are both near areas that
5 have already been disturbed, but there is no information
6 presented for the balance; nor is there a suggested
7 rules-based approach to establishing where these
8 locations will be.

9 The proponent is essentially asking for a
10 carte blanche approval to drill anywhere within his
11 claim, which includes very -- which in -- includes
12 potentially very deep water within Great Slave Lake;
13 important islands where the members routinely spend time
14 and utilize; or on the perimeter of his claim block,
15 immediately adjacent to areas previously rejected in
16 other EAs.

17 These drill holes must be evaluated on
18 their own merits. It is poor management to consider
19 issuance of a blanket approval when the range of
20 environments each require evaluation. The regulations
21 mean that this application would permit drilling within
22 30 metres of a cemetery, near people's cabins, or in
23 waters hundreds of metres deep in Great Slave Lake.

24 Secondly, there is no certainty on where
25 this camp will be located. The proposed site, the

1 Snowfield camp, cannot be used, as that licence is only
2 for storage purposes. There has been indication that
3 Snowfield intend to reapply for a land-use permit, but
4 YKDFN intend to oppose any new permit for Snowfield.

5 I have to touch on a -- on the lack of
6 accommodation to the community concerns. During the
7 recent CGV hearing, the Crown was repeatedly asked about
8 what actions they had taken to try and mitigate the
9 impacts associated with developments in this critical
10 area, and address the concerns of the Yellowknives Dene.
11 The answers provided at the hearing and since, and in the
12 form of undertakings, and during the pre-hearing
13 conference for this environmental assessment, have been
14 instructional in the Crown's approach to trying to limit
15 the impacts from development and ease the concerns of the
16 First Nations.

17 Now, it's -- it has to be said that
18 consultation is not just giving communities the
19 opportunity to comment; the second phase of this is
20 accommodation to the concerns that are raised. Now, why
21 am I bringing this up at the Board -- at the Board level?
22 At the hearing, INAC staff admitted they had done nothing
23 to address the 2003 concerns, and in the undertakings,
24 the responses made significant reaches in terms of the
25 activities that INAC had done since that time.

1 The AANDC email of August 10th, 2011 on
2 the registry stated:

3 "Aboriginal Affairs and Northern
4 Development Canada is of the view,
5 where reasonable and consultative
6 process already exists, such as
7 provided for in the MVRMA, the Crown
8 may take such consultation into account
9 and rely on these processes to fulfil
10 its duty."

11 At the pre-conference hearing,
12 representatives from CanNor indicated that they felt the
13 hearing would dispense with the bulk of the consultative
14 duty. So, consultation and accommodation must be
15 discussed at this hearing.

16 And it's worth talking -- I mentioned this
17 in the CGV as well, but it's worth revisiting it one (1)
18 more time. The Crown often talks about the spectrum of
19 consultation. Basically, the importance of the area is
20 multiplied by the potential level of impacts, which
21 equates to the need for accommodations.

22 In this case, let's consider the
23 importance of the area: This is the highest, most
24 critical area to the Yellowknives Dene. The level of
25 existing and probable impacts: We're at a critical

1 threshold or a tipping point, and the degree of
2 accommodation to date has been effectively none.

3 Together, this means that the need for
4 accommodation is at the far end of the spectrum, but the
5 Crown has made its position clear. It has little
6 intention of proceeding with any of the mag -- management
7 activities suggested by the Board, at least in the near
8 future. Thus, YKDFN feel that the Board must make these
9 measures in such a way that they are a pre -- apologies
10 to the translators again. Thus, the Board must make
11 these measures in such a way that they are a prerequisite
12 for the consideration of further development in this
13 area.

14 There was a statement at the pre-hearing
15 conference which startled me. One of the Crown's
16 representatives stated that they expected the YKDFN to
17 once again restate the infringements which have been
18 occurring in this area. Now, I -- I can't help but
19 wonder here, if, after seven (7) EAs, hundreds of pages
20 of testimony, and numerous regulatory filings to a series
21 of processes, if the Crown doesn't understand what the
22 concerns are by now. I ask: What more can be done here?

23 If a regulatory authority refuses to
24 listen and acknowledge the situation, then the Board is
25 faced with a situation where they must make these

1 measures mandatory. As Justin -- Justice Phelan stated
2 in the North Arrow Case:

3 "It is not sufficient, even if it -- it
4 occurred in this case, to have a
5 process, framework, or some other
6 system to facilitate negotiation. It
7 is still necessary to evaluate the
8 actual implementation and processes
9 specific to the case. It is not
10 sufficient to set up some form of
11 elaborate system, and then put it on
12 autopilot and hope for success."

13 Now, the question around North Arrow was
14 just what that consultative duty amounted to; but there
15 can be no misconception on what that is in this case.
16 The requirement is obvious, but the response from the
17 Crown still seems to be the same. No one seems to be
18 taking the responsibility to ensure that accommodations
19 are actually being developed and implemented.

20 Turning to the recommendations that the
21 YKDFN have for this particular case, the Yellowknives
22 Dene believe that this application, as it stands now, in
23 the midst of Crown-sourced regulatory indecisiveness, and
24 incomplete project vision, and a lack of Crown
25 consultation, should be rejected. The cumulative impacts

1 facing the Yellowknives Dene First Nation are
2 significant; as the Board stated, they are at a critical
3 threshold.

4 Unless management actions similar to those
5 in the CGV environmental assessment report are in place
6 prior to this development proceeding, then I think both
7 the YKDFN and the Review Board would -- would state that
8 significant im -- adverse impacts will occur.

9 In addition to the probable significant
10 cultural impacts, YKDFN had made clear the significant
11 community concern that exists with it -- this -- with
12 development in this particular area. The difference
13 between YKDFN and the Review Board, I believe, is that,
14 from the YKDFN perspective, these significant impacts
15 have already occurred.

16 The del -- the delay required for the
17 development and implementation of measures from the CGV
18 environmental assessment report would have a silver
19 lining here. They would allow the Crown sufficient time
20 to secure its consultative duty. These management lev --
21 level measures, such as land-use planning, heritage
22 assessment, and a monitoring regime, are critical to the
23 mitigation of future impacts, and once they have been
24 completed, YKDFN would work with regulatory bodies and
25 proponents to reevaluate this project.

1 Until that time, this applicant and other
2 claimholders in the area should receive full relief from
3 the Crown in terms of conducting work required to keep
4 their claims in good standing.

5 Personally, it seems to me that these
6 operators are caught in a very difficult position.
7 Consideration of the permits and claims is not possible
8 because of -- not because of their inaction, or their
9 lack of good faith, but rather through the inaction of
10 the Crown. To punish the claimholders because of this
11 absence -- because of the absence, pardon me, of sound
12 land-use practices is to misplace the fault, and while
13 sometimes that happens, there seems to be a clear road in
14 this file which won't nec -- necessitate that.

15 As discussed in CGV, these measures must
16 be completed in a manner which ensur -- which ensures
17 they are enforceable. History has repeatedly shown us
18 that unless there is some sort of statutory instrument
19 for the parties and regulators to rely on, then they are
20 unable to meaningfully imp -- implement the agreements
21 and plans that have been concluded.

22 In this case, AANDC is forthright in their
23 undertaking to the CGV file. The plans that they cited
24 as models in their 2010 letter from the Minister,
25 actually have no real power to prohibit or restrict land

1 use activities. They are informative only, which means
2 that boards and regulators are free to ignore them once
3 competing land uses require access to land.

4 This was one (1) of the key finding in
5 D.F.K. Madill's 1986 INAC Commission Treaty 8 Research
6 Report. When settler interests come up against Treaty
7 rights invariably it is the First Nations that lose out.
8 And if the Board needed a more tan -- or, a more tangible
9 reminder, they have made twenty (20) suggestions in
10 previous Drybones EAs, none of which have been
11 implemented.

12 These models, the Inuvialuit Community
13 Conservation Plans and the Great Bear Management Plan,
14 provide none of the certainty that is desired or that any
15 of the various reports completed by the Auditor General
16 or Northern Regu -- Regulatory Improvement have said is
17 required.

18 Our third set of recommendations is
19 effectively procedural. For the final steps of this and
20 other EA, we are recommending that the registry remain
21 open until such time that the CGVs decision has been
22 completed. Pardon me.

23 This is not just one (1) project that's
24 being evaluated here. This is not just Mr. Debogorski's
25 application. This is just another layer adding to the

1 cumulative effects that are already being experienced and
2 are likely to occur because of this project, and from
3 Yellowknife itself.

4 To consider this project in isolation is
5 precisely what the Minister suggested in CGV, precisely
6 what the Board wrote in their report that they weren't
7 doing, and lastly, it is against the guidance of the
8 MVRMA .

9 The Board measures in that case had quite
10 clear rationale. They were explicitly designed to
11 provide a framework to address cumulative impacts across
12 the shoreline zone as a whole.

13 The significant concern from the community
14 is that the series of projects are combining to create
15 impacts throughout the landscape of this key area. As
16 we've said, if this was just one (1) project, that would
17 one (1) thing, but it isn't. There is a large number of
18 projects and there will be more to come. There is no
19 reason to evaluate this on a one-off basis.

20 Now, if the Board choses not to evaluate
21 this project in conjunction with the CGV measures, then
22 YKDFN recommend that those same measures be imposed on
23 this project, to be enacted before any permits or
24 determinations can be made. Once that is complete, this
25 project can be evaluated within that new framework that

1 is established, and YKDFN feel that this is the only way
2 to ensure that further critical impacts do not occur.

3 It is always the First Nations that incur
4 the debt associated with development. And in this case
5 the -- that debt is paid by debasing the value of the
6 YKDFN's treaty rights, and their ability to practice
7 their culture. In addition to the general alienation on
8 the landscape there are more specific costs, as we've
9 seen with the YKDFN fire -- or, YKDFN cemetery that was
10 affected by the Snowfield fire.

11 This project is just the latest of a
12 series that has concentrated in an area that is
13 fundamental to the health and well-being of the
14 Yellowknives Dene. The parties here must be clear, to
15 allow the status quo to continue, to rely on ineffective
16 and virtually non-existent management, is to allow this
17 area to be degraded to the point where it loses the value
18 that made it special.

19 It is those values that have drawn people
20 to this area for generations. It is those values that
21 the people still go to this area for.

22 In previous hearings, a large number of
23 YKDFN members told you of how they felt, how they were
24 being pushed off their traditional lands, the lands where
25 they grew up and where they taug -- wanted to teach their

1 children. That pushing off, or alienation, has continued
2 over the recent years, and has been complicated by fire,
3 other industrial accidents, increasing recreational use,
4 and expanded industrial activity.

5 The only way to ensure that the people's
6 rights are protected, that their way of life and culture
7 can continue, and that the importance of conservation to
8 the well-being of First Nations is respected, is to
9 develop the meaningful man -- management measures already
10 suggested. Without a strong decision from this Board,
11 there's little certainty that such obviously required
12 steps will take place.

13 In the 2007 Hearing it was said:

14 "We do not need another rushed,
15 unplanned development regime that
16 ignores the concerns of First Nations
17 and other Northerners, is uncertain for
18 industry, and results in little benefit
19 for present and future generations."

20 Now, that statement is as true today as it
21 was then.

22 The YKDFN position, the rejection of this
23 application at this point in time, will give time to all
24 the parties. We believe -- or we hope that the applicant
25 would accept such a decision to provide relief until the

1 essential management actions, such as land use planning,
2 are put into place. This same time would give the Crown
3 the opportunity to complete their consultational --
4 constitutional duty, and lastly, it would allow AANDC to
5 develop the measures that were suggested in the CGV EA.

6 This process would be collaborative --
7 would be a collaborative scheme to de -- to develop the
8 appropriate management structures to ensure that this
9 irreplaceable area is not degraded such that it no longer
10 provides appropriate value for the First Nations who rely
11 on it.

12

13 (BRIEF PAUSE)

14

15 QUESTION PERIOD:

16 THE CHAIRPERSON: Thank you. Thank you
17 very much, Mr. Slack, for your presentation.

18 What we'll do is we'll go into questions
19 from the Intervenors that are here, to your presentation.

20 I'd like to go to the developer, Alex
21 Debogorski. Do you have any questions to Mr. Slack, in
22 regards to his presentation?

23 MR. ALEX DEBOGORSKI: No, I don't. Thank
24 you.

25 THE CHAIRPERSON: Thank you. I'm going

1 go to the Government of the Northwest Territories. Do
2 you have any questions for Mr. Slack on his presentation?

3 MR. GAVIN MORE: Thank you, Mr. Chairman.
4 Gavin More, Government of the Northwest Territories.

5 I have just one (1) question and it's a
6 point of clarification on the conclusion slide, Mr.
7 Chair. And that is that there's a phrase that says, "An
8 enforceable management scheme exists," and I was
9 wondering if Mr. Slack could explain what piece of
10 legislation that enforceable scheme would fall under.

11 THE CHAIRPERSON: Thank you. I'm going
12 to go to Todd Slack, YKDFN.

13 MR. TODD SLACK: Todd Slack, YKDFN.
14 Thanks for the question. This was one of the -- the
15 concerns that was raised during the CVGB -- at recent CGV
16 Hearing, and the -- what we advocated at that point in
17 time was that the Minister make a policy directive to the
18 Boards. I forget -- if you go back and look at the
19 presentation, or the submission, you'll see the -- part
20 of the MVRMA which allows this.

21 In the absence of a policy directive the
22 boards are not -- or pardon me, with a policy directive,
23 this now has essentially the force of law and the boards
24 are required to consider it. So, if a plan of action
25 were to be developed and a policy directive is issued to

1 the Board requiring them to consider it, the boards are
2 required to consider it.

3 Does that answer the question?

4 THE CHAIRPERSON: Thank you. I'll go
5 back to the GNWT, and state your name again.

6 MR. GAVIN MORE: Thank you, Mr. Chairman.
7 I -- I think it does from the Yellowknives Dene
8 perspective, and I guess the point -- I'll probably
9 rephrase that question to Aboriginal Affairs this
10 afternoon, because I'm -- I'm not clear if that really is
11 how the circumstances would play out. But it's -- it's
12 ignorance on my part, but I think it's a very critical
13 item to clearly understand.

14 THE CHAIRPERSON: Thank you. And we'll -
15 - you will have that opportunity to question them this
16 afternoon, as well.

17 I'm going to go to the Akaitcho IMA
18 office, Ms. Stephanie Poole. Any questions for YKDFN?

19 MS. STEPHANIE POOLE: Thank you.
20 Stephanie Poole, Akaitcho IMA office. I have no
21 questions at this time.

22 THE CHAIRPERSON: Thank you. Anybody
23 from the North Slave Metis Alliance here that may have
24 questions?

25

1 (BRIEF PAUSE)

2

3 THE CHAIRPERSON: If not, I just want to
4 go onto the public. Anybody from the public that may
5 have questions in regards to YKDFN presentation?

6

7 (BRIEF PAUSE)

8

9 THE CHAIRPERSON: Okay. I don't see
10 anybody. Okay. I want to go to the Review Board legal
11 counsel. Oh, sorry, going to go to public-at-large.
12 State your name.

13 MR. PHILIP LISKE: My name is Philip
14 Liske. I'm with YKDFN. You know, we give presentations
15 just about every second day like, you know, regarding
16 this issue here, and nobody seems to understand what
17 we're trying to do, you know. I mean, this -- this
18 fellow here asked a question. He doesn't know what I
19 means, even though it's -- it's written in English
20 plainly. He's got to go back to his boss and -- and ask
21 -- ask him.

22 You know, it's -- I don't know why the --
23 you know, it's -- it's in English. It's not in Dene.
24 This way -- that's why we can't get across through you
25 guys, you know, to -- if you don't understand our way of

1 talking, and the way the presentation is made. You keep
2 asking question like that, it's -- I don't think -- you
3 know, we're not going to get anywhere.

4 So it -- with that, you know, we're --
5 this is our -- this is our land. The treaty was made in
6 1900. We never -- at the time we were made treaty, we
7 made all kinds of like agreement with that -- with the --
8 with Indian Agent at the time presenting the Queen. But
9 we didn't say we -- we'd give up our land. We never sold
10 it. Or we were -- we never been to the war, you know.
11 So, to this day, it's our land. It's nobody else.

12 The reason why we keep saying, Don't go
13 there, because its our freezer, its our bank, its our
14 bedding. What I mean by that is our bank, we -- we trap
15 furs, like lynx, marten, mink, foxes. That's how we make
16 the living out of the -- that's how we make our income.

17 Freezer: We've got animals there, like
18 moose, caribou, small game, rabbit and grouse. It's our
19 freezer. That's our -- you know, that's our -- that's
20 where all the food is.

21 And -- and it -- and plus that, it's our
22 bedding. We sleep on it. We -- we eat on it. We walk
23 on it.

24 Plus that, more -- most important thing,
25 water. We travel on it, you know. We drink water and we

1 go fishing on it. We're talking about that. We're not
2 talking anything about that, it -- nothing else. If you
3 let it be, it would be good for our people, you know,
4 like it's -- lots of nice, fresh air, like, around that
5 area. We don't -- we don't want to damage on it.

6 That's what we're trying to say to you
7 guys here. Why you keep ignoring it? Look at all of the
8 other mines there in the past, they left big mess at the
9 back, you know. It just -- excuse me.

10 THE CHAIRPERSON: Maybe Phil -- mahsi. I
11 Just wanted to ask you that -- if you had questions for
12 YKDFN on their presentation, but --

13 MR. PHILIP LISKE: Well, okay.

14 THE CHAIRPERSON: -- also --

15 MR. PHILIP LISKE: Okay. Rick -- Rick --

16 THE CHAIRPERSON: Okay. Go ahead there,
17 Phil.

18 MR. PHILIP LISKE: I'm -- I'm just saying
19 that, you know, the question was -- the presentation was
20 made, you know, and -- and I think it's a good
21 presentation. It's just that, you know, people ask those
22 questions as if they didn't know what we're -- we're
23 trying to say. I'm just actin -- I'm just actin -- you
24 know, I'm just adding a little more to it, they don't
25 understand it, so we don't -- we don't have to repeat it

1 over and over again. Because this been going on for over
2 a hundred years. You know, try -- we're trying to defeat
3 those -- explain ourselves.

4 You know -- you know, it's just that we're
5 -- we're going to -- to the point that we're just getting
6 real frustrated here, and we're trying to get a point
7 across. So -- but that -- that's all I wanted to say.

8 THE CHAIRPERSON: Thank you. I Just want
9 to make a little note as well that -- mahsi, Philip, for
10 your comments -- also, the public also have an
11 opportunity to make comments as well to the Board here
12 after everybody had an opportunity to make their
13 presentations. So, I think, Philip, that was good that
14 you raised your points, and I'll just extend this to the
15 audience as well from members from N'Dilo and Dettah, and
16 the general public as well.

17 With that, I'm going to continue on. If
18 there's nobody else from the public that want to make
19 comments in regards to the presentation, I'm going to go
20 the Review Board legal counsel, Mr. John Donihee.

21 Do you have any comments for Mr. Todd
22 Slack on his presentation?

23 MR. JOHN DONIHEE: John Donihee. Mr.
24 Chairman, I have a couple of questions.

25 Mr. Slack, I'm -- I didn't number the

1 pages, but the -- the heading on the page, or the slide,
2 was "YKDFN Involvement in Previous Hearings and
3 Regulatory Processes." I just want to go over to make
4 sure that I understand the source of some of the -- the
5 facts that you're asserting here.

6 So the seventeen hundred (1,700) pages of
7 testimony, that's just -- is it fair to say that just --
8 that number just came from looking at the total -- the
9 total number of pages of transcript? Is that what you're
10 referring to when you say "testimony"?

11 THE CHAIRPERSON: Thank you, Mr. Donihee.
12 Mr. Todd Slack...?

13 MR. TODD SLACK: Todd Slack, YKDFN.
14 That's correct. Scroll to the end, calculate the
15 numbers. I think it was sixteen seventy-five (1,675) or
16 something like that.

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

19 MR. JOHN DONIHEE: Thank you, Mr.
20 Chairman. John Donihee.

21 And, likewise, I -- I -- did you actually
22 try to -- is this just an estimate of the number of
23 documents on the registries as well? I mean, it -- it --
24 this is close enough for horseshoes, is that sort of the
25 way you've -- you've approached this?

1 THE CHAIRPERSON: Thank you, Mr. Donihee.
2 YKDFN...?

3 MR. TODD SLACK: Todd Slack, YKDFN. The
4 number of documents is a rougher number, because the
5 search function on the registry is a little tougher to
6 use. That's a ballpark number.

7 THE CHAIRPERSON: Thank you. Mr.
8 Donihee...?

9 MR. JOHN DONIHEE: Thank you, Mr.
10 Chairman. John Donihee.

11 And the 2 percent of membership, can you -
12 - do you have any indication that you could give the
13 Board of what the approximate membership of the YKDFN in
14 the Yellowknife area might be, so that we can work
15 backwards from that number.

16 THE CHAIRPERSON: Thank you. Mr. Todd
17 Slack, YKDFN...?

18 MR. TODD SLACK: I can provide an exact
19 number, but for the purpose of coming up with that I used
20 the -- the figure twelve hundred (1,200), which I believe
21 is pretty close to the -- the membership.

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

24 MR. JOHN DONIHEE: Thank you, Mr.
25 Chairman. John Donihee.

1 My next question relates to your
2 recommendations and it's to number 3. It's the
3 recommendation which suggests that the registry should
4 remain open until after the CGV/Encore, and Sidon
5 proceedings are completed.

6 I -- I'm just wondering, the -- usually,
7 of course, what goes on the registry is simply either
8 evidence, or argument. And we know we will complete
9 those stages in this process on the time table already
10 set out by the Board.

11 So, I'm -- I'm just wondering what -- if
12 you can explain why you think that it would be of
13 assistance to the Board in -- in making its decisions to
14 keep the registry open. Do you -- are you anticipating
15 that -- or suggesting that there's going to be more
16 evidence from some source that we're -- we're unaware of
17 at this point?

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

19 MR. TODD SLACK: Todd Slack, YKDFN. I
20 think that there will be more res -- more evidence in the
21 form of -- for the purposes of this EA, there will be
22 more evidence from the CGV decisions and the reaction
23 that comes from that.

24 Because of the -- those measures are
25 directly linked to the -- to this file, it seems to me

1 that it would -- in -- in terms of order, it would be
2 necessary to have those in place. What comes out of the
3 CGV reconsideration, for instance, a land use plan, is
4 going to directly affect what happens not just here, but
5 in future environmental assessments, or applications as
6 well.

7 To not do this would be to allow the
8 status quo to continue until such time as INAC gets
9 around to developing the plan of action and implementing
10 it. And I think that we've seen from both their
11 undertaking that they provided in that file, the lack of
12 action over recent years, that that's not going to be in
13 place anytime soon.

14 When one (1) of the -- the Yellowknives
15 Dene asked what the timeline was for the Minister -- in
16 the Minister's letter, he -- he states that this process
17 will be commencing -- when the Yellowknives Dene asked
18 when that -- what that time -- or if INAC could provide
19 anymore information on a timeline, that went without
20 answer.

21 I think that it's going to be a fair
22 amount of time, and that would allow this status quo
23 continued impacts and further development to occur in
24 this area. And when we're talking about this being at a
25 critical threshold already, the importance of the area to

1 the First Nation, those measures are a cornerstone to
2 sound management. That's why I think it should remain
3 open.

4 And that's the only evidence that I see
5 being added to this, and this is why YKDFN submitted a --
6 a letter earlier in the process -- I can look up the
7 exact date -- that asked for these two (2) processes, the
8 registries to be copied over to each other.

9 THE CHAIRPERSON: Thank you. Mr. John
10 Donihee...?

11 MR. JOHN DONIHEE: Thank you, Mr.
12 Chairman. My point, Mr. Slack, was probably a little
13 more technical than where we ended up with your answer.
14 I guess what I'm trying to understand is, you know, is it
15 sufficient really simply that the Board's decision in CGV
16 be completed before the decision in this one is
17 completed, Mr. Debogorski's EA? Or are you saying that,
18 in fact, the registry has to stay open until the planning
19 process and all those other activities are completed?

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

21 MR. TODD SLACK: The former.

22 THE CHAIRPERSON: Okay. Thank you. Mr.
23 John Donihee.

24 MR. JOHN DONIHEE: Thank you, Mr.
25 Chairman. Those are my questions.

1 THE CHAIRPERSON: Thank you. I'm going
2 to go to the Review Board staff. Are there any questions
3 for YKDFN on their presentation?

4 MS. DARHA PHILLPOT: No questions from
5 staff.

6 THE CHAIRPERSON: Okay. Thank you. I'm
7 going to go to the Review Board. This time I'm going to
8 go to my far left. I'm going to go to Percy Hardisty.

9 MR. PERCY HARDISTY: Mahsi, Mr. Chair. I
10 don't have any questions at this time. Mahsi.

11 THE CHAIRPERSON: Thank you. Mr. James
12 Wah-shee...?

13 MR. JAMES WAH-SHEE: Thank you, Mr.
14 Chair. No, I don't have any questions at this time.

15 THE CHAIRPERSON: Thank you. Mr. Daryl
16 Bohnet...?

17 MR. DARRYL BOHNET: Thank you, Mr. Chair.
18 I have no questions.

19 THE CHAIRPERSON: Thank you. I'm going
20 to go to Board member, Richard Mercredi.

21 MR. RICHARD MERCREDI: Thank you, Mr.
22 Chair. No questions at this time.

23 THE CHAIRPERSON: Thank you. Board
24 member, Peter Bannon...?

25 MR. PETER BANNON: Thank you, Mr. Chair.

1 Peter Bannon. I -- I do have a couple questions.

2 You made reference that you've repeatedly
3 made these recommendations in the EA processes. I'm
4 wondering what other avenues that YKDFN has participated
5 in, or is aware of? And may -- and then perhaps the
6 Akaitcho Territory Dene Nations are involved in things,
7 related to, say, the protected area strategy, or, I think
8 the GNWT has a cultural place identification that
9 includes the landscapes or land withdrawal; those
10 processes, to try to achieve your ends for the Drybones
11 area. Or are you relying totally on an environmental
12 assessment?

13 THE CHAIRPERSON: Thank you, Mr. Bannon.
14 I'm going to go to YKDFN.

15 MR. TODD SLACK: Todd Slack, YKDFN.
16 Because of the existing third party rights in this area,
17 the -- their -- the Review Board process is the -- the
18 best option. The interim land withdrawal that was
19 completed in 2007, the Elders, at that time, chose to pro
20 -- or, chose to include these third party areas within --
21 it's my understanding, pardon me, I wasn't part of this
22 process -- that the Elders, at the time, chose to include
23 these third party interests as part of the quantum of
24 land that was withdrawn, so that if a claim were to lapse
25 it would fall into the in -- interim land withdrawal.

1 They did that because this area is so
2 important that it -- it lowered the amount of land that
3 they -- they could select, because the third party
4 interest was already there, so at that time it provided
5 no comfort.

6 In -- in terms of the other processes that
7 you -- you've mentioned the -- the Yellowknives Dene have
8 not been participating with them for this area. But even
9 so, given the third party interest, I don't see those as
10 being effective at this point in time.

11 THE CHAIRPERSON: Thank you. Mr. Peter
12 Bannon...?

13 MR. PETER BANNON: Thank you. Peter
14 Bannon. I understand about the unknown of -- of eight
15 (8) holes, but -- the unknown nature of them -- but the
16 eight (8) holes aside, what impacts do feel that might
17 occur with the two (2) identified holes?

18 THE CHAIRPERSON: Thank you. Mr. Todd
19 Slack, YKDFN...?

20 MR. TODD SLACK: Well, I think that
21 there's quite a bit of evidence on the record in terms of
22 the Yellowknives' view towards these development projects
23 in this Keystone area. The most grievous could be
24 accident and malfunction similar to the Snowfield
25 incident, where a cemetery and a significant portion of

1 this important landscape was affected by a fire.

2 The other project specific app --
3 applications include being a -- effectively excluded from
4 this area because of the activity. So, we're -- if
5 people are trying to practice their traditional rights --
6 and in the 2007 Hearing, I believe it was, Patrick Charlo
7 spoke at length about this; how the game had been driven
8 from this area; how he was forced to move off his
9 traditional area, a -- a good moose site, and travel
10 further and into new areas that he was less familiar
11 with, with less probability of having success. Having
12 development in these cultural areas effectively alienates
13 them from cultural uses.

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

16 MR. PETER BANNON: Thank you, Mr. Chair.
17 Peter Bannon.

18 You mentioned the -- the keystone areas,
19 and that was in your presentation, too, that you had
20 suggested that the -- the other locations at the other
21 eight (8) holes might ent -- or open up impacts or
22 effects on a range of other keystone areas within the
23 claim. My -- my understanding of the claim is that it's
24 90 percent water; there's a few islands.

25 Maybe you could -- I -- and I am familiar

1 with the keystone areas outside of the area of the claim.
2 Perhaps, you could identify some of those keystone areas
3 within the claim that might be affected.

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

5 MR. TODD SLACK: Well, as -- as Philip
6 just mentioned, just because it's on water doesn't mean
7 that it's not important. And this area is an important
8 travel area, it's an important hunting area, and it's an
9 important fishing area. Peter Sangris is in the -- the
10 audience, as well. I know for a fact that he routine --
11 he -- him and his -- his brother and family routinely set
12 up fish nets and go fishing in this area in the summer.

13 So, again, you have this being pushed out
14 of the area if, let's say, this app -- or development was
15 happening on water.

16 In terms of the on-land component, the --
17 all of the factors that were true in Snowfield are true
18 in this case, because of, potentially, where the camp is
19 going to be located, and where those first two (2) drill
20 holes are. This area is going to be con -- is going to
21 continue to be not part of the landscape that the First
22 Nation can access.

23 Now, those islands that you mentioned are
24 important travel areas and are important areas where
25 people stop and practice their traditional activities.

1 They exercise their rights. Burnt Island, in particular,
2 is a -- a well -- or a very highly used area in the
3 summertime in -- as -- and prov -- is an important safety
4 area, in terms of people who are stopping over. When
5 they stop over there, again, they're practising their
6 rights; they're fishing, they're hunting.

7 So, I -- I think that all of these areas
8 have real value, and especially the Drybones area. In
9 2003 -- or the -- the shoreline area. In 2003, we heard
10 from DFO how this was a very special area for -- for
11 fisheries. Were there to be in-water workings, an
12 accident, or sediment, there's unknown potential for
13 impacts from that, that could have lasting effects.

14 THE CHAIRPERSON: Thank you. Peter
15 Bannon...?

16 MR. PETER BANNON: Thank you. I -- I
17 have one (1) more question. In your conclusions, you
18 said that it was -- it started out as "It is clear that,"
19 and one (1) of the conclusions you made that -- is that
20 there'll be further development pressures and there will
21 be an upcoming wave of claimholders.

22 What -- I guess what information do you
23 have that there's a lot of claimholders waiting? Have
24 they been coming to YKDFN talking about it, or are there
25 applications that are within the Land and Water Board

1 that perhaps the parties here are not aware of? What is
2 -- what is behind this wave of claimholders? Thank you.

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

4 MR. TODD SLACK: Thanks. Todd Slack,
5 YKDFN. The Yellowknives are not aware of anything in
6 particular, but there -- Mr. Debogorski hinted in his
7 presentation that there are a number of people -- I
8 believe he mentioned this in his presentation, or, if he
9 hasn't, he's mentioned this to -- in the past, that there
10 are a number of people who have been receiving Section 81
11 that received the same push that he did to -- to conduct
12 work in order to keep their claims in good standing.

13 As to who that is and how many that is, I
14 can't say. These are not before the Land and Water
15 Board, and the Yellowknives do not receive notice of
16 staking. The claim maps are made available, but not in a
17 -- a manner that brings us to the attention of the Land
18 and Environment.

19 So, while these things are not in front of
20 the -- the Land and Water Board, or the applications
21 haven't been made, it's my understanding that there will
22 be a series of applications from people who have claims,
23 have not done the required work to keep them in good
24 standing, and have been receiving Section 81 relief.

25 THE CHAIRPERSON: Thank you. I'm going

1 to go to Peter Bannon.

2 MR. PETER BANNON: Thank you. I have no
3 more questions. Peter Bannon.

4 THE CHAIRPERSON: Thank you. I'm going
5 to go to Board member Danny Bayha.

6 MR. DANNY BAYHA: Thank you, Mr. Chair.
7 I just had a few questions. Thank you.

8 Earlier you mentioned, in one (1) of your
9 slides, that the -- the area in question, the Drybones
10 Bay area, AANDC in this case, what exactly has -- has
11 happened so far, besides the land withdraw that's already
12 there?

13 Obviously, it's -- it's not meeting the --
14 the needs of the -- the community there. But I'm just
15 wondering -- I just wonder if you could elaborate a
16 little bit on that, and the issue of engage whatsoever
17 with YKDFN, in regard -- regardless of consultative duty
18 in your slide, under lack of accommodation and mitigation
19 slide.

20 You can -- I just wanted to -- if you can
21 respond to that. If you maybe clarify it a little bit
22 more, and explain to us.

23 Did AANDC absolutely refuse to sit down
24 and do a plan of action? Or -- I'm just trying to get an
25 idea of what you're -- exactly you're saying. Thank you.

1 THE CHAIRPERSON: Thank you. Over to
2 YKDFN.

3 MR. TODD SLACK: Todd Slack, YKDFN. No,
4 I would -- I wouldn't characterize it as though they --
5 they've refused, but I would characterize it as though
6 there has been effectively nothing done in eight (8)
7 years.

8 There has been twenty (20) recommendation
9 -- pardon me, twenty (20) suggestions from this Board
10 over that time that have not been implemented. There has
11 been two (2) other environmental assessments with
12 measures that are not in place, from 2007.

13 When -- when your Board questioned the
14 AANDC at the last hearing, and they provided their
15 undertaking as to what had been done, the answers were
16 quite clear. And one (1) of the things within that
17 undertaking, they talked about INAC -- an INAC member
18 taking a site visit as part of a -- I forget the exact
19 phrase. It was Undertaking number 1. Well, they're
20 presenting this as though it -- it represents their good
21 intentions in terms of fulfilling this, but in reality
22 this was a YKDFN request to finally establish something
23 under the monitoring program. It had nothing to do with
24 land use planning, and it was an hour and a half visit.

25 So I wouldn't say that they're -- they're

1 refusing; I'm just saying they're not going out of their
2 way to get anything done. And it's those actions that
3 will provide the certainty for all parties in -- for this
4 area, for the shoreline area.

5 THE CHAIRPERSON: Thank you. I'm going
6 to go back to Mr. Bayha.

7 MR. DANNY BAYHA: Thank you, Mr. -- thank
8 you, Mr. Slack. The other question -- again, I guess,
9 it's sort of on the same lines as the first question.

10 You -- you mentioned refusing to grant
11 Section 81 relief. Are you aware of any of these that
12 they had been refused, this type of -- the Section 81
13 relief. Thank you.

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

15 MR. TODD SLACK: Todd Slack. In
16 conversations with Mr. Debogorski prior to this hearing,
17 we had been told that he had not been granted Section 8 -
18 - 81 relief. As this is the -- the first of a potential
19 series of applications, maybe this is true in other cases
20 and we're not aware of it. There's certainly been hints
21 to that effect, but in terms of can I provide evidence of
22 that; No, I can't.

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

25 MR. DANNY BAYHA: Thank you. No further

1 questions, Mr. Chair.

2 THE CHAIRPERSON: Okay. Thank you. This
3 concludes the presentation from YKDFN, and questions from
4 the parties and the -- and the Board. And what we'll do
5 is we'll take a -- maybe another ten (10) minute break,
6 and we'll get the Akaitcho IMA -- I'm sorry -- oh, GNWT
7 to come up and get set up for their presentation.

8 And while we're doing that, I also want to
9 just recognize the former Chief in the back, Fred
10 Sangris. Also in the back there, Sarah Plotner, former
11 Band counsellor.

12 I also want to recognize two Elders and
13 Band counsellors from YKDFN, Peter D. Sangris and Philip
14 Liske, in the back here. I just want to recognize them
15 as well, so mahsi. And we'll just take a ten (10) minute
16 break.

17

18 --- Upon recessing at 10:55 a.m.

19 --- Upon resuming at 11:09 a.m.

20

21 THE CHAIRPERSON: Okay. Good morning.
22 If we could -- we could start. This morning we -- the
23 next one we have to do their presentation will be the
24 GNWT, so I'll turn it over to them. And if you could
25 just introduce yourself and your colleagues and we'll go

1 from there. Thank you.

2

3 PRESENTATION BY GNWT:

4 MR. GAVIN MORE: Thank you, Mr. Chairman.
5 My name is Gavin More. I'm the manager of Environmental
6 Assessment and Monitoring for the Government of the
7 Northwest Territories.

8 On my right I'm joined by Tom Andrews,
9 territorial archeologist with the Prince of Wales
10 Northern Heritage Centre.

11 And to Tom's right, Dean Cluff, regional
12 biologist, North Slave Region, with Environmental and
13 Natural Resources.

14 Tom will give his presentation first, and
15 then Dean will provide his -- his presentation on
16 wildlife in the area.

17 MR. TOM ANDREWS: Thank you, Mr. Chair.
18 As Gavin said, my name is Tom Andrews.

19 I'd like to begin with just a -- a
20 discussion of the baseline, what we know for the current
21 distribution of known archeological sites within the
22 claim area. There are six (6) sites in the Smitsi --
23 Smitski claim; KAPF 30, 47, 48, 49, 62, and 63.

24 One (1) of the sites you'll see on the map
25 there is identified in red, KAPF 30. After careful

1 review of the consulting archeologist's report we will be
2 removing this site from the database because it records a
3 modern exploration camp, and therefore does not meet the
4 definition of an archeological site.

5 There are an additional nine (9)
6 archeological sites within 500 metres of the boundaries
7 of the Smitski claim. All of these sites were recorded
8 with a global positioning system, so their location is
9 very precise.

10 How's my speed for the translators? Is
11 that good?

12

13 (BRIEF PAUSE)

14

15 MR. TODD ANDREWS: According to
16 information provided through this process and Mr.
17 Debogorski, the two (2) drill holes are identified on
18 this map in relationship to the known archeological sites
19 in the immediate area. The first two (2) drill holes
20 will be located in areas that most likely been previously
21 disturbed by the Snowfield camp and access roads. In
22 addition, previous archeological work in the area seems
23 to have checked these areas to some extent. In my
24 opinion, impacts to unrecorded archeological sites are
25 unlikely in the context of the first two (2) drill sites.

1 One of the drill holes is only 38 metres
2 from an archeological site, KAPF 47. This coordinate was
3 captured with a global positioning system receiver, so a
4 30 metre buffer, as provided for in legislation, is
5 probably accurate.

6 An impact assessment for the other
7 proposed eight (8) holes is impossible without precise
8 locations. Due to the high density of archeological
9 sites in the Drybones Bay area, risk of impact is
10 probably high, especially if the drill is moved from site
11 to site with heavy equipment.

12 Therefore, our recommendations are as
13 follows:

14 We recommend that the proponent access the
15 NWT archeological sites database to obtain the locations
16 of all archeological sites inside or within 500 metres of
17 the Smitski Claim.

18 The Proponent must avoid all known
19 archeological sites by a minimum distance of 30 metres.

20 And lastly, once the locations of the next
21 eight (8) drill holes have been determined, the Proponent
22 must hire an archeologist to conduct an archeological
23 impact assessment of the drill holes and surrounding
24 areas, access routes, and other areas of anticipated
25 ground disturbance.

1 Thank you.

2 THE CHAIRPERSON: Thank you, Mr.
3 Andrews. I'm going to go to Dean Cluff, GNWT.

4 MR. DEAN CLUFF: Thank you, Mr. Chair,
5 Board members. My name is Dean Cluff. I'm the regional
6 biologist for the North Slave Region.

7 We can -- you might need the lights off
8 for some slides. You can decide. Yes, my name is Dean
9 Cluff. I'm the regional biologist for the North Slave
10 Region.

11 I'm here to tell you a little bit about
12 the wildlife monitoring that has gone on in the area. As
13 you'll probably see that there's not extensive work in
14 the area, but it certainly is not overlooked.

15 There is a -- a beaver lodge survey in
16 October 1996. It was the last one that we did at that
17 time. We've done -- it was preceded by three (3) others,
18 in 1987, '89, and '92. And you may not be able to see it
19 clearly, there's some dots on the -- on -- on the --
20 oops, there's some -- there's a -- a series of dots.
21 This area here is east of Dettah and it's about 180
22 square kilometres -- thank you -- 180 square kilometres
23 in area. So it's just north -- northeast of the Wool
24 Bay/Drybones Bay area.

25 There's -- the two (2) colours

1 represented, there's -- all these dots are beaver lodges.
2 The red ones were occupied, and the -- the dark ones, the
3 black ones were unoccupied beaver lodges.

4 So, it was just done to look at occupancy
5 of beavers in the area, as a way to maybe encourage
6 trapping by the residents of Dettah. The occupancy was
7 about -- at this -- in this survey was about point five
8 (.5) active lodges per square kilometre. It declined a
9 little bit from previous surveys, where it was closer to
10 one (1) active lodge per square kilometre, which was --
11 which is a relatively high density for the boreal forest.

12 In July 2003 the Yellowknives Dene First
13 Nation had organized an eleven (11) day field program,
14 and this was part of the -- the Board's initiative to do
15 a subregional cumulative effects assessment in the area,
16 in response to other activity in the Drybones area. I
17 was involved in a two (2) day part of that, the two (2)
18 day workshop, where we went to Drybones Bay with the
19 Elders and hunters of the Yellowknives Dene First Nation.
20 And the purpose there was to look at maps and -- and
21 discuss the use of the area, and the wildlife in that
22 area, and map it.

23 This resulted in -- in mapping of
24 extensive routes used in the wintertime that the
25 Yellowknives Dene had travelled, whether they be travel

1 routes, or trapping routes throughout the area, based on
2 the elder's input at that time. It resulted in a number
3 of areas that were identified as good moose habitat,
4 where they regularly would see moose or hunt moose, a
5 couple of calving areas was -- were -- were pointed out
6 here. So, again, recognizing it was a -- a good moose
7 area.

8 Also, a number of areas were mapped for
9 fur-bearers, here most of the aquatic fur bearers:
10 beaver, mink, and muskrat, in different colours. There
11 was a couple of wolf dens identified in the area,
12 although not precisely identified, just -- they've --
13 they've heard howling in the summertime when there would
14 be a rendezvous site.

15 Even some -- identify area for -- where
16 there was frogs were quite abundant. There was just more
17 generalized information just on the other fur-bearers,
18 and not as specific -- so wolverine along the coast more,
19 lynx a little more inland, and marten in the -- in the
20 higher ground area.

21 This information has -- the Board has seen
22 this before. I presented this information in 2007 in
23 that hearing there. And in summary, it was clear though
24 from that two (2) day workshop, that the Dene have
25 travelled extensively over the land of that study area,

1 and beyond it. There's been repeated moose sightings, of
2 course, and some good moose habitat and some too --
3 calving areas were noted.

4 There was a discussion of -- of the
5 movements of the moose, for instance, where they go
6 upland in the wintertime; they come down to the shoreline
7 in the -- in -- in the spring for calving. So, there's a
8 little bit of a seasonal migration of moose that was
9 noted.

10 And then in some areas got frequented by
11 the aquatic fur-bearers, and -- but there was less
12 specific information for the terrestrial based fur-bears,
13 wolverine, lynx, and -- and marten.

14 So, this part is -- is new since that 2007
15 Hearing. The North Slave Region has conducted some moose
16 surveys that included this area, the Drybones Bay, the
17 Wool Bay area.

18 Why we do that? Well, moose are an
19 indicator of land change. They do respond to the early
20 successional forest. If there's changes in the land
21 maybe say due to climate change. There might be more
22 forest fires. And so it's one (1) way of -- of
23 monitoring some changes in the land. Of course, moose
24 are important as a food source to the communities, and
25 also as a traditional resource.

1 There's a number of -- when your
2 monitoring moose populations, there's a number of
3 indicators we would look for to look at the health of the
4 population. And -- and these key moose population in --
5 indicators were identified through the CIMP program, the
6 Cumulative Impact Monitoring Program. And moose were
7 identified as a valued ecosystem component there.

8 And if we look -- if you do a moose
9 survey, it -- it identifies, or can address three (3) of
10 these moose -- out of these monitoring indicators, the
11 population, size, and trend, especially if you do more
12 than one (1).

13 And we also classify the moose when we see
14 them. We don't just count them as -- as a moose. We try
15 to classify them as a calf, or a cow, or a bull. And we
16 can get these calf/cow ratios, and adult sex ratios.
17 You'd have to do some other studies and work to identify
18 some of the other monitoring indicators.

19 So this is what we call the Taiga Shield
20 Moose Survey. Yellowknife would be right here in Dettah.
21 And this is about a 17,000, almost 18,000 square
22 kilometre area here that we consider the Taiga Shield.

23 We do another moose survey here called the
24 Taiga Plains, but this is the -- the relevant part for --
25 for this discussion.

1 The area is divided into grid cells.
2 They're about 4 kilometres by 4 kilometres each. And --
3 and so when we talk about a population estimate it's
4 referring to this whole area. Okay, that large almost
5 18,000 square kilometre area.

6 And then we divide it into grid cells,
7 because this is how we -- we survey it, or sample it. We
8 don't -- we don't count all the moose in the whole area.
9 It's -- probably is impossible, but it certainly is not
10 practical, and we can -- we can use the surveying and
11 sampling, and then we take that and we estimate, and we
12 extrapolate to the population estimate.

13 So, what we do is we -- we have
14 information on these grid cells, based on hunters, or --
15 or the land type, the vegetation, and we rank them into
16 high versus low density of moose. So, that's what the
17 pink areas are for here. They're cells that were
18 identified as high, and then low. And the -- all these
19 grid cells are done that way. And then we randomly
20 select high and low density cells, and then we go out and
21 survey them.

22 So this is what it looks like afterwards.
23 We -- we fly to these cells that have been randomly
24 selected from this high/low -- low density
25 stratification, and we do - - we survey the entire cell

1 block that we've selected. And the idea is that if
2 there's a moose in that cell, we -- we see it.

3 And -- and I'll give you just a little bit
4 more idea of this. Here is a -- a cell here in this
5 square, and here's our flight tracks. So we go back and
6 forth, back and forth. It depends on the land. You
7 know, if there's a -- a fire that has gone in through
8 there or not, or if it's very thick bush, but all --
9 usually there's about eight (8) lines per transact -- or
10 a good cell, and it's about 400 metres apart.

11 So, the idea is, though, that we -- if
12 there's a moose in there we see it, and this is a -- just
13 a waypoint where there happen to be a moose sitting right
14 here on the outside of it. Here's another one . So, we
15 need to -- we all -- the -- the system is -- depends on
16 getting these locations within the grid cells, but we
17 record everything we see, of course.

18 So, we use that as a way to estimate the
19 population. So we did this in March of 2004, and we did
20 it again in November of 2007. And -- and so those are
21 the study area -- and so we use the results.

22 We came up with a point estimate of seven
23 hundred and thirty-two (732) moose, but there's a lot of
24 variation in that, and that's what this thing -- this
25 number mea -- measures. This is the standard error of a

1 hundred and eighty-one (181).

2 So, we used that to come up with a
3 confidence interval. So we say the -- the population is
4 between a certain low number and a certain high number,
5 and -- and this is what -- if I use the -- what's called
6 the 80 percent confidence interval, that number is from
7 five hundred (500) to nine hundred and sixty-four (964)
8 moose within that whole area, okay.

9 And so what this means, is that if we were
10 to do this survey again, say that right after we just did
11 the other one, odds are we wouldn't get exactly seven
12 hundred and thirty-two (732) moose; we would get some
13 different number. And if we did it again, we'd get a
14 different number. But we're saying that, if we did this,
15 like eight (8) out of ten (10) times that number, that
16 published estimate, would be between this range, okay,
17 based on the variation that we see.

18 So if we take that point estimate then and
19 say, Okay, well, let's just say there's seven hundred and
20 thirty-two (732) moose there, then that converts to a
21 density of four point one (4.1) moose per hundred square
22 kilometres, and that's -- that's still fairly low
23 compared to southern Canada standards where you can have
24 seventeen (17) or twenty (20) moose per hundred square
25 kilometres.

1 But we're in the boreal forest out in the
2 Taiga Shield, which is not ideal moose country, but there
3 certainly are some hot spots, as moose hunters around
4 here probably know and they're probably protective of
5 some of their areas. So that's what -- what happened in
6 -- in 2007 for the population estimate.

7 And then I mentioned that we also get some
8 ratio estimates, and that's used to gauge the health of
9 the population, as well. We were able to classify a
10 hundred and twelve (112) moose, and that turned out to be
11 thirty-four (34) bulls, forty-four (44) cows, and thirty-
12 four (34) calves. And -- and so, looking at the ratio of
13 bulls to cows and calves to cows, we have the same number
14 here: thirty-four (34), thirty-four (34). So it turns
15 out that we have seventy-seven point three (77.3) calves
16 per hundred (100) cows, and seventy-three point three
17 (73.3) bulls per hundred cows. So those are -- are
18 fairly healthy numbers for ratios.

19 Remember, you know, a lot of -- some moose
20 have twins. I would see a few occasions of twinning in
21 the Taiga Shield, less so in the Taiga Plains. So even
22 though the habitat doesn't seem to be prime moose
23 habitat, there are instances of twinning here.

24 We have -- there are caribou that do occur
25 in the area, but they're infrequent, in the wintertime

1 mostly, when they -- when the caribou -- the Barren
2 Ground caribou come down from the winter ranges -- to the
3 winter ranges from the tundra. There's the Nunavut
4 boundary right here, Great Slave Lake, Yellowknife Dene,
5 N'Dilo.

6 These are collared cows. This map is from
7 January 7th, 2006, and this is at a time when there were
8 some collared caribou in the area. Now, remember, these
9 are collared cows, these weren't bulls, and bulls have
10 some different movement patterns. So -- and this year,
11 there were some in the area, and they mostly moved to the
12 east arm, but maybe every five (5) years or so we -- we
13 do get caribou into this area.

14 This is a map that Bruno Croft has
15 prepared in our department, our caribou biologist, and
16 based just from last week, it was October 6th, I believe.
17 So this is the -- here's the Nunavut boundary again,
18 here's the east arm. It's just showing where the caribou
19 are right now. A lot of the Bathurst herd, these are
20 these green dots, if you can see them, and there's McKay
21 Lake, so there's a number of dots here. There's only
22 twelve (12) collars on right now, and they have since
23 still -- they're moving just in this area here now.

24 So we might see some caribou coming down
25 to this area this winter, the way the -- the pattern

1 seems to be holding, but it's still too early to confirm.

2 So in summary then, we had a moose survey
3 in March 2004 and November 2007 that provided baseline
4 population data for the Taiga Shield ecozone, and we have
5 another one planned for this area in next fall, in
6 November 2012, which we hope then will now -- we'll have
7 three (3) points then and we'll be able to have some idea
8 of a trend information.

9 Barren Ground caribou are occasional
10 visitors to the area in the wintertime, and the fur
11 bearing information that we have is mostly limited to
12 harvest and -- and setting records. Thank you.

13

14 QUESTION PERIOD:

15 THE CHAIRPERSON: Thank you for your
16 presentation. I'm going to go to questions from the
17 parties and intervenors. I'm going to go the developer,
18 Alex Debogorski, if you have any questions to the GNWT on
19 their presentation.

20 MR. ALEX DEBOGORSKI: Alex Debogorski.
21 No questions, thank you.

22 THE CHAIRPERSON: Thank you. I'm going
23 to go to YKDFN, if you have any questions to the GNWT on
24 their presentation.

25 MR. TODD SLACK: I have a series of

1 questions for both presenters, and I guess I'll go with
2 Mr. Cluff first, since that was most recent.

3 I think that everyone does agree that
4 there are hot spots for moose and given the traditional
5 knowledge and the evidence before the Registry, Drybones
6 Bay is one (1) of those hot spots.

7 What can your survey results and the work
8 that you've done tell us in terms of distribution of
9 moose, especially with regards to the shoreline area
10 since 2003?

11 THE CHAIRPERSON: Thank you. I'm going
12 to go to GNWT, Mr. Cluff.

13 MR. DEAN CLUFF: Thank you. Dean Cluff.

14 Well, it's still a -- a little bit early
15 to do that because we -- we've done surveys in the fall
16 time when there seems to be some movement away from the
17 shorelines because the -- we've had some evidence of --
18 or suggestions of -- of activity in the shorelines in --
19 during the calving season. So we haven't done the survey
20 at that time of year, so there's some seasonal migrations
21 and we may not be capturing that.

22 Once we do this next survey next fall
23 we'll have -- would be in a better position to look at --
24 at the pattern of -- of space use in these moose based on
25 these grid cells.

1 THE CHAIRPERSON: Thank you. I'll go
2 back to YKDFN.

3 MR. TODD SLACK: One (1) more -- or
4 sorry, two (2) more questions for Mr. Cluff.

5 Following on that, given the resolution of
6 your study: One, do you think that this distribution
7 information related to the shoreline zone will be
8 discernable from your study? And number two, when do you
9 anticipate that information being made available?

10 THE CHAIRPERSON: Thank you. GNWT, Dean
11 Cluff.

12 MR. DEAN CLUFF: Thank you. Dean Cluff.
13 Because this survey is based on grid cells and -- and we
14 do it -- we're looking at occupancy, basically, we can do
15 an occupancy estimation, so presence/absence, and we can
16 -- we can come up with measures of an occupancy
17 estimations and we can look at habitat. So we can
18 identify some habitat suitability areas for moose based
19 on the survey results and observations.

20 And we can come up with some estimates of
21 what they call colonization and the extinction rates in
22 those grid cells. So that together can come up with a
23 map of -- of good habitat areas for moose. Some of that
24 will include the shorelines in different times.

25 But again, it's -- it's going to be

1 restrictive to the winter/fall season because we do this
2 in November when the leaves are down and the -- the lakes
3 are frozen, snow on the ground. And we recognize
4 there'll be some seasonal movements, so we can't capture
5 that part.

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

7 MR. TODD SLACK: Sorry. Can I ask about
8 the timelines and when that --

9 MR. DEAN CLUFF: Sorry. So this survey
10 will be done in November 2012, let's say we'll -- shortly
11 after that, a month or so, we'd have a -- probably have a
12 population estimate. And then we can do that occupancy
13 thing in a -- so let's say a year after that.

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

15 MR. TODD SLACK: And my final question
16 for Mr. Cluff is: You put a number of caribou related
17 slides on the -- on the screen there.

18 But can you confirm for -- for us that
19 Drybones Bay and the shoreline area is within the winter
20 range of the Bathurst caribou?

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

22 MR. DEAN CLUFF: Thank you. Dean Cluff.

23 Yes, the Barren Ground caribou with the
24 Bathurst Herd is -- is part of the winter range that
25 includes that Drybones area.

1 Earlier -- earlier boundaries have
2 included that area. They haven't visited that area for a
3 few years that I'm aware of; there might be the odd
4 sightings, but it -- it still is recognized as a --
5 Drybones Bay as part of the winter range of the -- of the
6 Bathurst Caribou herd.

7 THE CHAIRPERSON: Thank you. Maybe just
8 -- so, for clarification is it a yes, or a no?

9 MR. DEAN CLUFF: Yes, it still is part of
10 the -- the range.

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

12 MR. TODD SLACK: I'm going to pass it
13 Randy Freeman the Director of Lands for YKDFN for Mr.
14 Andrews there.

15 MR. RANDY FREEMAN: Thank you. My name
16 is Randy Freeman, I'm the Director of Lands Management
17 for the Yellowknives Dene.

18 I have a question for Tom Andrews
19 concerning archeology in Drybones Bay. And preliminary
20 to that, I -- I was part of a project in 2003 that, along
21 with an archeologist from Calgary, Calum Thomas --
22 Thompson, (phonetic). We were hired by the Yellowknives
23 Dene to accompany Elders into Drybones Bay and to record
24 their knowledge about places where they used to live and
25 places where they, you know, had -- had particular

1 activities.

2 These were all mapped primarily using GPS.
3 And these -- these became registered archeological sites
4 at -- at some point later on.

5 We did not design a project of -- of a
6 systematic survey, so there was no transects walk -- walk
7 to -- you know, no sort of going into areas where perhaps
8 the Elders didn't know, didn't have knowledge of any
9 activities.

10 So I'm just -- my question to Tom is: Is
11 he aware of any surveys after 2003 at which there was a
12 systematic survey, and that -- that we, therefore, have a
13 greater confidence in saying we know all the
14 archeological sites or, you know, many or most
15 archeological sites in Drybones Bay and area.

16 THE CHAIRPERSON: Thank you. Going over
17 to GNWT, Mr. Tom Andrews.

18 MR. TOM ANDREWS: Thank you, Mr. Chair.
19 And thank you for the question, Mr. Freeman. Yes, there
20 was another survey undertaken in 2004 by the same
21 contract archeologist, this time in the employ of, I
22 believe it was, Snowfield, and they conducted a survey of
23 extensive sections of the shoreline.

24 Our -- our opinion, I suppose, on whether
25 or not there's been a complete systematic survey of the

1 area, I'm afraid I would have to answer no to that. That
2 -- and that's why our recommendations are structured the
3 way they are, that any further work, once the drill holes
4 are located, the additional eight (8) drill holes, it
5 would require archeological impact assessment for those
6 drill locations.

7 THE CHAIRPERSON: Thank you. I'm going
8 to go to YKDFN, Randy Freeman.

9 MR. RANDY FREEMAN: I'm -- I'm -- that's
10 -- that's answered my question, yes. Thanks.

11 THE CHAIRPERSON: Thank you. Any further
12 questions from YKDFN? Mr. Todd Slack? None? Thank you.

13 MR. PHILIP LISKE: That's for Tom there.
14 I'm just wondering, you said, how do you come out with
15 those numbers there, so -- so many metres from the --
16 from the site, you know, burial site, and the secret site
17 there?

18 How do you come out with those numbers? I
19 mean, you know, I'd -- I'd like to know that because you
20 said 300 metres is a good -- it's -- it's good to drill
21 away, you know, from the -- from the burial site. I was
22 just wondering how you got those numbers.

23 THE CHAIRPERSON: Okay, thank you. That
24 was -- for the record, that was Philip Liske, YKDFN. I
25 want to go to Tom Andrews or Dean Cliff.

1 MR. TOM ANDREWS: Thank you, Mr.
2 Chairman, and thank you, Mr. Liske, for that question.
3 It's an important question.

4 The -- the buffer zone -- we call it a
5 buffer zone for protecting an archeological site -- is
6 determined in legislation.

7 So the law says that developers must stay
8 30 metres away from the edge of an archeological site to
9 ensure that that site, including burials, is not
10 disturbed.

11 In 2001, we were concerned that that
12 buffer wasn't adequate because of changes to Canada's
13 mapping system, and we wrote a letter to all of the land
14 management authorities in the Northwest Territories.
15 That included all of the Land and Water Boards. It
16 included this Board, as well.

17 And we asked them to voluntarily increase
18 the buffer from 30 metres to 100 metres to ensure that we
19 were, in fact, protecting the known sites that had been
20 recorded. And I'm happy to -- to note that all of the
21 Boards took that into -- under advisement, and agreed to
22 do that.

23 And it's common practice now for Boards to
24 consider extending the legal limit of 30 minute -- metres
25 to 100 metres to protect important places. So I -- I

1 hope that answers your question.

2 THE CHAIRPERSON: Thank you. Any further
3 questions from YKDFN?

4 MR. PHILIP LISKE: Okay. Another thing,
5 too, that we hunt and trap in that area. You know,
6 there's a trail -- all kinds of trail in that area.

7 And do you have a buffer zone for that --
8 for those -- our trail there, too? You know, there
9 should be because we use -- we use that area, you know.
10 And I was wondering if -- if they could put that in too.

11 THE CHAIRPERSON: Okay, thank you, Mr.
12 Liske, for your final question.

13 Tom Andrews...?

14 MR. TOM ANDREWS: Thank you, Mr. Chair,
15 and thank you again for the question, Mr. Liske.

16 I guess the -- according to the law, in
17 order for the buffer to be applied it would have to apply
18 to something defined as an archeological site.

19 And in the -- the legislation governing
20 that, the -- the definition is very precise. It's a bit
21 odd, but it's precise. It says that for something to be
22 defined or a place to be defined as an archaeological
23 site, it must be at least fifty (50) years old. It must
24 have no current possession. So it can't be somebody's
25 cabin that could be a hundred (100) years old, for

1 example. We wouldn't want to make that an archaeological
2 site because it means people couldn't use it then. And
3 the third one, it must have some evidence that there's
4 been human use.

5 So if your trail met that test, so if
6 there was a -- you know, a physical presence on the trail
7 that archaeological investigations and Elder testimony
8 could show that it was more than fifty (50) years old and
9 it was not -- it was not owned, then, yes, it could be --
10 it could be defined as an archaeological site and,
11 therefore, the buffer would apply to the trail, as well.
12 Thank you.

13 THE CHAIRPERSON: Okay. Thank you. Next
14 I have, is there any question from the Akaitcho IMA --
15 sorry, Gina -- sorry, Akaitcho IMA office, Stephanie
16 Poole?

17 MS. STEPHANIE POOLE: Thank you.
18 Stephanie Poole, Akaitcho IMA office. I just have a
19 couple of questions. One (1) is just for kind of my own
20 clarification. When the Yellowknives Dene First Nation
21 was asking questions of the wildlife biologist, Mr. Dean
22 Cluff, I heard him, in his response, mention something
23 that sounded like they were assessing the colonization
24 and extermination of moose. And I've never heard that
25 term associated with moose before, so if you could just

1 kind of clarify that for me a little bit. That's my
2 first question. Thank you.

3 THE CHAIRPERSON: Thank you, Ms. Poole.
4 I'm going to go to Dean Cluff, GNWT.

5 MR. DEAN CLUFF: Thank you. Dean Cluff.
6 No -- no, it's a good point. That's why I was a little
7 bit -- tried to be cautious when I was introducing those
8 terms to Mr. Slack's question. What they refer to --
9 moose are not in danger of becoming extinct, okay? So we
10 can clarify that.

11 What it's referring to is, when we see a
12 moose in one (1) of those grid cells, it's occupied. And
13 then another one may not be occupied, right? So it's
14 just looking at keeping track of these grid cells, what
15 is being occupied and what's not occupied. And so when
16 you do this over time, you can look at patterns and see
17 maybe a grid cell is -- is such good habitat that it's
18 used all the time; it's always occupied by moose. They
19 like it, you know. Other areas, not so much, and others,
20 not at all. And so we can map that out and -- and
21 determine that.

22 And so, over time -- sometimes we can look
23 at a grid cell that is not active, then it becomes -- and
24 then it becomes active, so that's colonization. It's
25 being -- moose weren't in there before, and then they

1 colonize it. And then, if they move out of it, then it's
2 extinction -- you know, it -- it's called an extinction.
3 So it -- it's a terminology that's used in that field of
4 statistics, so we have to be careful how -- how we apply
5 it. It's not going to be moose colonizing it and -- and
6 then being extinct in the area. It's referring to the
7 grid cells and how they use those particular grid cells.

8 THE CHAIRPERSON: Thank you. I'm going
9 to go back to the Akaitcho IMA office and Stephanie
10 Poole.

11 MS. STEPHANIE POOLE: Thank you.
12 Stephanie Poole, Akaitcho IMA office. Thank you for that
13 clarification. It gives me some kind of cold comfort.

14 My next question is regarding the buffer
15 zone for archaeological sites. When the Elder Philip
16 Liske was asking questions of Mr. Tom Andrews and his
17 response, he stated that the Boards have adopted the
18 recommendation to permit a buffer zone of -- of 100
19 metres.

20 But, in fact, in the case of TNR Gold
21 Corp. at the moose property, and in their environmental
22 assessment, the buffer zone was recommended to be 150
23 metres, I believe, and when the terms and conditions were
24 issued for that permit, the buffer zone -- the Board put
25 the buffer zone at 30 metres.

1 So there's some kind of discrepancy in --
2 in maybe your understanding of -- of what the Boards are
3 -- are doing in regards to your recommendation, and I
4 just wanted to mention that. Thank you.

5 THE CHAIRPERSON: Thank you. Mr. Tom
6 Andrews...?

7 MR. TOM ANDREWS: Thank you, Mr. Chair,
8 and thank you for the question. If I might just take a
9 moment and indulge you all with a -- a little flirt or
10 explanation of the -- our request to change the buffer
11 zones.

12 As I said, the -- the legislation requires
13 a metre -- a buffer of 30 metres. We were concerned that
14 archeological sites weren't being protected because of
15 changes in Canada's mapping system, so we requested that
16 that be increased to 100 metres.

17 Some Boards took it a step further, like
18 for example the Wek'eezhii Land and Water Board took it
19 to 150 metres, and that was their decision and one (1)
20 that we support entirely.

21 However, part of that was that we
22 recognized that some day we would be able to go back to
23 the legislated 30 metres because archeological sites are
24 now being recorded with precise tools called global
25 positioning system receivers, so that we have extremely

1 precise data as to where those sites are.

2 In the case before the Board now with the
3 sites around Drybones Bay, according to the reports of
4 the archeologist all of those sites have been recorded
5 with global fish -- positioning system receivers and,
6 therefore, we feel comfortable with applying the -- the
7 legislated 30 metre buffer to those sites.

8 In situations where it's not, and, you
9 know, the reason that we did this is, the archeological
10 sites database for the Northwest Territories, which is
11 six thousand (6,000) approximately sites, has grown over
12 seventy (70) years.

13 There's been archeology being done in the
14 Northwest Territories for seventy (70) years. Seventy
15 (70) years ago, archeologists and their community
16 partners were using mapping technologies of the day that
17 were very imprecise, and that information has been
18 brought forward to the Board.

19 So we're in kind of a mixed up period of
20 time. And we -- we -- the -- the way that we're trying
21 to fix this is we've now made it a condition -- we -- we
22 give out permits to archeologists in order to undertake
23 research. We've made it a condition that they have to
24 use global pos -- positioning systems in order to record
25 their archeological sites, and we ask them that when

1 they're in an area would they also mind going back to
2 these older archeological sites that have been recorded
3 in the past, and take GPS readings on them, as well.

4 So eventually we'll move to a day when all
5 -- we have very good control over the locations of
6 archeological sites, and the -- the legislated 30 metres
7 will be acceptable.

8 In the meantime, I'm asking for the
9 Board's discretion in using their authority to increase
10 that to a hundred (100), or in some cases a hundred and
11 fifty (150), as they see fit, based on our
12 recommendations.

13 THE CHAIRPERSON: Thank you. I'm going
14 to go to the Akaitcho IMA office. Any further questions?

15 MS. STEPHANIE POOLE: Thank you,
16 Stephanie Poole, Akaitcho IMA office. I'll just -- a
17 couple follow-up questions, I guess.

18 You've made this recommendation to the
19 Boards, and would you ever consider requesting something
20 stronger? Perhaps have you made recommendations to
21 change the legislation? Have you ever asked for a major
22 -- specifically stating that these things -- you know,
23 maybe a Ministerial directive, telling the Boards that --
24 that this is the way it should be in this time of
25 uncertainty?

1 And regarding the time of uncertainty and
2 -- and you were saying that at some point in the future
3 there -- there will be a time when all of these sites can
4 be easily identified and looked after better.

5 And my other question is: When -- when do
6 you think that might be, like at what time in the future?
7 Because if you've been looking at these sites for seventy
8 (70) years, it's my understanding that there's not a lot
9 of information, at least regarding Akaitcho territory.
10 All sites have not been identified. The whole territory
11 has not been assessed.

12 So I just wonder, you know, when do you
13 think that time in the future might be when -- when we're
14 not so uncertain anymore?

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

16 MR. TOM ANDREWS: Thank you, Mr. Chair.
17 Thank you for the question. I'm afraid it's a question
18 that I can't really provide a good answer to.

19 I really -- I heard two (2) questions; one
20 (1), when do I think we'll have better control over the
21 sites that we know about now, the six thousand (6,000)
22 sites. I'm hoping that that's within a decade or so.
23 You know, to be honest, it may be longer than that.

24 I don't think that we'll ever know where
25 all of the archeological sites are in the Northwest

1 MR. PHILIP LISKE: This is for Tom here.
2 On the buffer zone you said you'd have evidence -- okay.
3 That trail in the hunting area had been there for --
4 would be used in the area for over a thousand years and
5 you could see all kinds of evidence there that we pointed
6 out to you.

7 So I don't know when you -- when you
8 mentioned that, you know, you want evidence it's like
9 you're looking for a loophole. So I don't think that's a
10 -- a good idea.

11 But -- but the evidence there has been
12 there for thousands of year that people have been using
13 that area and I don't know why you said you want
14 evidence. It doesn't make any sense to me because the
15 people there that would -- like I said, have been using
16 there -- that area for a thousand year, hunting,
17 trapping, fishing in that area, you know, for a thousand
18 of years.

19 And so I don't know what kind of evidence
20 you wanted, you know, before you put buffers in -- you
21 should put all the buffers in all -- all over that area
22 because it's -- because there's all kinds of evidence
23 there. Thank you.

24 THE CHAIRPERSON: Philip, was there a
25 question you have? You -- you mentioned the evidence,

1 but who did you direct your question to?

2 MR. PHILIP LISKE: That was for Tom.
3 That -- say -- I was talking about a buffer zone there,
4 you know, it -- you're looking for evidence for -- I
5 asked him what kind of evidence?

6 But, you know, we've got evidence there
7 for over a thousand years and I don't know what kind of
8 evidence he was looking for. But, you know, he -- if
9 that's the case then you could put the buffer zone all
10 over that area, you know.

11 THE CHAIRPERSON: Okay. Thank you. I'm
12 going to go to GNWT, Tom Andrews, if you want to respond
13 to that.

14 MR. TOM ANDREWS: Thank you, Mr. Chair.
15 And thank you, again, Mr. Liske for your question.

16 The -- the -- it's the legislation that
17 calls for evidence, and I'm afraid it's fairly precise,
18 there has to be some sort of physical evidence in order
19 to -- in order to define something as an archeological
20 site.

21 But all of the things that you've
22 described, you know, the -- the foot -- the visible foot
23 path, the cut stumps, the blazes on trees, the -- you
24 know, the -- the stone chips left over from somebody 500
25 years ago sharpening an arrowhead, all of that is

1 physical evidence and it would meet, therefore, the test.
2 So, you know, personally I -- I've worked on trails with
3 -- with Dene people for many, many years and I know that
4 many of those would certainly meet the -- the test.

5 There are some trails where it's more
6 difficult; winter trails where there's very little
7 physical evidence and sometimes we have to learn to look
8 a -- look a little harder for it. But I'm convinced that
9 virtually all of those trails would meet the test.

10 However, it requires, in the process of
11 designated it an -- an archeological site, for an
12 archeologist to go out and be accompanied by the Elders
13 so that -- so that that process is followed, yeah. Thank
14 you.

15 THE CHAIRPERSON: Okay. Thank you. I'm
16 going to go to the Review Board legal counsel.

17 Do you have any questions for GNWT on
18 their presentation?

19 MR. JOHN DONIHEE: Thank you, Mr.
20 Chairman. It's John Donihee. I -- I just have one (1)
21 question for Mr. Cluff.

22 You gave us information about the two (2)
23 moose surveys that have been completed and advised the
24 Board that there will be another one in November of 2012.

25 I think it would help the Board if you

1 could give us your views as to how important, in a
2 relative sense, how important the area affected by the --
3 the vicinity of Mr. Debogorski's proposed activity is
4 from the standpoint of moose populations and habitat.

5 I mean, is it way better than other areas
6 in -- on this Taiga shield zone, is it about the same?
7 You know, from a relative standpoint, how -- how
8 important is the -- the area that could potentially be
9 affected by this development?

10 THE CHAIRPERSON: Thank you. I'm going
11 to go to GNWT.

12 MR. DEAN CLUFF: Dean Cluff. The area is
13 -- is reasonably good moose habitat, but I don't think
14 the -- the drill hole program will seriously affect the
15 population of moose in the area. So, again, some good
16 areas to hunt, see moose and where they would occupy but,
17 again, not adversely affected.

18 THE CHAIRPERSON: Thank you. I'm going
19 to go back to Mr. Donihee.

20 MR. JOHN DONIHEE: Thank you, Mr.
21 Chairman. And thank you for that answer. I -- I guess
22 you -- you've helped, but you still didn't quite answer
23 the question. So is -- we now know your views about the
24 effects of the project on the moose in the area, but how
25 good is this area in comparison, say, to other areas that

1 might be available to the Yellowknives to hunt moose?

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

3 MR. DEAN CLUFF: Dean Cluff. Well, there
4 are a number of good areas that are nearby that would be
5 available to hunt moose, but in terms of areas that -- we
6 know of two (2) areas that are calving areas. We've
7 heard from before from the Yellowknives Dene that moose
8 come to the shorelines in the springtime to calve, and --
9 and not only just the shorelines, but to the islands that
10 are just close to the shorelines.

11 I don't have any -- any information on
12 that, so it'll -- it'll depend on -- on the extent of the
13 activity and the -- and the season of the activity, I
14 suppose, especially if there's -- for calving, because
15 that's probably the most sensitive time for moose, when
16 they're calving, because they -- they do try to be more
17 secretive and -- and be more -- you know, more secretive
18 and -- and more susceptible to disturbances to protect
19 that calf.

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

22 MR. JOHN DONIHEE: John Donihee. Thank
23 you, Mr. Chairman. I'm going to leave it there.

24 THE CHAIRPERSON: Thank you. I'm going
25 to go to the Review Board staff.

1 MR. ALAN EHRLICH: Thank you, Mr. Chair.
2 Alan Ehrlich. I have one (1) question for Mr. Cluff and
3 two (2) questions for Dr. Andrews.

4 Mr. Cluff, a follow-up to Mr. Donihee's
5 question: You've indicated that this project's not
6 likely to affect the population of -- of moose. In -- in
7 your view, is it likely to affect -- could it affect the
8 -- is it likely to affect the short-term distribution of
9 moose in that area?

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

11 MR. DEAN CLUFF: Well, certainly, if --
12 if there's some moose calving in the area and there
13 happens to be some activity, then the moose could --
14 could move. It depends on whether the calf has been born
15 or not, but -- but moose calves are fairly mobile soon
16 after birth, and so they can -- they have quite the
17 capability of -- of moving away to some other habitat.
18 So it would be a very, very specific, finite time where
19 it would be a vulnerable time, and that would probably be
20 sometime in May, the third week in May, when there's some
21 calving, end of -- end of May. So after that, I think
22 that, you know, there'd be -- the moose there would be
23 resilient to mild disturbance.

24 MR. ALAN EHRLICH: Thanks, Mr. Cluff. My
25 questions for you, Dr. Andrews, are -- are -- partly

1 relate to your involvement with the Prince of Wales
2 Northern Heritage Centre, and -- and partly because
3 you're -- you're a professional archaeologist.

4 You've mentioned that what you were
5 talking about before relates to physical protection of
6 archaeological resources. You've also written
7 extensively on cultural landscapes, and I was wondering
8 if, in -- in your opinion, the area the development's
9 proposed meets the technical criteria of a cultural
10 landscape.

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

13 MR. TOM ANDREWS: Thank you, Mr. Chair,
14 and thank you for your question, Mr. Ehrlich, and I'll
15 have to note that I'll take your promotion to Dr. Andrews
16 as a good omen. As it turns out, I've just submitted my
17 PhD dissertation; I'm defending it the 2nd of November,
18 so thank you very much. That's a good sign. But, for
19 the record, I -- I do not currently hold a PhD.

20 The question, I would have to say that
21 commenting on cultural landscapes is technically beyond
22 my terms of employment, that I am hired by the Government
23 of the Northwest Territories as the territorial
24 archaeologist, and my responsibility is specifically to
25 the management of archaeological sites as they occur or

1 as they're found in the Northwest Territories.

2 Cultural landscapes are a much broader
3 concept. They fall within the purview of the broader
4 field of anthropology and geography, and certainly the
5 Drybones Bay area is definitely part of the Yellowknives
6 Dene cultural landscape, however you wish to define that.

7 I don't really believe that there's a
8 technical description of -- of a cultural landscape. I
9 think that it can exist at many levels and there can be
10 nests of them, and it depends on from which perspective
11 you're speaking. So thank you.

12 MR. ALAN EHRLICH: Thank you, Mr.
13 Andrews. And my final question is -- is back to physical
14 heritage and the recommendations that you've put in your
15 presentation. Your third recommendation is, once the
16 locations of the -- the next eight (8) drill holes have
17 been determined, that the proponent must hire an
18 archaeologist to conduct an archaeological impact
19 assessment of drill holes, access routes, and other
20 locations.

21 I was -- I'm -- I'm somewhat familiar with
22 the Prince of Wales archaeological guidelines to
23 developers. There are many different kinds of
24 investigations described in there. Why do you feel an
25 archaeological impact assessment is the right one for

1 this?

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

4 MR. TOM ANDREWS: Thank you, Mr. Chair,
5 and thank you again for the ques -- question, Mr.
6 Ehrlich. We're recommending that an archaeological
7 impact assessment, which is the -- the most robust kind
8 of investigation possible, be conducted to bring clarity
9 to the situation. We're also recommending that that not
10 happen until the eight (8) drill holes are identified, to
11 really lessen the impact of the cost of that on -- on the
12 developer.

13 So by working with the final engineering,
14 if -- if you'll allow me, we know where the holes are
15 going to go, we'll have the archaeologists look
16 specifically at those places and the surrounding areas,
17 the transportation to drag drills between them, et
18 cetera, and therefore, we'll have very good assurance as
19 to what potential impacts those activities may have.
20 Thank you.

21 THE CHAIRPERSON: Thank you. Is there
22 any further questions from the Review Board staff?

23 MR. ALAN EHRLICH: No further questions,
24 thank you, Mr. Chair.

25 THE CHAIRPERSON: Thank you. I'm going

1 to go to my right, Mr. Danny Bayha.

2 MR. DANNY BAYHA: Thank you, Mr. Chair.
3 I just had a couple of quick questions here. Earlier it
4 was mentioned -- I think that'll go for Dean and -- and
5 yourself, Mr. Andrews -- on the determination of how do
6 you -- the study areas, when you guys do moose surveys,
7 for example archaeological studies or site assessments,
8 you're talking about and referred to earlier, how do you
9 guys decide the area in -- in question?

10 THE CHAIRPERSON: Thank you. GNWT,
11 probably Dean Cluff or Mr. Andrews.

12 MR. DEAN CLUFF: Dean Cluff. I'll talk
13 about how we do for wildlife surveys. Well, it's species
14 specific, and it's objective specific. So if you want to
15 survey an area for abundance, or if you -- so it depends
16 on -- on the question that you want to ask, and then it's
17 also based on the biology of the species, you know. So
18 if there's movements that you want to capture and then
19 you include that.

20 Specifically for this Taiga Shield moose
21 survey that I presented, I -- I had -- I had identified
22 areas on the map where I thought we would do a survey.
23 It's got to be big enough to be representative of the
24 area, but yet also cost comes in, too, and so you figure
25 that in.

1 So I identified some areas, and then I
2 went to the communities and I asked: We're going to --
3 this is prior to March 2004 when we set this up, and I
4 asked the communities, you know: Where would you like to
5 see a moose survey occur? And so the boundaries had
6 expanded based on that input from the hunters in the
7 communities, so it included the Tlicho area with Russell
8 Lake and this area.

9 I wanted to include the Drybones Bay area
10 because that -- that is what started -- that was what got
11 it going, is the interest, developmental interest in the
12 Drybones Bay area. So I went over to the -- up to the
13 Beaulieu River, but I also thought I -- I wanted to
14 include the -- the Tibbitt-Contwoyto winter road, so I
15 included the Gordon Lake area and that area.

16 And then it's -- it's not so good to have
17 maybe two (2) disjunct surveyors. I wanted to have one
18 (1) contiguous area, so that's why it's one (1) big
19 polygon. And then I wanted to avoid the airport and the
20 air traffic that's coming in and out, so I have a little
21 bit of a -- of a blank in there, a hole there, if you
22 will. So that's the -- that was how that polygon formed
23 and -- and then we extrapolate that to the whole area for
24 the density.

25 THE CHAIRPERSON: Thank you. Mr. Danny

1 Bayha...?

2 MR. DANNY BAYHA: Yes. Thank you, Mr.
3 Cluff. So there's really no formal way of when you guys
4 decide the size and the location of these study areas,
5 there's no formalized process when you guys do this?
6 It's just more of as an -- an ad hoc basis, I guess you
7 could say?

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

10 MR. DEAN CLUFF: Dean Cluff. It's not --
11 I wouldn't say it's "ad hoc" and there's a lot of thought
12 that's put into it. And -- and there's a number of
13 factors, competing factors, that we have to consider, as
14 I mentioned, costs. But we also, in some areas, you look
15 at -- at the variation that you might expect and you
16 might have to adjust accordingly because we do want to
17 have some reasonable estimates.

18 And -- and you want -- the idea of doing a
19 survey is you want to have a representative sample for
20 the whole area and you want to extrapolate to that whole
21 area, so that's what's in consideration. So -- but -- so
22 you want to have enough of an area that captures some of
23 that diversity of the landscape, as well, because the
24 whole idea is to come up with an estimate that -- because
25 we can't sample the whole thing, survey the whole thing,

1 so its got to be representative and that's the key.

2 So we do that by select -- carefully
3 selecting an area with a number of considerations and
4 then also using the -- some randomization in there as a
5 way to get every moose, it has to potentially be sampled
6 in there. So there's a couple of principles, design the
7 study, and a statistical analysis of it so that it's --
8 it's representative.

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

11 MR. DANNY BAYHA: Thank you. Mr. Chair.
12 The other question I had -- like, you -- you mentioned
13 the density of moose in this area, for your study area.
14 You mentioned there was a moose survey in 2004 and in
15 2007 again, so there's two (2) that indicated.

16 Did the density of moose, four point one
17 (4.1) per 100 square kilometres, change between the two
18 (2) dates? Thank you.

19 MR. DEAN CLUFF: Dean Cluff. The moose
20 survey in 2004, March 2004, for that area was about three
21 point seven five (3.75) moose per 100 square kilometres.
22 So, yes, it did change but not significantly. We -- we
23 would probably consider that about the same given the
24 variation in the data.

25 MR. DANNY BAYHA: Okay. Thank you, Mr.

1 Cluff. And then one (1) final question, maybe that's
2 more for Mr. Andrews on -- on the issue of the buffer
3 zone.

4 Earlier an Elder asked a question about
5 how they arrive at the -- the issue of buffer zones. And
6 he -- and he mentioned the issue of you -- you wrote some
7 letters to the Boards recommending the change to a 100
8 metres. And -- but in this case you're recommending that
9 it stay at 30 metres.

10 Am I correct in that? Thank you.

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

13 MR. TOM ANDREWS: Yes, thank you, Mr.
14 Chair. Thank you, Mr. Bayha for the question.

15 Yes, we're recommending that 30 metre
16 buffer -- in this very particular instance where those
17 two (2) drill holes are close to -- within 38 metres of
18 one (1) of the -- one (1) of the archeological sites, a
19 buffer of 30 metres is adequate given that we know the
20 precise locations, yes.

21 THE CHAIRPERSON: Thank you. Any
22 further questions, Mr. Bayha?

23 MR. DANNY BAYHA: Yes, one (1) final
24 question, Mr. Chair.

25 Finally, I guess, this is sort of taking a

1 bit question from -- from Mr. -- an earlier Elder about
2 the buffer zones, how they arrived at that number. And
3 earlier you said there was some consideration of the --
4 the accuracy of the mapping that was -- is -- is
5 happening, but there might be a reconsideration once all
6 the stuff is in place.

7 What process? Like again, earlier this
8 goes back again to Mr. Cluff's idea of what formal
9 process is in place. Is there a process in place where a
10 certain number of parties got to be consulted, or is
11 there -- how that number is arrived at? I guess I just
12 want to get maybe more -- a bit more on that. Thank you.

13 THE CHAIRPERSON: Thank you, Mr. Bayha.
14 Mr. Andrews...?

15 MR. TOM ANDREWS: Thank you, Mr. Chair.
16 Thank you, Mr. Bayha.

17 The 30 metres is -- I guess that's been
18 grandfathered as the legislation came down when Canada
19 changed to a metric system. The -- the buffer used to be
20 a hundred feet and the legislative drafter, I suppose,
21 converted a hundred feet to 30 metres and that's how
22 we've come to that number today. That happened many
23 decades ago and I'm not sure how -- I honestly don't know
24 how the -- the buffer was decided at a hundred feet or 30
25 metres.

1 We chose a hundred metres based on the
2 mathematical error within the change of the map systems
3 themselves. That happened in the year 1990. So if you
4 put a dot on a map previous -- older than 1990 and took
5 that information and transferred it to a new map after
6 1990, it could be up to a hundred metres off of its -- of
7 its location. So it's for that reason that we chose a
8 hundred metres and recommended that to the Boards.

9 And if I may just go back, I forgot to
10 answer a question from somebody earlier about why we're
11 not taking extra steps to have that enshrined in
12 different ways.

13 And the reason is that it's Federal
14 legislation. So we're kind of an odd fish currently.
15 We're GNWT, but we manage federal legislation, the NWT
16 archeological sites regulations. They name the Minister
17 -- my Minister of Education, Culture, and Employment as
18 the responsible authority.

19 But the legislation itself is federal, so
20 it requires bringing the federal government on board to
21 make that change. So, thank you.

22 THE CHAIRPERSON: Thank you. Is there
23 any further questions, Mr. Bayha?

24 MR. DANNY BAYHA: No, thank you, Mr.
25 Chair.

1 THE CHAIRPERSON: Thank you, Mr. Bayha.
2 I'm going to go to Mr. Peter Bannon. Any questions for
3 GNWT?

4 MR. PETER BANNON: Yes. Thank you, Mr.
5 Chair. Peter Bannon. Just one (1) simple question first
6 for Mr. Andrews.

7 Is the definition of an archeological site
8 in the archeological regulations consistent, or
9 identical, to the one (1) in the MVRMA in its
10 regulations?

11 THE CHAIRPERSON: Thank you, Mr. Bannon.
12 Mr. Tom Andrews...?

13 MR. TOM ANDREWS: Thank you, Mr. Chair.
14 Thank you, Mr. Bannon. The short answer is, No. In
15 fact, there are several different forms of this
16 definition, either within the MVMR -- MVRMA legislation,
17 or within settlement legislation, as well.

18 The problem concerns the use of the term,
19 "heritage" as kind of a broad brush or an umbrella term,
20 and in many of those legislative tools they try to paint
21 that broad brush, you know, and protect a wide variety of
22 heritage places when, in fact, archeological sites are
23 just one (1) small part of that.

24 The regulations that I'm authorized to
25 operate under deal only with -- with those sites. Yeah,

1 that's the NWT arch -- archeological regulations.

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

4 MR. PETER BANNON: Thank you, Mr.
5 Andrews. Peter Bannon. I have a couple -- or one (1)
6 more question anyways dealing with archeological matters.

7 You mentioned the 2004 Snowfield's survey.
8 Did it cover the claim are that -- under -- that Mr.
9 Debogorski has? For example, does it extend out -- did
10 it extend out to Burnt Island and...

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

13 MR. TOM ANDREWS: Yes, thank you, Mr.
14 Chair. I'd have to go back and look at that report
15 specifically. My recollection is that they looked at the
16 island immediately offshore of the -- I wish I could
17 bring the slide up.

18 By Burnt Island, you mean the island
19 that's immediately offshore of the -- partially
20 encaptured by the -- by the Smitski claim, yes, it was
21 surveyed I think both in 2003 and 2004 by Mr. Thompson.

22 If we could -- there we go. So there we -
23 - so those are the known archeological sites on Burnt
24 Island, and I'm referring to the sites, of course, in
25 this area here.

1 Now I'd have to go back to check the
2 records to see whether that was 2003 or 2004, but as you
3 can see, the archeological survey has -- has covered that
4 island.

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

7 MR. PETER BANNON: Thank you, Mr.
8 Andrews. It's Peter Bannon again. I have a follow-up
9 question to the line of questioning related to the
10 archeological impact assessment that's being recommended.

11 So the survey that Snowfield did is less
12 robust than what you're recommending here. Is -- and
13 you're recommending the archeological impact assessment.

14 Is it to gain more confidence, or is it do
15 you think the Snowfield survey was flawed in some way?

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

18 MR. TOM ANDREWS: The Snowfield survey
19 was an archeological survey. We can never be 100 percent
20 sure. Like any science, when Mr. Cluff counts moose, he
21 has to estimate the number of moose in the area because
22 there's no possible way of you capturing or seeing every
23 one (1) of them.

24 It's similar with -- with archeology, that
25 unless you -- that unless you dig up every square cubic

1 centimetre of earth within the proposed area, you can
2 never be 100 percent sure that you've captured all the --
3 all -- all the archeological sites.

4 Given the importance of this area, given
5 its sensitivity, given the distribution of known
6 archeological sites, which is relatively high within the
7 realm of the Northwest Territories, we feel it best that
8 an additional archeological impact assessment be
9 undertaken, but specifically at the location of those
10 drill holes and other areas re -- receiving ground
11 disturbing development as a relation -- as -- as a part
12 of Mr. Debogorski's work -- proposed work.

13 And this is yes to bringing greater
14 clarity and assurance to the two (2) -- to the fact that
15 archeological sites are being protected, or impacts to
16 them are being mitigated.

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

19 MR. PETER BANNON: Thank you. Peter
20 Bannon. I have another question related to hunting, and
21 hunting pressures, I guess it is.

22 In the previous assessments, environmental
23 assessments, there was information, or there are
24 statements about increased hunting pressures because of
25 opening up this area for development, presumably -- or

1 most -- the reference was mostly to snowmobile.

2 Does the GNWT collect any information on
3 hunting in the area? Like do they -- through their
4 enforcement do they ask, or they when they stop someone
5 where they got a particular animal, or if they had been
6 hunting?

7 Or does the GNWT possess any information
8 that can lend itself to judging the hunting pressures the
9 development brings in this area?

10 THE CHAIRPERSON: Thank you. I'll go to
11 GNWT.

12 MR. DEAN CLUFF: For moose, we don't have
13 very good information for the moose harvesting for the
14 GHs, the -- the subsistence hunt, the general hunting
15 licence.

16 There's a resident hunting harvest that --
17 there's a -- a questionnaire that's surveyed out. So
18 then that -- that information gets recorded.

19 But in terms of the -- the subsistence
20 hunt, we just have some not very precise information. We
21 started trying to address that with a winter road survey,
22 but that's not in the Drybones Bay area, that's in
23 Tibbitt-Contwoyto.

24 For that area, we just have -- well, we
25 did try to have a community reporting a few years ago,

1 and we tried that for a couple of years to -- to get
2 people to report their moose harvest. But that was
3 discontinued because there just wasn't much reporting
4 going -- it was a voluntary thing. We had an incentive,
5 but again I think it's partly because people are very
6 protective of their -- their moose area that's hunting
7 because -- and so they don't -- they're reluctant to give
8 out that -- those location information, even though we
9 tried to be very general in what we requested.

10 So the short answer is, We don't have very
11 good information for the moose harvest for subsistence
12 use.

13 THE CHAIRPERSON: Thank you. Now for the
14 record that was Dean Cluff, GNWT. Mr. Peter Bannon...?

15 MR. PETER BANNON: Thank you. Peter
16 Bannon. I have no more questions.

17 THE CHAIRPERSON: Thank you. I'm going
18 to go to Richard Mercredi.

19 MR. RICHARD MERCREDI: Yeah, I have just
20 one (1) question for Mr. Andrews. I guess a point of
21 clarification.

22 Mr. Liske was talking about -- and he made
23 a statement about buffer zones, and I -- I guess I think
24 what he was trying to get at is historical trails.

25 When a site is designated as an

1 archeological site, does that mean nobody can assess it,
2 use it, hunt around it, or harvest in that area, so that
3 if a trail is designated that nobody would be able to use
4 it?

5 THE CHAIRPERSON: Thank you. Mr. Tom
6 Andrews...?

7 MR. TOM ANDREWS: Thank you, Mr. Chair.
8 Thank you, Mr. Mercredi, for the question.

9 Yes, essentially, once an archeo -- well,
10 the law protects all archeological sites, and it is
11 illegal to disturb them.

12 So once we're well aware of an
13 archeological site, a trail for example should it be
14 designated as such, then technically ground disturbing
15 use of that trail would be breaking the law.

16 So we -- you know, we -- we apply the law
17 carefully, and as I -- I gave the example of cabins
18 earlier. One (1) of the reasons why the issue of
19 possession is put in, there are many cabins for example,
20 well on the Mackenzie River, that are a hundred (100) or
21 two hundred (200) years old that are still used by
22 families today.

23 They meet the definition of -- of an
24 archeological site, and should they be designated as
25 such, it would mean that they couldn't change the

1 windows, or you know, do the -- the -- the regular
2 maintenance on the house.

3 So, you know, these are rules that we --
4 we manage them, I suppose, is the -- is the way to do
5 this. So I have worked with Aboriginal groups in the
6 Northwest Territories where they've asked for trails to
7 be designated as archeological sites, and we have done
8 that.

9 But it's -- I do it personally always in
10 consultation with the ab -- with the Aboriginal group I'm
11 working with, so. Thank you.

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

14 MR. RICHARD MERCREDI: Thank you, Mr.
15 Chairman. No more questions.

16 THE CHAIRPERSON: Thank you. Mr. Darryl
17 Bohnet...?

18 MR. DARRYL BOHNET: Thank you, Mr. Chair.
19 I have no questions.

20 THE CHAIRPERSON: Mr. James Wah-Shee...?

21 MR. JAMES WAH-SHEE: Thank you, Mr.
22 Chair. I just wanted to thank you for your presentation
23 to start off with.

24 In regards to the archeological site
25 surveys and -- and such, your -- your department that's

1 responsible for archeological sites, could you indicate
2 who you work with in regard -- in regards to working
3 those sites, doing surveys, and -- and such.

4 THE CHAIRPERSON: Thank you, Mr. Wah-
5 Shee. Mr. Tom Andrews...?

6 MR. TOM ANDREWS: Thank you, Mr. Chair.
7 Thank you, Mr. Wah-Shee, for the question.

8 You know, there are no set rules as to who
9 you have to work with. There's nothing that says in law
10 that you have to work with any particular group or
11 organization.

12 If you're asking how we, at the Prince of
13 Wales, conduct our own business, I'm happy to answer
14 that. We always work collaboratively with communities,
15 we work very closely with elders. We often will
16 undertake traditional knowledge surveys in advance of
17 doing archeological research so that we're aware of
18 traditional place names, of sacred site of graves, of
19 those kinds of things, so that when we're out in the bush
20 with elders it's much easier for us to understand how the
21 -- we'd do trails as well, how -- how -- how the land is
22 used.

23 In fact, we have found through long
24 practice that the Dene Elders have very important
25 information that assist archeologists in actually

1 locating archeological sites. And in essence, that's how
2 we undertake our -- our own work at the Prince of Wales
3 Northern Heritage Centre. Thank you.

4 THE CHAIRPERSON: Thank you. Mr. James
5 Wah-Shee...?

6 MR. JAMES WAH-SHEE: Thank you, Mr.
7 Chair.

8 Given the -- the current archeological
9 site survey that has been done, what would be your
10 assessment in regards to potential impact that this
11 particular project would have in regards to the
12 archeological sites, would be my question. Thank you.

13 THE CHAIRPERSON: Thank you, Mr. Wah-
14 Shee. Mr. Tom Andrews...?

15 MR. TOM ANDREWS: Thank you, Mr. Chair.
16 Thank you, Mr. Wah-Shee.

17 I would say that our professional opinion
18 would be that this is a small development program that is
19 taking place in an archeological rich area. Ten (10)
20 drill holes is not a large exploration program by any
21 stretch of the imagination. It's a fairly small program.

22 Unfortunately, it takes place at an area
23 where we are uncertain as to whether or not the --
24 whether or not other archeological sites -- or where we
25 expect that other archeological sites will exist in the

1 area.

2 Therefore, the probability is high that
3 these other undefined eight (8) drill holes may have an
4 impact on archeological resources in the area. And
5 consequently, we've recommended that an archeological
6 impact assessment be undertaken before that work was
7 done, to provide the assurance that those sites -- those
8 unknown sites at this point won't be disturbed.

9 THE CHAIRPERSON: Thank you. Mr. James
10 Wah-Shee...?

11 MR. JAMES WAH-SHEE: Thank you for your
12 answer. I have a question for the -- in regards to
13 wildlife.

14 You indicated the survey that has been
15 done to date, and I believe it's just off from Dettah
16 going east, and I wonder if you could just indicate the -
17 - the survey that has been done regarding the various
18 species regarding harvesting and such, is there any
19 indication that the -- the people that use that area in
20 terms of harvesting, is -- is that a shared thing between
21 Lutsel K'e and Dettah, for instance, or have you got any
22 indication of -- of the harvesting is more of the -- what
23 I'm interested in. Thank you.

24 THE CHAIRPERSON: Thank you, Mr. Wah-
25 Shee. GNWT, Mr. Dean Cluff...?

1 MR. DEAN CLUFF: Dean Cluff. So I think
2 you're referring to -- when you said east of Dettah,
3 that's probably the beaver survey, and then -- but you
4 mentioned Lutsel K'e, so that's a larger area. So we
5 don't have any -- any movement information of beavers and
6 -- and the aquatic fur bearers, you know, between the --
7 those areas. So we -- I -- I just -- we don't know.

8 There is certainly some movement of
9 animals that would be from the -- the Drybones area, say,
10 towards Lutsel K'e. We've -- we've had caribou, maybe
11 not in the same year, but certainly move between those
12 areas. And a few years ago we had a white-tailed deer
13 that was in -- in the Wool Bay area, and it probably came
14 through the -- the Simpson Islands, you know, through the
15 South Lake by Fort Resolution.

16 You know, I don't know that, but, you
17 know, it's -- there are -- there are white-tailed deer
18 there. So there is -- there is some movement of wildlife
19 between those areas, and -- and bears as well, you know.
20 So it's not just restricted to -- to caribou or -- or
21 other animals.

22 So, yes, there would be some -- some
23 movement information. Usually, that type of movement
24 information comes from marking individual animals,
25 whether that'd just be like an ear tag or some other

1 distinguishing mark, or a collar. So far we've only had
2 Barren Ground caribou collared in the area to give us
3 that information, so that's all I can report on.

4 THE CHAIRPERSON: Thank you. Mr. James
5 Wah-Shee...?

6 MR. JAMES WAH-SHEE: Thank you very much
7 for your -- your answers. I don't have any further
8 questions, Mr. Chair.

9 THE CHAIRPERSON: Thank you. Mr. Percy
10 Hardisty...?

11 MR. PERCY HARDISTY: Mahsi, Mr. Chair. I
12 don't have any questions.

13 THE CHAIRPERSON: Okay. Thank you. It's
14 now just about 12:30. I was going to suggest that we
15 just continue on maintaining our agenda, so I'm going to
16 see if we can just break for the next half-hour here, and
17 then we'll continue on at one o'clock.

18 MR. ALEX DEBOGORSKI: Mr. Chairperson?

19 THE CHAIRPERSON: Yes, Mr. --

20 MR. ALEX DEBOGORSKI: Could I still have
21 the opportunity to ask a question?

22 THE CHAIRPERSON: Yes. Just how many
23 questions do you have, though?

24 MR. ALEX DEBOGORSKI: I have -- I have
25 three (3) questions.

1 THE CHAIRPERSON: Okay. Let's hear them.

2 MR. ALEX DEBOGORSKI: Mr. Andrews, in
3 regards to archaeological study of any of these areas,
4 are there guidelines provided by the government or the
5 Prince of Wales Heritage Centre so that an area doesn't
6 have to be gone over multiple times?

7 THE CHAIRPERSON: Mr. Andrews...?

8 MR. TOM ANDREWS: Thank you, Mr. Chair.
9 Thank you, Mr. Debogorski. The -- the arc -- the impact
10 assessments are determined by the extent of the
11 development. So if the development changes in some way,
12 then it requires an -- an arc -- an -- an archaeological
13 impact assessment again.

14 If you choose -- one of the things that we
15 always do with this is, there are many ways to approach a
16 problem. One is that you could contract an archaeologist
17 to do an in depth, detailed, exhaustive study over a
18 broad area to ensure that the entire area has been
19 effectively cleared, and wouldn't need to be done again.
20 That would require many, many weeks of field work on the
21 basis -- on the part of the archaeologist and would be
22 very expensive -- it would be a very expensive
23 undertaking.

24 In instances where you have a series of
25 very precise locations where you want to look at, it's of

1 great cost savings to look at just those small areas. So
2 we have made that recommendation. However, we're happy
3 to -- if you wish to change, in your own conduct of
4 business in the area, wish to look -- do an
5 archaeological impact assessment over a broader area, we
6 would certainly encourage you to do that.

7 THE CHAIRPERSON: Okay. Thank you. Mr.
8 Debogorski, your second question?

9 MR. ALEX DEBOGORSKI: Thank you. If one
10 didn't want to do the study, what would your comment be
11 if one was to drill -- set the drill up on the ice just
12 offshore and drill back towards land under the area,
13 rather than touching the area?

14 THE CHAIRPERSON: Thank you. Mr. Tom
15 Andrews...?

16 MR. TOM ANDREWS: Thank you, Mr. Chair.
17 Thank you, Mr. Debogorski. We have less concern with
18 land uses on water or on ice. There are a few rare
19 instances where underneath the water, there are downed
20 aircraft or sunken historic wreck of different kinds.

21 I don't believe that there's anything in
22 this area of concern whatsoever, so we would recommend no
23 action whatsoever in terms of archeology, if your program
24 was contained to the ice.

25 THE CHAIRPERSON: Thank you. Mr.

1 Debogorski, you're third question?

2 MR. ALEX DEBOGORSKI: Thank you, Mr.
3 Andrews. Mr. Cluff, would you say a cow about to -- a
4 cow moose about to calf would avoid any noise, or threat,
5 and chose a different spot to calf as compared to always
6 having to calf in the one (1) spot?

7 THE CHAIRPERSON: Thank you. GNWT, Mr.
8 Dean Cluff...?

9 MR. DEAN CLUFF: Dean Cluff. I don't
10 have any specific individual information on what a cow
11 moose will do each calving season; whether she has the
12 same calf on the same island, or the same area each year,
13 we just don't have that information. There might be
14 others in this room that might know that, but I can't
15 provide that.

16 But in terms of moving an area, it would
17 depend I think on the cover. You know, if -- if --
18 basically it's -- that cow moose is making a
19 determination in her own mind about the security and
20 safety of her calf, and -- and that would depend on -- on
21 her experience.

22 So it's definitely possible that a moose
23 could be habituated to some noises, if -- if it's
24 predictable. Those are all things that -- that
25 presumably that cow moose would make in her assessment,

1 and the extent of it.

2 So -- so what -- what an individual moose
3 will do in her behaviour will depend on a number of other
4 factors, and, as I say, it involves her experience, and -
5 - and the characteristics of the landscape. And then I -
6 - so I -- and I don't have any data that I can share with
7 you. We'd have to have some collared moose, for
8 instance, and see what they did, you know, to know that,
9 from our point of view.

10 THE CHAIRPERSON: Thank you. Mr.
11 Debogorski, do you have any further questions?

12 MR. ALEX DEBOGORSKI: No, thank you.

13 THE CHAIRPERSON: Thank you. Okay, what
14 we will do is we'll stop there. We'll resume at 1:00.
15 We'll continue on with the Akaitcho IMA Office, so they
16 can come up and prepare.

17 And we have food provided, so we'll resume
18 at 1:00.

19

20 --- Upon recessing at 12:31 p.m.

21 --- Upon resuming at 1:19 p.m.

22

23 THE CHAIRPERSON: This afternoon we've
24 got -- we have next on the agenda of this Hearing is the
25 presentation by the Treaty 8 Tribal Corporation, Akaitcho

1 IMA Implementation Office with Ms. Stephanie Poole. So
2 I'll just get her to come up and -- and start with your
3 presentation and then just do your introduction.

4 Also, maybe we could dim the lights a bit.

5

6 (BRIEF PAUSE)

7

8 PRESENTATION BY TREATY 8 TRIBAL CORPORATION - AKAITCHO

9 IMA IMPLEMENTATION OFFICE

10 MS. STEPHANIE POOLE: Good afternoon. My
11 name is Stephanie Poole and I work for the Akaitcho
12 Interim Measures Agreement Implementation Office under
13 the NWT Treaty 8 Tribal Corporation.

14 This is our presentation for the
15 Environmental Assessment 1112-001 Debogorski. The
16 purpose of this presentation, to recommend measures and
17 procedures that if implemented will help ensure that the
18 Debogorski Project does not have significant adverse
19 impacts upon the rights and aspirations of the Akaitcho
20 Dene First Nations.

21 Observation 'A.' I'm referring to
22 observations made by the Mackenzie Valley Land and Water
23 Board in their reasons for decision for referring this
24 project to an Environmental Assessment, and also the
25 consequent scope that's issued by the Review Board.

1 So it says there is a contentious history
2 of other applications in the Drybones Bay area from
3 existing environmental assessment evidence on the public
4 registry. This EA cannot ignore the context and history
5 of the Drybones Bay area, particularly the conclusions
6 and recommendations made previously by the Review Board
7 itself.

8 The Treaty 8 Tribal Corporation maintains
9 that the public registry for this Environmental
10 Assessment must remain open in order to and include all
11 evidence from all the previous Environmental Assessments
12 in the region, including the ongoing Enacor -- Encore
13 Renaissance and Sidon International Environmental
14 Assessments.

15 Observation 'B,' the Review Board
16 previously made suggestions in February of 2004 that no
17 new land use permits be issued for proposed developments
18 within the shoreline zone and within Drybones Bay and
19 Wool Bay proper until a plan has been developed.

20 Failure to acknowledge this suggestion,
21 let alone implement, is the root cause of the conflicts
22 in the Drybones Bay area.

23 The Treaty 8 Tribal Corporation maintains
24 that the Review Board must hold fast to its position. A
25 measure should be made indicating that no permits or

1 licences should be issued in the Drybones Bay area until
2 the federal government has developed and implemented, in
3 partnership with the Akaitcho Dene, a plan of action that
4 may guide regulatory considerations in the area.

5 The Review Board has stated recently that
6 the cumulative cultural impacts in the Drybones and Wool
7 Bay areas are at a critical threshold. This is from
8 February 2008.

9 In the absence of a cumulative effects
10 assessment, the Review Board cannot determine whether the
11 activities proposed in combination with other exploration
12 and land use activities will significantly impact upon
13 the natural and cultural landscape of the area.

14 The Review Board must require an adequate
15 cumulative effect assessment of all exploration
16 activities, historical and contemporary, upon the
17 Drybones Bay area prior to any new permit licence
18 consideration. This could be completed as part of the
19 Plan of Action.

20 It is the understanding of the Treaty 8
21 Tribal Corporation that Mr. Debogorski has until recently
22 received relief from Aboriginal and Northern De --
23 Aboriginal Affairs and Northern Development Canada under
24 Section 81 of the NWT and Nunavut Mining Regulations.
25 This relief was not provided over the past year. The

1 federal government has failed to inform prospective
2 developers proposing activities in the Drybones Bay area
3 of the contentious nature of the region, thereby luring
4 unwitting developers into a quagmire of uncertainty and
5 regulatory process.

6 The Review Board should provide a
7 directive to AANDC until such time as a plan of action is
8 implemented to secure an order from the Governor and
9 council to set apart the Drybones Bay area as per Section
10 4 or Section 23(d) (2) of the Territorial Lands Act; to
11 offer relief from fulfilling representation work to
12 mineral claim holders in the Drybones Bay area as per the
13 NWT and Nunavut Mining Regulations; to offer relief from
14 paying rent to mineral lease holders in the Drybones Bay
15 area.

16 The Akaitcho Dene have long maintained
17 that the federal government has not adequately consulted
18 them regarding proposed developments in the Drybones Bay
19 area. There can be no debate that the duty to consult
20 and accommodate here is at the most rigorous end of the
21 spectrum. The impacts are real, significant, and are
22 infringing upon rights as we speak.

23 The Review Board must communicate to the
24 Federal Government that it cannot satisfactorily complete
25 Environmental Assessments in the absence of a Crown led

1 process whereby rights infringements are assessed and
2 adequate accommodations are implemented. This process
3 could include, to a large degree, the development of a
4 plan of action for the area.

5 This is not about a small scale project.
6 It is about the cumulative impacts of a host of projects
7 across a limited landscape where mineral exploration
8 activities have already directly resulted in real
9 significant negative impacts such as the graveyard fire,
10 the sunken tanker, and the decreased traditional use.

11 The federal government has long been aware
12 of the pressures and sensitivities in Drybones Bay, at
13 least since 2003. In the eight (8) years since,
14 government agency action to alleviate this pressure has
15 amounted to exactly zero. Unless compelled to do so, the
16 federal government will continue to do nothing about
17 Drybones Bay.

18 And then we'll just finish it off from
19 this quote, and -- from the Environmental Assessment
20 0506-005 where it says:

21 "The Review Board is of the view that
22 cultural impacts are being caused by
23 incrementally increasing development in
24 this important area, including the
25 proposed development. The Review Board

1 is of the opinion that these cumulative
2 cultural impacts are at a critical
3 threshold. Unless certain management
4 actions are taken this threshold will
5 be surpassed."

6 Thank you.

7 THE CHAIRPERSON: Thank you.

8

9 QUESTION PERIOD:

10 THE CHAIRPERSON: Thank you. Okay. Next
11 we have questions to the Akaitcho IMA office from -- in
12 this case, I'll go to Alex Debogorski.

13 Do you have any questions for Ms.
14 Stephanie Poole on her presentation?

15 MR. ALEX DEBOGORSKI: Alex Debogorski.
16 No questions, thank you.

17 THE CHAIRPERSON: Thank you. I'm going
18 to go to YKDFN, Todd Slack, if you have any questions for
19 Ms. Stephanie Poole.

20 MR. TODD SLACK: Todd Slack, YKDFN. No
21 questions.

22 THE CHAIRPERSON: Thank you. I'm going
23 to go to the GNWT. Any questions?

24 MR. GAVIN MORE: Gavin More, GNWT. No
25 questions, Mr. Chair.

1 THE CHAIRPERSON: Thank you. I'm going
2 to go to the North Slave Metis Alliance. Any questions
3 for Ms. Stephanie Poole for -- on her presentation?
4

5 (BRIEF PAUSE)
6

7 THE CHAIRPERSON: None? Thank you. I'm
8 going to go to the public, any questions for Ms.
9 Stephanie Poole?
10

11 (BRIEF PAUSE)
12

13 THE CHAIRPERSON: Okay. Thank you.
14 None.

15 Next one I have is the Review Board legal
16 counsel. Any questions for Ms. Stephanie Poole on her
17 presentation?

18 MR. JOHN DONIHEE: Mr. Chairman, John
19 Donihee. No questions from counsel or Board staff.

20 THE CHAIRPERSON: Okay. Thank you. I'm
21 going to go to the Review Board members. This time I'm
22 going to go to my far left, Mr. Percy Hardisty.

23 MR. PERCY HARDISTY: Mahsi, Mr. Chair. I
24 don't have any questions.

25 THE CHAIRPERSON: Thank you. Mr. James

1 Wah-Shee...?

2 MR. JAMES WAH-SHEE: Mr. Chair, thank
3 you. I just want to say thank you for your presentation.
4 I don't have any questions. Thanks.

5 THE CHAIRPERSON: Thank you. Mr. Darryl
6 Bohnet...?

7 MR. DARRYL BOHNET: Thank you, Mr. Chair.
8 I have no questions. Thank you.

9 THE CHAIRPERSON: Thank you. Mr. Richard
10 Mercredi...?

11 MR. RICHARD MERCREDI: Thank you, Mr.
12 Chair. No questions.

13 THE CHAIRPERSON: Mr. Peter Bannon...?

14 MR. PETER BANNON: Peter Bannon. I have
15 one (1) question.

16 You mentioned in your presentation that,
17 as far as the management plan or -- I think you were
18 speaking generally as concerned, the federal government
19 has done absolutely zero in the last eight (8) years.

20 During the last public hearing for Encore,
21 they submitted some undertakings where, indeed, they said
22 some work has been undertaken, and I think it was with
23 the -- the group of Akaitcho First Nations that's
24 negotiating the land claims on some of these matters.

25 Are you standing by the -- your statement

1 that they've done absolutely zero, or perhaps what
2 they've done is inadequate?

3 THE CHAIRPERSON: Thank you, Mr. Bannon.
4 Ms. Stephanie Poole...?

5 MS. STEPHANIE POOLE: Thank you.
6 Stephanie Poole, Akaitcho IMA Office. I'm going to go
7 with absolutely zero, and also in -- inadequate. Thank
8 you.

9 THE CHAIRPERSON: Thank you. Mr. Peter
10 Bannon...?

11 MR. PETER BANNON: Peter Bannon. No more
12 questions.

13 THE CHAIRPERSON: Thank you. Mr. Danny
14 Bayha, Board member.

15 MR. DANNY BAYHA: Thank you. No
16 questions.

17 THE CHAIRPERSON: Thank you. Ms.
18 Stephanie Poole, mahsi cho for your presentation. Thank
19 you.

20 Now I'm going to, I guess, ask for the --
21 if there's anybody here from the North Slave Metis
22 Alliance that want to come up and make a presentation. I
23 don't know if there's anybody here.

24

25 (BRIEF PAUSE)

1 THE CHAIRPERSON: I don't see anybody.
2 Okay. With that, I'm then going to go on to ask the
3 government officials from AANDC and Northern Development
4 Project Office, if you're -- the officials are here, we
5 may have some questions for you, so if -- you're welcome
6 to come up.

7

8 (BRIEF PAUSE)

9

10 THE CHAIRPERSON: Okay. So we have the
11 government officials here from different departments of
12 AANDC, and I guess maybe what we could do is imagine
13 there's a spokesperson, and you could do introductions
14 and so on. I'll turn it over to you guys.

15

16 QUESTION PERIOD - AANDC GOVERNMENT OFFICIALS

17 MR. MARC LANGE: While we fight that --
18 who -- who introduces themselves first, I'll start, Mr.
19 Chairman, and Board members. I'm Marc Lange, acting
20 director for environmental -- what director am I --
21 Renewable Resources and Environment with AANDC.

22 MR. JAMES LAWRANCE: James Lawrance. I'm
23 a director here at the regional office of AANDC. My role
24 is to provide support and assistance in the regional
25 office on Crown consultation matters. And sitting next

1 to me is our legal counsel, Jason Steele, from the
2 Department of Justice.

3 MS. KATE HEARN: Mr. Chair and Board
4 members, my name is Kate Hearn, and I'm the director of
5 Mineral and Petroleum Resources for the AANDC regional
6 office here in Yellowknife, and my directorate's role is
7 to administer the NWT/Nunavut mining regulations.

8 MR. MATTHEW SPENCE: Hi -- hi there,
9 Board members. My name is Matthew Spence. I'm a senior
10 project manager with the Northern Project Management
11 office, and the mandate of the Northern Project
12 Management office is to coordinate Federal participation
13 in environmental assessments, larger environmental
14 assessments than the one (1) we're contemplating here
15 today. Thank you.

16 THE CHAIRPERSON: Okay, thank you. Just
17 -- just so I'm clear, you guys are familiar with this
18 file, and I presume that you guys have already went
19 through the documentation on the public registry, and --
20 and so on before we go into questioning.

21 So I just want to get a nod from you guys,
22 if you guys are familiar with the file.

23

24

(BRIEF PAUSE)

25

1 THE CHAIRPERSON: Okay. For the record,
2 it -- it -- it's noted that they -- they are familiar
3 with this file.

4 With that, I'm going to go into
5 questioning from the developer that you may have with the
6 government officials that are before us here today.

7 So I'm going to open it up for
8 questioning. So I'm going to go to Mr. Alex Debogorski.

9 MR. ALEX DEBOGORSKI: Alex Debogorski.
10 No questions. Thank you.

11 THE CHAIRPERSON: You sure? Okay. Thank
12 you. We're getting off too easy here. Okay. I'm going
13 to go to YKDFN. So Todd Slack.

14 MR. TODD SLACK: Todd Slack, YKDFN. I
15 have two (2) questions, one of which dates from the CGV
16 hearing.

17 At that hearing, and I -- I'm going to
18 para -- or para -- try and paraphrase Mr. Empson's
19 comment, where he asked Mr. Lawrance:

20 "In regards to the 2010 Minister's
21 letter, there was an indication that
22 the land use planning, or the plan of
23 action, would be initiated..."

24 I'll -- I'll call it sometime soon. I
25 forget the exact phrasing. At that time, he had asked if

1 you could comment on what that timing would be.

2 You had asked for that to be taken as an
3 undertaking, but during that -- or when that undertaking
4 was submitted there was no comments on the time lines for
5 the in -- the initiation of that process.

6 I'm wondering if you could offer comments
7 at this point.

8 THE CHAIRPERSON: Thank you, Mr. Todd
9 Slack. I'm going to AANDC, Mr. James Lawrance.

10 MR. JAMES LAWRENCE: I have no further
11 comments or information on that question, or the
12 undertaking that we already provided in CGV.

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

15 MR. TODD SLACK: Thank you. And my
16 second question is for Mr. Spence, and CanNor. During
17 the -- the preconference hearing, you indicated that
18 CanNor, and again correct me in the phrasing, was the
19 consultative record holder. And at that time, you said
20 that you were expecting YKDFN to, once again, state their
21 infringements.

22 What is it that you understand the
23 Yellowknives' infringements and concerns to be with
24 developments in the Drybones Bay? Not just with this
25 file, but on a cumulative sense.

1 THE CHAIRPERSON: Thank you, Mr. Todd
2 Slack. I'm going to go to Matthew Spence.

3 MR. MATTHEW SPENCE: Thank -- thank you.
4 First of all, I just wanted to clarify the -- the role of
5 -- of CanNor, and -- and really the Northern Projects
6 Management office, in that we do hold the consultation
7 record; however, we do not comment on that record. We
8 are just the holders of the record, so I will not provide
9 comments on what mitigation measures or what assertions
10 have been made. That will be done by somebody else, not
11 by the Northern Project Management office. Thank you.

12 THE CHAIRPERSON: Okay. Before I go back
13 to Todd Slack, maybe the people on that side of the
14 table, if you could pull your mic a little bit closer so
15 we can -- I don't know, maybe I'm deaf, but anyways. Mr.
16 Todd Slack...?

17 MR. TODD SLACK: In that case, who, in
18 CanNor's opinion, is the proper person to put that
19 question to?

20 THE CHAIRPERSON: Thank you. Mr. Matthew
21 Spence...?

22 MR. MATTHEW SPENCE: Thank you, Mr.
23 Chair. I -- I actually don't know. I think it's a --
24 it's a -- obviously a -- a government priority to
25 determine what infringements are made and the strength of

1 those insur -- infringements, and I think it'll be a -- a
2 whole of government approach to determining that. Thank
3 you.

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

6 MR. TODD SLACK: Thank you, Mr. Chair. I
7 think we've got good answers there.

8 THE CHAIRPERSON: Okay. Thank you. Next
9 speaking order would be is GNWT, if there's any questions
10 from the GNWT on AANDC's --

11 MR. GAVIN MORE: Thank you, Mr. Chair.
12 Gavin More, GNWT. I have just one (1) question, which is
13 really the one I asked this morning, and I was actually
14 hoping Todd would ask it instead of me, because I can't
15 paraphrase or repeat what he said this morning.

16 But -- but, basically, in the Yellowknives
17 Dene slide show and -- and background evidence, they have
18 sug -- have stated that an enforceable framework for
19 managing in the area, some kind of a -- of a planning
20 management approach is required. And in looking at the
21 conclusion, I asked for clarification of what one (1) of
22 the phrases meant in terms of an enforceable system, and
23 Todd described -- and I'll paraphrase it as being,
24 basically, a policy directive from INAC to the Land and
25 Water Board that -- that would end up being that

1 enforceable system.

2 And I really wanted to confirm with
3 Aboriginal Affairs that that is a workable, doable
4 approach that has been put forth by the Yellowknife Dene,
5 and if it's -- if it's not workable, for whatever reason,
6 whether it's a legal problem or whether that's just
7 outside the ability for the kind of directive that --
8 that Aboriginal Affairs could give to the Land and Water
9 Board, what could replace it if -- if people won't accept
10 the -- the other types of planning approaches, like the
11 Great Bear Lake plan or the community conservation plan?

12 So I think I just wanted to -- to make
13 absolutely sure that the approach put forward is workable
14 and doable, and, if not, I think we should know that now.
15 Thank you, Mr. Chair.

16 THE CHAIRPERSON: Thank you. I'm going
17 to go -- turn it over to AANDC on the other side of the
18 table.

19 MR. MARC LANGE: Marc Lange. I'll take a
20 crack at the answer. By its nature, policy direction is
21 -- policy advice, I think, is what we'd -- we'd call it,
22 and certainly the models that highlighted in the
23 question, Mr. Chairman, relating to Great Bear Lake and
24 community conservation plans in Inuvialuit are very much
25 advice to decision makers on how to mitigate impacts, if

1 you will.

2 So those plans were drafted with a lot of
3 stakeholders, community members, and -- and once they're
4 complete and approved by those who developed them, they
5 form advice for -- for the decision makers to -- to
6 follow.

7 The -- I think the implication of policy
8 direction moving into enforceability, though, is -- is
9 not -- is not linked, in my mind, with that particular
10 tool, and I think by the time you get in -- into
11 enforceable conditions, you're talking about, in my mind,
12 licence conditions or conditions outlined in -- in legal
13 instruments.

14 THE CHAIRPERSON: Thank you. I'm going
15 to go back to GNWT, Gavin --

16 MR. GAVIN MORE: Thank you, Mr. Chairman.
17 That was the -- the kind of answer that I was looking
18 for. I was seeking some confirmation about the
19 enforceability, because that would appear to be a key
20 issue on the part of the Yellowknife Dene. Thank you.

21 THE CHAIRPERSON: Okay. Thank you, Mr.
22 Gavin.

23 I'm going to go the Akaitcho IMA Office,
24 Ms. Stephanie Poole.

25

1 (BRIEF PAUSE)

2

3 MS. STEPHANIE POOLE: Thank you.

4 Stephanie Poole, Akaitcho IMA Office.

5 Questions. I have questions regarding
6 Section 81. And -- and since some of your staff members
7 are here today, maybe you could explain to me exactly why
8 this relief was not granted to Ms. -- Mr. Debogorski in
9 this case. I recall some note to file from the Review
10 Board in the past where Mr. Debogorski had met with
11 staff, and various government agency representatives, and
12 -- and they had talked about his situation, and -- and
13 this Section 81 relief was discussed. And if I recall
14 correctly, there was a certain amount of work that was
15 done that was -- was not reported, and -- and that if it
16 were reported it -- it might make him eligible for that
17 relief.

18 And so maybe if you could just explain to
19 me a little bit about why that relief was not granted in
20 this case, and then I have a couple more questions after
21 that.

22 THE CHAIRPERSON: Thank you, Ms.
23 Stephanie Poole. I'm going to go back to AANDC.

24 MS. KATE HEARN: Thank you, Mr. Chair.
25 I'm not sure where the information came from about the

1 relief, but Mr. Debogorski's claims are currently under
2 Section 81 relief until next July, I believe, 2012. And
3 that is the fourth round of relief that's been granted
4 for Mr. Debogorski's claims.

5 THE CHAIRPERSON: Okay, thank you. For
6 the record, that was Kate Hearn. I want to go back to
7 Ms. Stephanie Poole.

8 MS. STEPHANIE POOLE: Stephanie Poole,
9 Akaitcho IMA Office. I'm sorry, I didn't hear the end of
10 -- of what you had said there. He's -- he's -- is there
11 a maximum amount of relief? Has he used up his -- is
12 there a limit? I -- I didn't catch what you said there
13 at the end.

14 THE CHAIRPERSON: Thank you. Ms. Kate
15 Hearn...?

16 MS. KATE HEARN: Thank you, Mr. Chair.
17 Kate Hearn speaking. No, there isn't no maximum amount --
18 sorry, no maximum amount of relief. We -- we ask
19 claimholders to apply each year because their
20 circumstances can change, but as long as they are facing
21 circumstances beyond their control we generally grant
22 relief. And -- and circumstances can be weather, it can
23 be -- you know, need to create a relationship with
24 communities, or any number of factors that we look at.

25 So, there is -- there is no limit to

1 relief, but we do consider it on a case-by-case annual
2 basis, as necessary.

3 THE CHAIRPERSON: Okay. Before I go to
4 Ms. Stephanie Poole, maybe -- if we could maybe pull that
5 mic a little closer, so that -- next time around when we
6 come back.

7 Okay. Ms. Stephanie Poole...?

8 MS. STEPHANIE POOLE: Thank you.
9 Stephanie Poole, Akaitcho IMA Office. So, I'm -- I'm
10 kind of really confused now, because I thought that the
11 reason that Mr. Debogorski had applied for a land use
12 permit was because he -- he could not receive this type
13 of relief, but now you're saying he -- he has that relief
14 until next summer.

15 When -- when -- if you're a claimholder,
16 and you're applying for this relief, you say you review
17 it annually as required, so you can apply any time
18 throughout the fiscal year, or is there an application
19 deadline?

20 THE CHAIRPERSON: Thank you. Ms. Kate
21 Hearn...?

22 MS. KATE HEARN: Thank you, Mr. Chair.
23 Because claims are recorded at different times, and it's
24 on the anniversary date that the claimholder needs to
25 consider whether they need a Section 81, or whether

1 they're able to file representation work on the claim, we
2 accept applications any time of the year. So, it's --
3 it's up to the individual claimholder. And, you know, we
4 certainly track our records to check when work is due,
5 and, you know, if -- if a Section 81 might be needed.

6 We do encourage claimholders to try and
7 work claims if -- if possible, so, you know, maybe that's
8 part of the confusion. But yeah, there is -- there is no
9 top limit on the number of Section 81s. Thank you, Mr.
10 Chair.

11 THE CHAIRPERSON: Thank you. Ms.
12 Stephanie Poole...?

13 MS. STEPHANIE POOLE: Stephanie Poole,
14 Akaitcho IMA Office. Just to be clear, I want -- I want
15 to understand that. Even though, over the past decade,
16 there have been several suggestions and recommendations,
17 and -- and even measures from -- from the Review Board
18 saying that no new activity -- activity should not be
19 occurring in this very sensitive area, your department is
20 still promoting that people who hold claims do actual
21 work there, even though you're aware of the issues
22 surrounding the area, you're still recommending people to
23 do work in that area.

24 Is that correct?

25 THE CHAIRPERSON: Thank you. Ms. Kate

1 Hearn...?

2 MS. KATE HEARN: Thank you, Mr. Chair. I
3 didn't quite mean to express it like that. We encourage
4 people to work claims regardless of the location, because
5 we have to work under the regulations that we're charged
6 with administering.

7 So, under the regulations, if -- if
8 assessment work isn't completed on the claim, then the
9 claimholder is no longer eligible to hold that claim and
10 the claim will lapse. So, the -- the regulations do set
11 out a -- a -- I don't want to say a requirement, but an
12 eligibility to keep the claim based on the amount of work
13 done.

14 So, we are looking for companies or
15 individuals to attempt to do bonafide work on claims
16 within the broader framework, whether that's land use
17 planning, or -- or, you know, the regular -- the broader
18 regulatory system that's at play. But under our
19 regulations we have to follow our regulations, and
20 without a Section 81, or without work on the claims then
21 the claims will lapse. Thank you, Mr. Chair.

22 THE CHAIRPERSON: Thank you. Ms.
23 Stephanie Poole...?

24 MS. STEPHANIE POOLE: Thank you.
25 Stephanie Poole, Akaitcho IMA Office. So, if this land

1 use permit were not to be issued, Mr. Debogorski would
2 still qualify for a Section 81 relief in 2012.

3 Is that correct?

4 THE CHAIRPERSON: Thank you. I'm going
5 to go to Kate Hearn.

6 MS. KATE HEARN: Thank you, Mr. Chair.
7 Yes, that is correct, Mr. El -- Mr. Debogorski would be
8 eligible to apply for another Section 81.

9 THE CHAIRPERSON: Thank you. Ms.
10 Stephanie Poole...?

11 MS. STEPHANIE POOLE: Thank you. I just
12 also wanted to clarify one (1) other thing. It's been
13 mentioned a couple times about the -- the undertaking
14 that was put on AANDC from the previous Encore Renni --
15 Renaissance public hearing that -- that we were at last
16 month, and -- and they have re -- replied to that
17 undertaking.

18 Are you saying that today you have no
19 further comment in regards to that document, those
20 answers to that undertaking? Is -- is that your position
21 here today?

22 THE CHAIRPERSON: Thank you. I'm going
23 to go to AANDC.

24 MR. JAMES LAWRENCE: James Lawrence.
25 That's correct. I have no further comment, or

1 information.

2 THE CHAIRPERSON: Thank you. Ms.
3 Stephanie Poole...?

4 MS. STEPHANIE POOLE: Thank you. No
5 further questions at this time.

6 THE CHAIRPERSON: Okay. Thank you.
7 Questions from the North Slave Metis Alliance?

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: Okay. Nothing. Now,
12 I'm going to go to the public for questions for the
13 government officials? Yeah, there was one (1) in the
14 back here.

15 MR. PHILIP LISKE: My name is Phil Liske.
16 I'm a YK Dene and a -- I am Treaty. And you guys are
17 talking about my land, and I -- regulating without proper
18 consultation and that.

19 This morning there -- just a couple of
20 presentations was -- were made and they had regulation
21 there too. They were following the regulations there,
22 legislation. Now, you guys are saying, We're -- this is
23 our policy, this is our -- our regulations. And -- and
24 Weledeh Dene, they've got Dene Law.

25 So, we've got all kinds of regulations,

1 policy, and Dene Law here. I mean, they're over --
2 they're overla -- overlapping on one another. One (1)
3 guys says, Okay, you're not supposed to do this in so
4 many feet on the burial site, it's regulations. And then
5 afterward he says, As long as we have the evidence there,
6 you're not supposed to do this and that. We got evidence
7 there. And we got Dene law: respect, trust. This is our
8 treaty land we're talking about here, our livelihood, our
9 air, water, land, animals.

10 You know, it's -- I think there's too many
11 laws, you know, just to -- to try to set up the mine
12 there. We know it's -- it's going to be harmful, but
13 somehow we're by -- we're just bypassing the law. You're
14 not abiding with our law, and Mackenzie Valley Board,
15 they're not abiding by your law. You -- you know,
16 everybody's got their own law, or legislation, and that.

17 And -- and like I said, you know, it --
18 it's like this is our -- our land. It's not yours. It's
19 Dene -- Weledeh Dene, that's their land. We never
20 surrender, they never bought -- bought off the land from
21 us, we never went to war, and they took over our land.
22 You're talking about our land, our livelihood, our water.

23 You know, without -- without proper
24 consultation and that, and you -- they're making all
25 kinds of recommendations, or suggestions, and putting law

1 into place. I don't -- I don't think that's fair.

2 So, maybe we should get something
3 straightened out here, you know. It's -- we seem to get
4 all over the place here. We're talking about
5 regulations.

6 You know, Indian Affairs over there,
7 they're supposed to be helping the treaty people. It was
8 agreed in 1900, we'll look after us, we'll look after our
9 land. They're not even doing that. Here, they're --
10 they're just signing permits left and right, without
11 proper consultation through our First Nation.

12 A big truck went through the ice at bes --
13 Drybone Bay. Indian Affairs told them to take the truck
14 out. To this day, nothing happened. You know, they're
15 not even abiding their own law. They didn't even charge
16 those people.

17 So, what kind of law we're talking about
18 here? If we're not going to follow it, don't mention it,
19 you know. We're just tired of hearing that we've got to
20 do this by certain -- our policy and that. You guys
21 bring in your own policy, your own laws and that; I don't
22 think -- I don't think that's good. You're talking about
23 people's life here, Dene law, Dene land, water.

24 So -- so, I -- I think it's -- you know,
25 if we get the proper consultation, how we're going to do

1 this thing, you know, just do it right. We're not saying
2 don't go drill there. We're going to have to have -- kind
3 of an agreement in place, or some kind of a compensation,
4 make sure it doesn't happen again, like Giant mine, Con
5 mine. And the government there just sitting there
6 looking like -- as if we're not, you know, we don't know
7 all those stuff.

8 They pollute that water. Here we're
9 supposed to be getting free water. How many times -- how
10 many years, year after year? Not my -- not my
11 generation. My generation, and my parents' generations,
12 they talk about those things already, and you guys don't
13 listen.

14 So, this has been going on year after
15 year. I don't think it's fair. Your -- bit -- by piece
16 -- you guys are just grabbing it, grabbing it and
17 destroying it.

18 Back Bay was -- here, it was already
19 polluted. The -- the First Nations put a little bit
20 gravel there, right away the Fisheries officer they jump
21 in right away, they want to -- they took us to court,
22 they wanted, you know -- that they said we're -- we're
23 disturbing the habitat. It's already destroyed forty
24 (40) years ago, so you know, that's what I'm saying,
25 there -- there's too many --

1 THE CHAIRPERSON: Philip --

2 MR. PHILIP LISKE: -- you know, the --
3 why their not doing anything about it -- they -- you
4 know, they're there. That's what I'm saying there.

5 THE CHAIRPERSON: Maybe --

6 MR. PHILIP LISKE: If we -- if we tell
7 them to do something, do it, do it right, for our sake.

8 THE CHAIRPERSON: Okay, Philip, I have a
9 -- we're just asking questions. Do you have a question?

10 MR. PHILIP LISKE: Well I asked -- I
11 asked a bunch of questions already. Why, you know --
12 like --

13 THE CHAIRPERSON: Okay.

14 MR. PHILIP LISKE: -- you got too much
15 regulations here. Who -- what regulation are we
16 following here? We got Dene -- Dene law, they got their
17 own regulation policy and val -- and Mackenzie Valley, we
18 got --

19 THE CHAIRPERSON: Okay. Well, maybe --
20 okay --

21 MR. PHILIP LISKE: Because, you know, we
22 -- criss-crossing one another --

23 THE CHAIRPERSON: Yeah. Okay, you want
24 to stop there for a second.

25 MR. PHILIP LISKE: -- regulations.

1 THE CHAIRPERSON: Philip, we hear what
2 you're saying. I just wanted to point out that, you
3 know, we're here today just to hear one (1) file, which
4 is the Alex Debogorski file. And this is a process where
5 people have an opportunity to come in and express their
6 issues and concerns, and -- and some of the issues and
7 concerns you raise are noted for public record.

8 And, also, I think some of the issues that
9 you're talking about could also be addressed, probably,
10 through the -- a process which is probably through the
11 Akaitcho Treaty Entitlement process.

12 So, some of the issues you raise are
13 really good issues, Philip; however, I -- I do ask --
14 maybe I'll just pick up on one (1) question that you --
15 you mention was the -- the truck that went through the
16 ice. Maybe we could get AANDC to clarify, maybe what
17 your policy is on that -- on --- issuing permits to
18 companies that make their own winter road to mine site.
19 How is that -- what -- what's the process there?

20 And then, what's the liability in regards
21 to a vehicle going through the ice, and what is your
22 policy on that? Because this came up at our last
23 meeting. Again, it was raised here today by Elder Philip
24 Liske.

25 And on -- and after that I want to

1 continue on with the public for questions.

2

3

(BRIEF PAUSE)

4

5 MR. MARC LANGE: Marc Lange, with -- with
6 AANDC. Mr. Chairman, I could probably speak more clearly
7 to the -- to the policy issue, rather than -- than this
8 particular case. And -- and before I do so, maybe, for
9 the record, I can refer to the answer from AANDC and from
10 Environment Canada that was provided on the record on the
11 Encore (Renaissance Project. And it's document
12 1176232863.

13 But in short, Mr. Chairman, the
14 department, AANDC, doesn't have a mandate over the water
15 below the ice -- ice and -- and the removal of the truck.
16 The removal of the -- of the truck and -- is -- is an
17 issue that the Department of Fisheries and Oceans and
18 Coast Guard examined, and it's their jurisdiction to deal
19 with -- with that particular issue.

20 THE CHAIRPERSON: Okay. It shed light
21 on the -- that question anyway.

22 Okay. I want to continue on with the
23 public. Anybody else in the public that want to take
24 this opportunity to question AANDC in regards to the
25 Debogorski Public Hearing here today?

1 (BRIEF PAUSE)

2

3 THE CHAIRPERSON: Okay. I'm going to go
4 to the lawyer, it looks like he had a -- sorry, Mr. James
5 Lawrance.

6 MR. JAMES LAWRENCE: Just quickly, I
7 think just to attempt to answer, I think, another
8 question that Philip was asking, which -- what I heard in
9 -- in his statement were some questions about the nature
10 of consultation and how consultation will proceed, both
11 in general, I think he was talking, but also specifically
12 this project, so I think it deserves an answer.

13 The Government of Canada, the responsible
14 Ministers will receive the report of EA from this
15 process. Additionally, they'll be receiving other
16 reports of EA from related hearings. At that point
17 Canada has to assess what further consultation may or may
18 not be required.

19 So, the MVEIRB process, Philip, is very
20 much a part of consultation and I -- I personally am
21 pleased to see people taking part in it. I know the
22 comments been made there's been seven (7) of these EAs,
23 eight (8) of these hearings, and when you hear the
24 comment that evidence should be brought forward, that's
25 really much a -- a technical thing. It's not because

1 your evidence hasn't been heard before, it's because the
2 Crown wants to ensure that evidence is on the record for
3 each of these hearings and can be taken into account
4 precisely, so the Crown can determine when it gets a
5 report from EA what further if necessary consultations
6 need to happen.

7 So, the process isn't over in terms of the
8 consultative relationship between the Yellowknives and
9 Canada. We're in that process, and the process will
10 continue through the responsible Minister's consideration
11 of the Board's report. And should projects proceed
12 through the regulatory phase, the land and water phase,
13 that's also a further part of the consultative
14 relationship.

15 So, I wanted to be clear about the Crown's
16 position in that respect, in terms of your comments,
17 Philip.

18 THE CHAIRPERSON: Thank you. Okay. I'm
19 going to go back to any show of hands from the public.

20 Mr. Debogorski, do you want to respond?

21 MR. ALEX DEBOGORSKI: Alex Debogorski,
22 developer. Ms. Hearn, you are right, I've got Section 81
23 for all those terms. This particular Section 81 for next
24 year is it -- because I'm going through this process, my
25 understanding of that Section 81, but is it not true that

1 the August 9th, 2010, I got a letter from your
2 department, Mr. Holfer (phonetic), saying that if I want
3 to get further Section 81, I had to go through the
4 process, that I had to apply to the -- to the Water Board
5 for a -- to -- for land use. And I spoke to you on
6 another occasion and you supported that.

7 Is that not true, that I had to go through
8 the process?

9 THE CHAIRPERSON: Thank you. I'm going
10 to go to Kate Hearn.

11 MS. KATE HEARN: Thank you, Mr. Chair.
12 Yes, that is true, and in general we do encourage
13 developers to make best efforts to work on their claim,
14 whether that's putting in an application, or talking to
15 the Board, or -- or whatever the circumstances dictate
16 cons -- sorry, whatever the circumstances dictate would
17 constitute a best effort.

18 MR. ALEX DEBOGORSKI: Thank you.

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

21 MR. ALEX DEBOGORSKI: Thank you. That's
22 all.

23 THE CHAIRPERSON: Okay. Thank you. Any
24 show of hands in the back in regards to questions for the
25 Government officials on Alex Debogorski's EA file from

1 the -- in this hearing?

2

3

(BRIEF PAUSE)

4

5

THE CHAIRPERSON: Okay. I don't see any.
6 Okay. I'm going to go to the Review Board -- sorry? Oh,
7 in the back, former Chief Fred Sangris.

8

MR. FRED SANGRIS: Hi. My name is Fred
9 Sangris. I'm a member of Yellowknives Dene. I have two
10 (2) questions. Several years ago I was in Ottawa, and
11 Elder Boucher was with me that time. We were signing --
12 the Chief was signing the proposed national park for the
13 East Arm.

14

At that time Minister Baird was there and
15 I pulled him aside. I said: Minister Baird, we're still
16 dealing with the truck in the water, and this has been a
17 few years, and we're still asking you, your department,
18 have you made any development or any action on it.

19

His comment to -- to me and Elder Boucher
20 was that he sent a letter to the Department of INAC in
21 Yellowknife to take action and to work on recovering the
22 truck out of the water. And he said -- and he said it
23 very clearly, so I understood. And at that time I said,
24 Okay, thank you, and I'm hoping that the department will
25 take action on it.

1 So, I'm asking the INAC officials here,
2 the bureaucrats, if you received that letter, or is there
3 action taking place on it, or did the Minister just throw
4 me a bluff? Thank you.

5 THE CHAIRPERSON: Thank you, former Chief
6 Fred Sangris. I'm going to go to AANDC, or somebody over
7 there wants to answer.

8

9 (BRIEF PAUSE)

10

11 MR. MARC LANGE: Marc Lange. Sorry, Mr.
12 Chairman, we were just consulting, asking each other if
13 we had seen or heard of the letter, and none of us here
14 at least had -- had seen a letter. But -- yeah, if
15 there's further actions required on this one, we could --
16 we could undertake to look at what was filed previously
17 to see if a response to the letter is -- is there.

18 MR. FRED SANGRIS: Thank you.

19 THE CHAIRPERSON: Thank you. I'm going
20 to go back to Chief -- former Chief Fred Sangris.

21 MR. FRED SANGRIS: Thank you. I -- I
22 know the letter is there. It could be in archival by
23 now. But search it. We're very serious about having the
24 truck taken out of there. The project hasn't even began
25 yet and already there's impact, serious stuff there

1 that's happening already, and as Yellowknives Dene, we're
2 -- we're very concerned. Hopefully someone will act on
3 it.

4 My second question is that because this
5 project is having a serious impact on our very lives
6 here, as Philip Liske was saying, it has a huge impact on
7 our -- on our lives. People who make their living on the
8 land, similar to yourselves going to work 9:00 to 5:00,
9 making a living, we make our living out there, as well.
10 Our wild foods are there, our country foods are there,
11 our -- our home is there.

12 How are you going to accommodate --
13 consult and accommodate the Yellowknives Dene, so that
14 these series of hearings could be put aside, and how the
15 Yellowknives will -- will be taken care of? Because we
16 are -- we are Treaty 8, and do we have a -- coexist and
17 arrangements with Canada, and Canada holds the land in
18 trust on our behalf. And that's the reason why Phil is
19 saying we own the land.

20 Canada holds the land in trust on our
21 behalf, and works with developers and everyone else. But
22 we want -- I want to know how Canada is going to consult
23 and accommodate the Yellowknives Dene, or has that work
24 been done, and on its way? Thank you.

25 THE CHAIRPERSON: Thank you, Fred

1 Sangris. I'm going to go to, probably, James Lawrance.

2 MR. JAMES LAWRENCE: James Lawrance. We
3 will receive the report of EA from this hearing, and the
4 responsible Ministers will review that report and
5 determine their next steps, including what their next
6 steps will be in relation to any Crown consultation.

7 So, the short answer is that's something
8 the Crown has to figure out after it receives the report.

9 THE CHAIRPERSON: Okay, thank you. I'm
10 going to go back to former Chief Fred Sangris.

11 MR. FRED SANGRIS: No, that's -- that's
12 the only two (2) question I had. Thank you.

13 THE CHAIRPERSON: Okay. Mahsi. Any --
14 anybody else in the audience that want to make comments
15 or question to the AANDC? Because if I don't see anybody
16 else, I want to go to the Review Board now, to legal
17 counsel.

18 Any questions for AANDC on this Debogorski
19 EA file public hearing?

20 MR. JOHN DONIHEE: It's John Donihee, for
21 the Review Board. Yes, I have a couple, Mr. Chairman.

22 And perhaps I can start -- a couple
23 questions around this Section 81 issue. It -- it appears
24 from the evidence in the proceeding that Mr. Debogorski
25 has benefited from Section 81 relief in the past, and

1 that he apparently was told that it would not be
2 available to him, and that he should get on and make best
3 efforts to -- to try to get the work done on his claims.

4 Now, I guess the -- the question I -- I
5 have is that we're -- we're told -- we heard some
6 evidence this morning from others that there would be
7 what was called "a wave of applications" if Section 81
8 relief weren't available to either lease or claimholders
9 in this area, so the fir -- the first question I have is
10 whether or not AANDC could tell the Board if there are
11 other subsurface interest holders caught in the same
12 situation as Mr. Debogorski, and whether or not this
13 Section 81 issue is -- you know, is -- is it something
14 that's going to result in -- in others finding their way
15 to the Board, or, you know, is the wave coming? Is there
16 -- are there a lot of applications that we need to be
17 concerned about that will generate these kinds of issues?

18 THE CHAIRPERSON: Thank you, Mr. Donihee.
19 I'm going to go to AANDC.

20 MS. KATE HEARN: Thank you, Mr. Chair.
21 Gosh, it's -- I -- I'm not anticipating a wave of Section
22 81 applications in the Drybones area itself. Since 19 --
23 or, sorry, since 2005, we've granted relief on forty-one
24 (41) claims held by eight (8) individuals. so, annually,
25 depending on when the claim has been recorded, we've been

1 granting relief, but I -- you know, I could make an
2 undertaking to try and look at the -- the overall
3 picture.

4 But we -- we tend to look territory-wide
5 or region-wide. But, you know, circumstances change,
6 which is why we do Section 81s on a case-by-case annual
7 basis, and we try and touch bases with the claimholder
8 and understand the individual circumstances and what's
9 going on, so it's -- it's difficult to make a prediction.

10 THE CHAIRPERSON: Okay. Thank you, Mr. -
11 - Ms. Kane -- Kate Hearn. Mr. Donihee, when you speak,
12 can you pull the mic up a little bit closer to your --
13 yourself, and also, there's a suggestion for an
14 undertaking, Dr. Donihee.

15 MR. JOHN DONIHEE: Yes, thank you, Mr.
16 Chair. I don't -- I -- I don't think I -- we need the
17 undertaking. It -- it's not going to help us -- at
18 least, I would suggest it's not going to help the Board
19 make a decision in Mr. Debogorski's case. I think that
20 my concern was simply to try to ensure that the context,
21 you know, around the evidence that we heard this morning
22 was understood, and your answer has, I think, solved that
23 problem for me.

24 I -- I just would like maybe if -- though,
25 if you could give us a -- a little bit more. I -- I take

1 it that the decision as to whether or not to grant
2 Section 81 relief is discretionary. And -- and that --
3 I've read the regulations, the language is quite broad.

4 And -- and so I just to confirm, I guess,
5 that circumstances such as this, where you have a -- a
6 sensitive area and real concerns that need to be worked
7 out between the First Nations and -- and developers, and
8 -- and perhaps government as well, that -- that those --
9 those are the kinds of circumstances that you've granted
10 this sort of relief in in the past?

11 THE CHAIRPERSON: Thank you. I'm going
12 to go back to AANDC.

13 MS. KATE HEARN: Thank you, Mr. Chair.
14 Yes, those are the sorts of, among others, circumstances
15 that we granted Section 81 relief in the past.

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

18 MR. JOHN DONIHEE: Thank you, Mr.
19 Chairman. John Donihee. I have one (1) other question
20 that I want to ask, and it -- it relates to -- or it
21 follows from an answer given by Mr. Lange, in response to
22 a question from GNWT.

23 Mr. Lange, you were -- and, again, I'm
24 paraphrasing, and I'm not trying to put words in your
25 mouth, so I'm sure you'll listen carefully. I -- but I

1 think that you were asked about the use of policy
2 directions as -- as perhaps an alternative to permits or
3 licences; ways -- ways to get a plan implemented. And my
4 sense of your answer was that you were discounting the
5 utility of policy directions for those purposes. You
6 made reference to, you know, such things as having terms
7 and conditions in licences and permits.

8 So, is it fair to say that that's -- I
9 just want to get the ground rules down -- is that -- is
10 that what you were saying? Is that what you were
11 suggesting to the Board, that policy directions might not
12 be the way to go, that it would be better to -- to use
13 regulatory instruments?

14 THE CHAIRPERSON: Thank you, Mr. Donihee.
15 I'm going to go back to AANDC.

16 MR. MARC LANGE: Marc Lange. Thank you,
17 Mr. Chairman, for the opportunity to clarify my answer.

18 I guess, when I reheard the -- the
19 question posed again, I was thinking of at least three
20 (3) options for -- for policy direction. The -- the
21 Federal Government can provide policy direction to
22 Boards. That's -- that's one (1) situation.

23 There can be land-use planning tool
24 documents that -- and -- and that's what I focussed my
25 previous answer on. Those sorts of land-use planning

1 tools can provide advice to those who make decisions. So
2 -- so, it's a document to consider when, for example, a
3 regulator issues a licence. That's the second type, and
4 I focussed my answer on that one.

5 And -- and the third aspect, I guess, is
6 legal instruments, like the -- the law -- our permit.

7 And -- so I wasn't implying one (1) is
8 better than -- than another. They're all different
9 tools. The situation would dictate what -- what tool you
10 might pick.

11 THE CHAIRPERSON: Okay, thank you. Mr.
12 John Donihee...?

13 MR. JOHN DONIHEE: Thank you, Mr.
14 Chairman. Thanks, Mr. Lange. I -- I just -- you've
15 helped, but I do want to direct -- I'm sure you're aware
16 -- but direct your attention to the -- the plans for
17 implementation of the Dehcho land-use plan, which is not,
18 of course, a planning region, or a plan that would be
19 developed pursuant to the Mackenzie Valley Resource
20 Management Act. In -- in that case the -- my
21 understanding is that the intention of your department is
22 to issue a policy direction, at least the last time I
23 heard, it was to issue a policy direction to the
24 Mackenzie Valley Land and Water Board as a mechanism for
25 implementation of the land use plan.

1 And -- and so I'm -- I'm asking you, I
2 guess, to maybe reconsider what you said, because it --
3 it does seem to me that if you can do that in the Dehcho,
4 that -- that there would be ways for the Minister -- your
5 Minister's power under Section 83 of the MVRMA to be
6 called in aid of the kind of plan that's being proposed
7 for this area, and -- and that it might provide one (1)
8 mechanism for actually implementing something that was
9 more enforceable than just a -- a plan like the
10 Inuvialuit community conservation plans, for example.

11 Could -- would you comment on that for me,
12 please.

13 THE CHAIRPERSON: Thank you, Mr. Donihee.
14 I want to go to AANDC.

15 MR. MARC LANGE: Yeah, Marc Lange. Yeah,
16 to -- I suppose that's what I was -- that's exactly one
17 (1) of the options I was considering when answering my
18 question, so I -- in short, I would agree, yeah.

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

21 MR. JOHN DONIHEE: Thank you, Mr.
22 Chairman. Those are my questions. I believe Ms.
23 Phillpot has a question.

24 THE CHAIRPERSON: Thank you. I'm going
25 to go to the Review Board staff. Is there any questions

1 for AANDC?

2 MS. DARHA PHILLPOT: Thank -- thank you,
3 Mr. Chairman, yes, I do have a question for Aboriginal
4 Affairs, or NPMO, and it's with regard to some comments
5 in -- that have been put forward about the depth of
6 consultation that YKDFN feels is required for this
7 project. They've stated that given -- and I don't want
8 to paraphrase -- I will paraphrase here: Given the
9 critical importance of the area, and given some of the
10 earlier determinations about cumulative cultural impacts,
11 that they feel that the highest level of consultation
12 accommodation is required in this instance. And I
13 believe that they placed that at the far end of the
14 spectrum.

15 So, with this in mind, I have two (2)
16 questions. And it's: Given the evidence that you have
17 before you now, what is the Crown's preliminary
18 assessment about the depth of consultation and
19 accommodation that would be required to discharge the
20 Crown's duty for this particular project approval?

21 THE CHAIRPERSON: Thank you. We're going
22 to have to probably go to James for -- this is for
23 Northern Management Project Office. Which -- which
24 department that --

25 MS. DARHA PHILLPOT: That was a question

1 for Aboriginal Affairs, and --

2 THE CHAIRPERSON: Okay.

3 MS. DARHA PHILLPOT: -- Northern
4 Development Canada.

5 THE CHAIRPERSON: Thank you. I'm going
6 to go to James Lawrance.

7 MR. JAMES LAWRENCE: Yes, it's James
8 Lawrance. Given the complexity of this process, related
9 processes, as well as our other engagements and
10 relationships with the Yellowknives Dene, particularly
11 through the negotiation process, the manner in which this
12 is going to be assessed and analysed is an ongoing
13 process. It's -- they -- it's been something -- this --
14 this process itself is part of that.

15 So, I don't have a preliminary assessment
16 I can share with you now. That's still what we're in the
17 process of doing, as we go through this process and
18 receive the report. We also have other engagements with
19 the Yellowknives that are all part of the mix, in
20 determining how we move forward.

21 THE CHAIRPERSON: Thank you. Darha
22 Phillpot...?

23 MS. DARHA PHILLPOT: Thanks, Mr.
24 Lawrance. I had one (1) further questions. And I -- I
25 believe it's answered in what you just said, but, for

1 clarification, if you could just state for the record
2 what other Crown consultation and accommodation has
3 occurred outside of this process, if any.

4 THE CHAIRPERSON: Thank you. James
5 Lawrance...?

6 MR. JAMES LAWRENCE: There has not been a
7 specific Crown/Yellowknives Dene consultation process
8 outside of this hearing for the proponent's application.
9 I -- I've stated before, and I think others have stated
10 it here, it's a rather complex situation, there's a
11 number EAs in the area underway, and our -- our steps
12 forward with the Yellowknives Dene are going to have to
13 be determined as we go.

14 You've heard earlier today, of course,
15 there were some steps in relation to the CIMP program.
16 There has been some engagement on issues like that that
17 will help inform us and -- and the Yellowknives as we go
18 forward. But further steps in terms of Crown
19 consultation will be determined as we -- as we go here.

20 THE CHAIRPERSON: Okay. So, James, what
21 you were just saying is that basically the answer is
22 "no", in short?

23 MR. JAMES LAWRENCE: I just don't think
24 it's as simple as that. Consultation is -- is -- like, a
25 large spectrum that starts in the very beginnings of an

1 issue. In this case it's run through seven (7) different
2 EAs, sep -- seven (7) different projects. So, which --
3 which parts are the relationship, which parts are the
4 discussions form consultation, or form the important
5 parts of consultation is --is something, you know, we
6 need to get our minds around as well.

7 I guess, my answer is that this is part of
8 consultation today. There has been consultation related
9 to these issues in the past. We have a larger
10 relationship with the Akaitcho Dene First Nations through
11 our negotiations to resolve differences over treaty and
12 Aboriginal rights, and there will be further engagement
13 and -- and work done by all the parties as we move
14 forward. All of this forms a part of the Crown's
15 relationship and consultation with the Yellowknives.

16 If there are to be further steps in
17 relation to this application and specific Crown
18 consultation activities, that's something that we'll be
19 determining as we go forward.

20 THE CHAIRPERSON: Thank you, James. I'm
21 going to just continue on with this question from Darha
22 Phillpot.

23 We have an EA in front of the Board. I
24 guess the question is: Have INAC or AANDC consulted with
25 YKDFN on this file outside this process?

1 MR. JAMES LAWRANCE: We have not had a
2 separate consultation meeting with the Yellowknives on
3 this application.

4 THE CHAIRPERSON: Thank you. Any
5 further question, Ms. Darha Phillpot?

6 MS. DARHA PHILLPOT: No, thank you.
7 That -- those are all my questions, Mr. Chairman.

8 THE CHAIRPERSON: Thank you. Before I
9 go to my Board members to my right, I want to go --
10 recognize an Elder from Dettah, Ms. Judy Charlo. She's
11 over in the back, so -- so I recognize her.

12 I want to go to my right. Board members,
13 questions for AANDC?

14 Mr. Danny Bayha, Board member.

15 MR. DANNY BAYHA: Yeah, I just had a few.
16 Thank you, Mr. Chair.

17 Earlier you were talking about the --
18 Kate, maybe you -- you could try to answer this question.
19 You mentioned earlier that there was forty-one (41)
20 Section 81 relief that it was granted. Are we talking
21 about in this area or in -- territory-wide? Thank you.

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

24 MS. KATE HEARN: I'm sorry, Mr. Chair, I
25 missed the very first part of the question. But,

1 generally, we grant -- as applied for, we grant Section
2 81s territory-wide.

3 MR. DANNY BAYHA: Sorry. I'll -- I just
4 wanted to know in this area, in Drybones Bay area, how
5 many Section 81 relief has been issued in -- since, I
6 don't know, since you can remember, I guess? Thank you.

7 THE CHAIRPERSON: Thank you, Mr. Bayha.
8 Kate Hearn...?

9 MS. KATE HEARN: Thank you, Mr. Chair.
10 The numbers I -- since I can remember, would be based on
11 the numbers I have in front of me. So, since 2005 there
12 have been eight (8) individuals holding forty-one (41)
13 mineral claims in the area, and we have been granting
14 them annually in that area.

15 THE CHAIRPERSON: Okay. Thank you.
16 Board member, Danny Bayha...?

17 MR. DANNY BAYHA: Thank you for that. It
18 gives an idea of how many claims are in there that could
19 be active.

20 The other question I have is the issue of
21 the -- of the Section 81 relief. So, every year these
22 individual -- eight (8) individuals have to apply for
23 their relief; and have they been -- is this hap -- been
24 happening since 2005 that these been -- been granted
25 relief for these eight (8) individuals, or claimholders?

1 THE CHAIRPERSON: Thank you, Mr. Bayha.
2 Kate Hearn...?

3 MS. KATE HEARN: Thank you, Mr. Chair.
4 Sorry. My staff provided me with those numbers, but we
5 could possibly look further back and determine whether we
6 have been granting Section 81s previous to that. And,
7 certainly, throughout the region and throughout the NWT,
8 we grant Section 81s, as they're applied for.

9 THE CHAIRPERSON: Thank you. Mr Bayha,
10 would you take it as a -- or -- or would you suggest an
11 undertaking on this?

12 MR. DANNY BAYHA: Yeah, if that's
13 something the department can certainly look into it, it'd
14 be great to have that information. Thank you.

15 THE CHAIRPERSON: Okay. I'm going to
16 suggest that if maybe we could get your department to
17 provide that information to us, Ms. Kate Hearn's, and we
18 could probably give you a couple of weeks on this. I was
19 going to suggest maybe on the 21st of October, if that'd
20 be enough time to provide that information to -- to us
21 so. So we could take that as Undertaking number 1.
22 Thank you.

23

24 --- UNDERTAKING NO. 1: AANDC to advise whether the
25 eight (8) claimholders have

1 Specific to mineral and the mineral claims in that area,
2 the mining recorder's office does not provide
3 information. But, the mining recorder's office will
4 certainly direct, if asked, people to either the Mineral
5 Development Division of my Directorate or Matthews unit
6 in CanNor. And both units are available to claimholders
7 to "path find", as we call it, so we'll direct people to
8 the Prince of Wales, or communities, or wherever we think
9 someone has an interest in what the developer is
10 proposing to do.

11 So, we certainly try and inform people as
12 much as we can.

13 THE CHAIRPERSON: Thank you. Mr. Danny
14 Bayha...?

15 MR. DANNY BAYHA: Thank you. And -- and
16 just one (1) final question, I guess, again. There's
17 lots of -- it seems so far to our hearing that,
18 essentially, the -- the department hasn't done much in --
19 in terms of trying to resolve some of the issues that's
20 been going on. As you're aware, EAs have been done and
21 numerous public hearings.

22 I just wanted to know, like, earlier there
23 was questions on tools that we have existing,
24 legislatively or otherwise, that could be used, and --
25 and is there any suggestions you guys might have to try

1 to go through this issues that I'm sure is going to be
2 coming up again and again, unless something happens? But
3 I just wanted to know if you guys had anything to offer
4 that we could certainly be worthwhile -- consider? Thank
5 you.

6 THE CHAIRPERSON: Thank you. I'm going
7 back to AANDC.

8

9 (BRIEF PAUSE)

10

11 MR. MARK LANGE: Mark Lange. I'll --
12 I'll take a crack at this. From our perspective, there -
13 - there are many tools available to manage the
14 environment in whole, and a -- a few examples, we're at
15 one (1) now, the environmental assessment process is one
16 (1) step. There's the regulatory process, also is -- is
17 another set of tool.

18 But outside of those there are other
19 approaches, as well. There's land claim negotiations,
20 where some of these -- these issues come up. There's
21 land withdrawals, are -- are also another set of tools.
22 Often we -- when there's a concern about -- or a conflict
23 between environment and development, we end up studying
24 or monitoring the questions, so there's monitoring
25 programs. They're also tools to -- to study some of

1 these questions. There's also -- you know, other --
2 other tools are to protected area strategy.

3 Also, there's -- so these are examples, I
4 guess, of -- of tools just outside of the strict
5 regulatory process that are available to us managing --
6 managing the land.

7 THE CHAIRPERSON: Thank you. Any further
8 questions, Mr. Bayah?

9 MR. DANNY BAYAH: That's all I had.
10 Thank you.

11 THE CHAIRPERSON: Thank you. I'm going
12 to go to Board member Peter Bannon.

13 MR. PETER BANNON: Peter Bannon. I have
14 no questions. Thank you.

15 THE CHAIRPERSON: Okay. Thank you. Mr.
16 Richard Mercredi...?

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

19 THE CHAIRPERSON: Thank you. Board
20 member Darryl Bohnet...?

21 MR. DARRYL BOHNET: Thank you, Mr. Chair.
22 I have a couple questions. We've heard that Section 81
23 has really triggered this whole process, and we heard
24 from Kate Hearn that these -- exemption under Section 81
25 is on a case-by-case basis annually. And, obviously,

1 that creates a fair amount of uncertainty for any claims
2 holder, because they need to apply and exemption may be
3 granted. So, it's very uncertain.

4 I also heard from our legal advisor that
5 the NWT mining regulations were broad and discretionary.

6 So, my question to you is: Are the NWT
7 mining regulations broad enough to contemplate exemption
8 for a longer period of time than annually; for instance,
9 until the plan of action is concluded and/or land claims
10 settled?

11 THE CHAIRPERSON: Thank you. I guess
12 that's directed to Kate Hearn. So, Kate Hearn...?

13

14 (BRIEF PAUSE)

15

16 MS. KATE HEARN: Mr. Chair, can I make an
17 undertaking to get back to you with an answer to that
18 question?

19

20 (BRIEF PAUSE)

21

22 THE CHAIRPERSON: Okay. Thank you. We
23 could take that as an undertaking to Mr. Bohnet's
24 question, October 21st. And I'll say that maybe we could
25 have those undertakings, under number 1 and number 2,

1 into our office by not later than 4:00 p.m. on October
2 21st.

3

4 --- UNDERTAKING NO. 2: AANDC to indicate if the NWT
5 mining regulations are broad
6 enough to contemplate
7 exemption for a longer period
8 of time than annually; for
9 instance, until the plan of
10 action is concluded and/or
11 land claims settled

12

13 THE CHAIRPERSON: Mr. Bohnet...?

14 MR. DARRYL BOHNET: Thank you, Mr. Chair.
15 By next question is posed to Mr. Matthew Spence, Northern
16 Projects office. I understand that the role of your
17 office is to coordinate the Federal family in
18 relationship to projects. We've had a hearing earlier,
19 and this hearing we've heard about the truck, and I find
20 it interesting that it's the old bureaucratic shuffle:
21 It's not my problem, not my problem. And your
22 representatives have said that it clearly settles on the
23 Department of Fisheries and Oceans and -- and the Coast
24 Guard.

25 So, have you been, in your coordinating

1 role as the Northern Projects office, alerted the
2 Department of Fisheries and Oceans and Coast Guard
3 regarding this truck?

4 THE CHAIRPERSON: Thank you. I'm going
5 to Matthew Spence.

6 MR. MATTHEW SPENCE: Yes. Thank you, Mr.
7 Chair. Matthew Spence. No. No, we -- we have not
8 alerted DFO.

9

10 (BRIEF PAUSE)

11

12 THE CHAIRPERSON: Okay. Thank you. I'm
13 going to go to Mr. Darryl Bonnet.

14 MR. DARRYL BOHNET: Do you intend to
15 inform, alert, these government agencies that have the
16 responsibility to do something with the truck?

17 THE CHAIRPERSON: Thank you. Mr. Matthew
18 Spence...?

19 MR. MATTHEW SPENCE: Thank you, Mr.
20 Chair. If -- if directed, we can certainly -- certainly
21 do that.

22 THE CHAIRPERSON: Well, before I go back
23 to Mr. Bohnet, I think this is an issue that has been
24 ongoing since the public hearing for CGV, then now
25 Renaissance, and it was an issue and raised by YKDFN to

1 Indian and Northern Affairs. And I don't know how much
2 alert we need to give you guys to go out and -- and get
3 that issue dealt with. And if I heard right earlier, the
4 former Chief had mentioned that they've spoken to John
5 Baird in trying to get this issue resolved.

6 So, I -- I guess I want to get a
7 commitment from you, and want to make sure here and now
8 that -- that your department is going to look at this
9 issue.

10 Mr. Spence...?

11 MR. MATTHEW SPENCE: Thank -- thank you,
12 Mr. Chair. I guess, from a coordination perspective, we
13 can -- we can let DFO know that there -- that there was a
14 concern raised today regarding the -- regarding the
15 truck, once again. However, we don't have any authority
16 over DFO to do something about the truck, so the best we
17 can do is we can alert them that once again the issue was
18 raised at the public hearings today for the Debogorski
19 hearings, and that it's a obviously a concern, both of
20 the Yellowknives Dene, as well as the Mackenzie Valley
21 Environmental Assessment Review Board. Thank you.

22 THE CHAIRPERSON: Okay. Thank you.
23 Before I go to Mr. Bohnet. So, when the letter goes out,
24 can I get copied on that for the record, as well?

25 MR. MATTHEW SPENCE: Sure. I was

1 planning to -- to call them and have them hopefully
2 follow up with you, but if you'd like I will -- I will be
3 -- I will take an undertaking to provide an answer back
4 from DFO on this issue.

5 THE CHAIRPERSON: Take -- then I'll take
6 that as Undertaking number 3, and I'll give you till 4:00
7 on the 21st of October.

8

9 --- UNDERTAKING NO. 3: NPMO to contact Department of
10 Fisheries and Oceans
11 concerning the truck in the
12 water, and provide its reply
13 to the Board

14

15 THE CHAIRPERSON: Thank you. Mr.
16 Bohnet...? I'm going to go back to -- before Mr. Bohnet,
17 go back to AANDC.

18 MR. MARC LANGE: Yeah, Marc Lange. Yeah,
19 Mr. Chairman, I -- I think, despite the conversation that
20 we're having here, I think -- I think that's a good
21 suggestion, and -- and we'll -- Matthew will be taking it
22 on. But, I guess, what I wanted to say is I'm quickly
23 getting the impression that this -- that we're leaving,
24 as Canada, the impression this truck sank and no one's
25 taking care of it. And I want to clarify, that's not the

1 case.

2 Any time there's a spill or an incident on
3 water, reports go into the spill line, and a whole bunch
4 of things happen. Either investigation begins -- and I'm
5 -- I'm -- in this case I'm fairly confident the officials
6 with Fisheries and Environment Canada conducted an
7 investigation. Now, what the determination was and the
8 what the conclusion is, we can't tell you at this point.
9 That's -- I think that's what we were saying in our
10 answer, is we don't know what the outcome of the
11 investigation, or -- or the study was.

12 But, it -- it would be -- it wouldn't
13 surprise me in some situation, for an outcome to be --
14 the impacts of removing some things are -- are often
15 greater than -- than leaving -- leaving it there. But
16 that would be speculation on my part.

17 So, I -- I think the message I want to
18 leave is -- is this truck is -- wasn't abandoned and not
19 studied by anyone. It was -- and, I guess, we can make
20 sure we tell Fisheries that there were more concerns
21 raised at this hearing.

22 THE CHAIRPERSON: Okay, thank you.
23 Again, I appreciate your comments. And you know, the --
24 I was glad that you say that, you know, this -- years of
25 not doing anything. I mean, it's -- it's good that you

1 guys made those comments, but this -- this issue has been
2 around since 2005 and '06, and what I'm hearing again, is
3 that there's -- nobody's been alerted in the department
4 in regards to this truck sitting in 60 feet of water and
5 there's still lots of fuel onboard and so on, so --
6 anyway so, it's an issue. And we want to see closure to
7 this as to how we're going to -- your department's going
8 to take a look as to how they're going to deal with that.

9 So I'm going to go back to my Board
10 member, Mr. Darryl Bohnet, for further comments or
11 questions.

12 MR. DARRYL BOHNET: I really don't have
13 any more questions. I wanted to pin down something on
14 the truck. And the last response didn't give me much
15 satisfaction. And certainly if a government agency has
16 made a decision not to do anything because the -- it --
17 it might be more dangerous or whatever the thing that --
18 that -- that's the first we heard of it.

19 And -- and so we -- this issue has been
20 around now for quite a while and -- and we've -- we keep
21 hearing about it, and -- and we need the government to
22 take action on this. I know that the Department of
23 Environment's involved, the -- even your department
24 through remediation has some responsibilities.

25 But I would say the -- we -- we can't wait

1 to react to a spill. We know that there's -- there's
2 fuel down there, so -- so something proactive is far
3 better than -- than reactive. So I guess it's a comment
4 rather than another question. I'm really through with my
5 questions. Thank you.

6 THE CHAIRPERSON: Thank you, Mr. Bohnet.
7 I'm going to go to Mr. James Wah-shee. Questions for
8 AANDC?

9 MR. JAMES WAH-SHEE: Thank you, Mr.
10 Chair. First of all, I just want to thank the members of
11 the government for their presentation. It was
12 informative except for the latter part.

13 The -- the area in question here is the
14 Drybones area. I think the -- we all heard the concerns
15 of the First Nations regarding their outstanding claims.
16 I understand the negotiations are still in the process.
17 Also, given the historical accumulation of a number of
18 developments that have taken place, and -- and also the
19 concerns raised by members of the Yellowknives regarding
20 the -- the history in terms of how development occurred.

21 And if I understand it correctly from the
22 First Nations people that have spoken, have indicated
23 that there was a lack of consultation during that time.
24 But now, given the situation from -- from then and now,
25 the -- the whole land claims process has taken place.

1 And given the number of development have taken place, it
2 has caused concern regarding continuous harvesting, also
3 dealing with the quality of life and the quality of the
4 culture and the close association the First Nations have
5 to that area.

6 It's not just only strictly harvesting,
7 but it also has something to -- to do with who they are
8 as -- as people. It's part of their culture. So the
9 connection between the First Nation and -- and the land
10 and of various species and plants and fish and the -- the
11 area that they use, given that, with the ongoing
12 development in that area, it would appear to have caused
13 a number of pressures with the First Nation people that
14 reside in that area here, particularly, the people that
15 use it.

16 So, given this pressure, it -- it would
17 appear that -- that it's not only the completion of the
18 claims that is required; it's also the requirement for
19 land use planning.

20 So if we are going to deal with an orderly
21 development in this area, we have to look at what has
22 happened in the past, what is happening now. And how --
23 how do we deal with it, in terms of measures that can be
24 taken?

25 One of the presentation that was given

1 here was the utilization of Section 81. If I understand
2 that section correctly, if the developer cannot develop
3 their claim area for reasons given that -- for reasons
4 that are beyond the control of the developer, and given
5 that situation for the developer and also given the
6 situation of the concerns expressed by the First Nations,
7 it would appear to me that we would have to find some
8 means where there would be a balance in terms of ensuring
9 that land claims process, particularly in negotiations,
10 is not being negotiated under stress or, you may say, a
11 threat - not by the Federal Government, per se; it's just
12 given the situation, circumstances.

13 So what I would like to -- my question
14 would be is: I would be interested in hearing what kind
15 of -- of a -- of a view that the Government would have
16 in terms of trying to mitigate and -- and release the
17 pressure, as it were, regarding the Drybones area. Thank
18 you.

19 THE CHAIRPERSON: Thank you, Mr. Wah-
20 shee. I'm going to go to AANDC.

21

22 (BRIEF PAUSE)

23

24 MR. MARC LANGE: Marc Lange. Thanks for
25 the question. I'm -- I was pausing there to try to come

1 up with something a little more creative than what I've
2 already come up with for answers and -- and fell somewhat
3 short.

4 I -- I think the -- the only thing I could
5 say at this point is, you know, I -- I've listed a few
6 tools that are available to all of us, land use managers,
7 and as land owners and as proponents. And -- and those
8 are the -- those are the tools we've got in the box, and
9 it's a pretty comp -- comprehensive toolbox.

10 But -- but those are what -- what's
11 available to us, including that land-use-type plan.
12 There's a Section 81 that's -- my understanding is -- is
13 meant to be used more as a temporary measure. There's
14 land withdrawals. There's land claim negotiations. The
15 EA and regulatory, obviously, and we're here for the EA.

16 So I -- I don't think I've got any more
17 wisdom to offer at -- at this point on the -- other than
18 the tools I've mentioned already.

19 THE CHAIRPERSON: Thanks. Mr. James
20 Wah-shee...?

21 MR. JAMES WAH-SHEE: Thank you. I have
22 no further questions. Thank you.

23 THE CHAIRPERSON: Thank you. Mr. Percy
24 Hardisty...?

25 MR. PERCY HARDISTY: Just one (1) simple

1 question. Are you going to give out any more exploration
2 permits?

3 THE CHAIRPERSON: I'll probably go to
4 Kate Hearn.

5 MS. KATE HEARN: Mr. Chair, if I
6 understand the question correctly, in the context of the
7 mining regulations, we have to follow the regulations.

8 So if a -- if an individual or a company
9 stakes a claim in the area, and the area is still
10 considered open Crown land, subsurface, then we would
11 need to record that claim.

12 THE CHAIRPERSON: Okay. Thank you.
13 Percy Hardisty?

14 MR. PERCY HARDISTY: No further question.
15 Mahsi, Mr. Chair. Thank you for that answer.

16 THE CHAIRPERSON: Okay. Thank you. Then
17 before we go, I just want to say thank you for taking the
18 time to come up here and -- and listen to some of the
19 issues and concerns.

20 I -- I hope that, you know, you hear what
21 we're saying -- that some of the issues we've been said.
22 In particular, I want to just, you know, if you could
23 take a look at what Mr. Wah-Shee has been saying and as
24 to how, you -- you know, you got a toolbox, but we all
25 got to work together, you know and -- and we have to make

1 it work.

2 So, you know, you're going to have to
3 really be -- be sincere about what's happening in the
4 Drybones Bay area, and also to make sure that those
5 issues, in terms of land claims, land use filing, and
6 whatever else needs -- needs to happen in that area,
7 needs to be dealt with as part of your toolbox as well.

8 So with that, I'm just going to say thank
9 you. We're going to take a ten (10) minute break. Then
10 I'm going to ask the presentations from the public.

11 If anybody here has issues or concerns in
12 regards to Debogorski's EA file, then we'll listen to
13 you.

14 We'll take a ten (10) minute break.

15

16 --- Upon recessing at 2:55 p.m.

17 --- Upon resuming at 3:11 p.m.

18

19 THE CHAIRPERSON: Okay. Thank you. Call
20 the hearing back to order.

21 Prior to breaking, we -- we had mentioned
22 that the next part of the agenda I have is presentation
23 from the public. And if pe -- if people want to -- from
24 the community here want to do a presentation in regards
25 to the Debogorski Diamond Mine exploration project in the

1 Drybones Bay area, I ask that if you do make a
2 presentation, it would be only ten (10) minutes.

3 And just for the record, as well, we've --
4 the Review Board made a motion a few months back to
5 transfer all the evidence from the CGV file over to the
6 Debogorski file as well. So a lot of comments and -- and
7 people that made presentation in those hearings will be
8 carried forward to this public hearing for Debogorski.

9 So there -- there's really no need
10 sometimes to really duplicate a lot of stuff, so that's
11 why we -- we did that. So -- but I'm going to give the
12 opportunity for the general public to make comments or --
13 or statements in regards to Debogorski's EA filing in the
14 Drybones Bay area. So again, I'm going to allow ten (10)
15 minutes for them.

16 So I'm going to go open it up to the
17 floor. Does anybody from the general public that want to
18 make a statement to the Review Board here today in
19 regards to the Debogorski exploration project in the
20 Drybones Bay area?

21 If you do, can you just put up your hand?
22 And when you do that, state your name so that people here
23 know your name as well and it's also on record. Is there
24 a show of hands?

25

1 (BRIEF PAUSE)

2

3 THE CHAIRPERSON: Okay. Thank you. We
4 do have Philip Liske, band councillor from N'Dilo, and a
5 -- a new elder, with his grandson sleeping.

6

7 PUBLIC PRESENTATION BY MR. PHILIP LISKE:

8 MR. PHILIP LISKE: Hi, my name's Philip
9 Liske.

10 Those government there, I don't know --
11 the Federal Government that made -- that were sitting out
12 there, they were kind of smiling and talking to one
13 another. I don't think they were serious when they were
14 sitting out there. So I think that was a disgrace.

15 You know, we're talking about the Weledeh
16 Dene livelihood here. You know, they can't answer the
17 question. They can't make decision. It's -- it's
18 ridiculous, I think.

19 I think they shouldn't come to the Rev --
20 the Review Board like this -- not knowing what to say or
21 -- or answer. If they're not going to answer properly,
22 they shouldn't be -- be up there, because we're -- this
23 is serious, what we're talking about here.

24 We're talking about the land, the animals,
25 and the water. And the Territorial Government made a

1 survey, and according to them, there's all kinds of
2 beavers and moose. And he turns around and say, It's
3 okay to build -- to -- to drill a couple of holes.

4 What kind of recommendation is that? Look
5 what they did to the caribou. They said that, the same
6 thing. Oh, they're not going to harm any caribou.
7 Excuse me.

8

9 (BRIEF PAUSE)

10

11 MR. PHILIP LISKE: And, you know, it just
12 -- they keep -- say they're going to do things and that.
13 And somehow, they're not keeping to their promise.
14 Sorry, geez, I thought I shut it off.

15

16 (BRIEF PAUSE)

17

18 MR. PHILIP LISKE: Yeah, if -- if we're
19 going to -- you know, if the Government officials,
20 they're going to come and make presentations and that,
21 you -- you know, they should be serious about what we're
22 trying to, you know, do here so we could have a -- a good
23 -- some kind of, you know, agreement amongst us so that -
24 - want us to understand one another, what we're trying to
25 do here.

1 Like I said, you know, the truck had been
2 sitting dead in the water for years, and they're not
3 doing anything about it. You know, to me, it's -- it's
4 really bad that, you know, they're sitting back like that
5 and they're just waiting till the -- the oil to spill out
6 from the -- they need to do something about it, you know.
7 We want to do something before that, before that happens.

8 And, you know, for -- for Drybones area
9 there, it's a sensitive area. We wanted to keep it
10 active with our wildlife, with our people that want to go
11 out there and trap and hunt that area. We don't want any
12 drilling there. It's not, you know -- it's -- it's going
13 to impact on the animals.

14 These -- some -- you know, one of them
15 said it's not going to have an impact on the animals.
16 Sure that does: the noise, all the -- the pollution
17 they're going to create, all the blasting. You know, we
18 see that every -- just about in every mine. We're going
19 to -- when we leave, we're going to leave it the way that
20 it is. It's -- it never happens.

21 So, you know, if we're really going to try
22 to -- to fix or talk -- or to talk or make some kind of
23 agreement or -- with the First Nation regarding that
24 Drybones Bay area, just come out with a plan or
25 something, because we just can't keep it going on, on,

1 on, because, you know, it just -- we're just getting our
2 thought all mixed up. And we're not making a proper
3 decision here and -- because we got too many people
4 involved. We're pointing the finger to one another, and
5 we're not sure who to talk to anymore, because
6 everybody's -- too many people are involved with this
7 issue.

8 So with that, thank you.

9 THE CHAIRPERSON: Thank you. Anybody
10 else from the general public that want to make statements
11 or comments in regards to Alex Debogorski's file in the
12 Drybones Bay area? Can you just state your name? And
13 just a reminder again, everybody that speaks get ten (10)
14 minutes.

15

16 PUBLIC PRESENTATION BY MS. SARAH PLOTNER:

17 MS. SARAH PLOTNER: Hi. My name is Sarah
18 Plotner. My mama here is Judy Charlo; my late dad, Joe
19 Charlo. I grew up in that area. We have a lot of
20 history there. Through my grandparents on my dad's side,
21 my mom's side, we have travelled that area a lot of
22 times, and I still travel that area.

23 I have a cabin up that area. I -- we have
24 two (2) cabins. One is further out, closer to the barren
25 lands and the other one is closer to the Great Slave. We

1 have areas that we have trapped, we have hunt. I go out
2 there about every weekend, as much as I can, by boat. We
3 have to walk in about 5 kilometres. I do that every
4 weekend, as much as I can.

5 This land here area, we built a cabin out
6 there for my kids. My kids go out there all the time, as
7 much as they can. Springtime, they go hunting. They go
8 muskrat hunting out that way. They go moose hunting out
9 that way.

10 The reason why he had built a cabin now
11 this time, because we used to go out there in the
12 wintertime and set up a canvas tent during the wintertime
13 to be out there just so they can show -- that I can show
14 them that there's a history that they need to learn. And
15 that's what we're -- we've been providing them.

16 Now that we've, you know, used that land a
17 lot of times -- it's not just the one (1) time. People
18 don't really see us in that area, because we are -- our
19 cabin is set up where there's hardly anybody go to it.
20 We walk across. We go to -- we take a canoe to our
21 cabin. In the wintertime, we take the snowmobile.

22 We are constantly up there. That's my
23 retirement home. Once I'm done here working and I'm set
24 for retirement, that's where I'm going to be, and that's
25 my land. That's where I want to set up. That's where my

1 traditional is. My cultural, that's what I want to teach
2 my kids. I want to keep on teaching them.

3 Eventually, it'll be my grandchildren that
4 will be out there. I don't have any grandchildren right
5 now, but there will be. So there's a history that we
6 want to keep, and we want to keep on going.

7 This is not just a one (1) time thing.
8 This is a constant thing. We need to keep on teaching
9 our kids how to go back on the land. That's what I'm
10 doing. And I truly oppose this project. It's too close
11 to home. It's too close to home. We need to keep that
12 in mind. This is our land. We need to protect it and to
13 keep it ser -- safeguarded, because we have animals out
14 there.

15 I go out to the cabin. I see -- I see a
16 lot of moose. I see lots of muskrat out there. There's
17 ducks, swans. We used to have eagles in by our cabin.
18 We have a lot of areas out there that is protected. We
19 need to keep it protected. Mahsi.

20 THE CHAIRPERSON: Thank you, Sarah
21 Plotner. I'm going to go to any other members from the
22 public that want to make a statement or comment.

23

24

(BRIEF PAUSE)

25

1 THE CHAIRPERSON: Just a reminder too
2 that, Judy, we're just going to make it in ten (10)
3 minutes, so.

4

5 PUBLIC PRESENTATION BY ELDER JUDY CHARLO:

6

7 (INTERPRETED FROM WELEDEH INTO ENGLISH)

8

9 MS. JUDY CHARLO: I think about a lot of
10 things, and I have a lot of concern. We, as a young...

11

12 (AUDIO CUTS OUT)

13

14 MS. JUDY CHARLO: ...and Elders have and
15 live around this area. I remember me as an Elder sitting
16 here, I don't -- I don't have not much Elder living with
17 me. With a number -- a lot of...

18

19 (AUDIO CUTS OUT)

20

21 ELDER JUDY CHARLO: ...we have a
22 beautiful landscape. We have Dettah, N'Dilo. At that
23 time, there used to be a lot of people. At that time, we
24 never see White people around this area. I can remember
25 way back.

1 And at that time, when there used to be
2 people living in Dettah, I used to be all elder, and when
3 the epidemic came around, 1928, the -- a lot of people
4 were lost to the illness.

5 At that time, there were -- there were
6 smaller one that dying, but most of them they orphaned
7 and being sent to a residential school. That's how I
8 grew up, around that area.

9 And I lived in residential school for five
10 (5) years. And after that, I came back that summer,
11 that's when the people -- White people, about 1935,
12 that's when the people started coming around this area.

13 And -- and I see how -- a lot of things
14 has been polluted. Slowly the water and the -- the
15 land's been polluted. They bring people, the little
16 ones, they play by the shore and they go swimming. And
17 there's -- some of the little kids that died from the
18 water, because it's been contaminated. And quite a few
19 of the kids, they died.

20 That's the kind of thing that we'll be
21 impacted by, but nobody seems to speak about it. We have
22 a good livelihood that -- where wildlife would -- but
23 today everything's been polluted.

24 Even I'm a woman, and I used to go out
25 with my husband after I came back from residential

1 school. There's no work. You have to go out to survive,
2 so -- yeah.

3 And my uncle give me a dog team, so I had
4 to go out on the land. Even you're a woman, you have to
5 try to go out on the land and go trapping. So I used to
6 go along with my grand -- my uncle to go trapping.

7 Even I go as far as MacKay Lake to go
8 trapping. Even we go to Bear land. We go as far as Bear
9 land, and sometime I had to walk. Even I used to go out
10 with my husband. I know where all the trap line. I know
11 all the trails.

12 That's how people had lived back then.
13 Sometime we see White people go on the land. There was
14 only a few of them. We -- we know that they used to come
15 around this area, and they tried and go and fix it.

16 Would try to go out and survive, and here
17 it seems like we're impacted by White people. A lot of
18 things been polluted. Seems like now today, it's hard to
19 go out. Everywhere you go, it's just only White people.
20 Now you see all kinds of garbage, garbage cans. You see
21 around the shore.

22 How much we, as a Yellowknives Dene First
23 Nation, have been impact by everything at -- surround the
24 area. Sometime I go trapping, sometime you go around the
25 shore, you see a lot of things that's in the water.

1 Maybe even the fish die, all the -- all
2 those contained around the shore that -- people that
3 throw in the -- in the water. And we see some of the
4 fish are just floating. They're -- they're dead, and I -
5 - and I witness that. Even my husband, we see that, but
6 we don't say -- we don't say things like we see. But
7 we've had to witness a lot of pollution on the land and
8 the water, around the shore.

9 Some of the thing that -- that the ground
10 and grass, they all grow over. When my kids, they're
11 small, we used to out hunting with them, even the girls.
12 We try to teach them, and I used to go out on the land
13 with my husband with the little ones.

14 I would go for trapping. Sometime we had
15 to go further out in land to go trapping. Today, our
16 land, we're being overpopulated by white people. They go
17 on the land, they're -- they're doing blasting. And we
18 witnessed a lot of things in the past, even in Thor Lake.

19 We had a cabin around that area, and we
20 had ten (10) friend there at a time. We'll go hunting
21 from there, trapping. There's a long lake there. They
22 were seeing all the blasts of rock. And here, among that
23 -- around that area, it was moose. We seen that -- we
24 seen two (2) dead moose around that area. Me and my
25 husband were over there trapping, because there was a

1 blast -- blast of the rock. And why is there two (2)
2 moose dead?

3 Maybe before, when it used to be
4 prospected, I went around that area, and we hear some
5 noises. Must be blasting out the rock. Even my -- my
6 little brother was sick and died that year, so it must be
7 from that -- that rock. And we see some other animal
8 coming around that -- that rock. They're like wolf and
9 fox. And when we're -- when we told the wildlife
10 officers that he should go out and check why those
11 animals around that area where it's being blasted, all
12 the animals are dying, and they didn't know why.

13 And there used to be a mine there that
14 time. Maybe because of the mine, they said, and they're
15 going to check it out in the summertime, because it's
16 already winter when that -- the animal died. So they
17 said they're going to check it out that summer.

18 We've been hurt a lot around this area.
19 Today I live by the pension, and I had to pay for water,
20 and I had to pay too for all utility in my house, so I
21 spend all my money to that. Now my grandkids -- and I --
22 sometimes I pity them, so I -- I help -- I try to help
23 them, but my pension, that's all I live today.

24 But today, our land is being polluted all
25 around this area. And I still have a concern about the

1 big truck that went in the water. And around that area,
2 it's good for trout and whitefish. There's all kinds of
3 fish that you can find around that area. And if you go
4 trawling, you will catch a fish right there. You could
5 even catch a trout. That's where we usually go fishing.
6 Here -- here's a big truck in the water that's going to
7 be -- pollute the water around that area.

8 Now, today, if you go fishing around that
9 area, the fish will be just -- the fish will just be soft
10 and just like watery, and all the guts would be just --
11 even the fish eggs is -- is not good today. That's why
12 around that area, when we went there, we set a net. We
13 had to take the net out, because -- today I know the
14 White people don't know why things are happening to us.
15 I hope they understand us, and we would like the White
16 people to understand us, why we're saying those things,
17 what the concern that we have today.

18 Today, that even you go out and set net,
19 some of the fish won't be good, and -- and they will just
20 throw -- some of the fishermen, they will throw them back
21 in the water, because that fish is -- it's not good to
22 eat.

23 Yeah, we don't hardly complain. That's
24 why they don't take our concern seriously. So -- so when
25 we go past that place there, we always think about the

1 water, the water that -- this used to be healthy at one
2 time and fresh water. Now, everything seems like being
3 polluted.

4 At one time, we don't throw things around.
5 We don't throw things away. Even the bones used to be so
6 good. We can make grease, caribou and moose grease. We
7 don't waste no meat. That's we how we had -- that's how
8 we've been learned to do things properly. And that's all
9 I want to say. Thank you.

10

11 (INTERPRETATION CONCLUDED)

12

13 THE CHAIRPERSON: Mahsi, Judy Charlo.

14

15 (BRIEF PAUSE)

16

17 THE CHAIRPERSON: All right. Mahsi,
18 Judy, again. Anybody else? An Elder?

19 Albert Boucher, from Lutsel K'e wants to
20 make a comment.

21

22 (INTERPRETED FROM WELEDEH INTO ENGLISH)

23

24 PUBLIC PRESENTATION BY ELDER ALBERT BOUCHER:

25 ELDER ALBERT BOUCHER: I would like to

1 thank you guys to give me opportunity to speak. Twice
2 I've been to this kind of hearing. I'm from Lutsel K'e.
3 I'm Albert Boucher from Lutsel K'e, an Elder.

4 And every time we're talking about --
5 every time we're talking about environment regarding the
6 land I always like to put recommendations. There's a lot
7 of people here, and this is Yellowknife Dene's land.
8 They're talking in regarding to protect their land, so
9 we've got to thank them as well; so we've got to support
10 them.

11 So we're talking about this mine at --
12 around Wool Bay area. So we're talking about it now.
13 And every time we're talking about regarding our land, we
14 have to support each other on our land so it wouldn't get
15 contaminated. Lutsel K'e and people from Yellowknives,
16 we visit each other, and we travel on the land.

17 This -- our land, we have a good land;
18 it's not contaminated. We got lots of fish, good fish,
19 and there's all kinds of animals that live on our land.
20 So every time we travel on the land, we see all these
21 animals, and we see all these kind of different birds and
22 different ducks. And so we have to support our land
23 regarding our land.

24 We all have to support us Aboriginal
25 people, because we come from the land, and we're thinking

1 about the future of our grandchildren as well. So when
2 we're talking about this mine that's going to be
3 developed in Drybones Bay, now we're talking about it,
4 this is environment.

5 Even now, the caribou, because we have
6 impacts, because of the mining, now the caribou doesn't
7 go around our area. And we're also losing some of our
8 wildlife that used to be around our area. And some of
9 our animals are not healthy. It's due to all that mining
10 industries. And even though if these animals are
11 unhealthy and if we eat it, and as we consume it, and as
12 we're going to be sick.

13 Last year, me and my brother we went to go
14 visit -- we set next -- and now they were saying that
15 around Artillery Lake -- no. So just like in our area
16 too where our lake was contaminated, now it's just like
17 the Yellowknife people to. Every time whenever there is
18 a mining industries, it's got to contaminate the water.

19 And here, it seems like it's the
20 Government's responsibility. They have to look after us,
21 but they're not. What we're talking about right now --
22 one time I came too, when I was small, and I was fishing
23 -- ice fishing. They have -- they -- they built an
24 airport. They constructed an airport. And I was sitting
25 there. I was like quiet, so I was fishing.

1 They was a graveyard nearby there. They -
2 - they cleared out the land over the graveyard. They
3 took the cross away; they threw it out in the bush. Now
4 that -- I've mentioned that many times, because it
5 happened, and I've seen it. I witnessed it. Every time
6 I talk about it, it seems like nobody's paying attention
7 to it. You have to respect the -- a graveyard. If -- if
8 there is any growth, vegetation growth, then we clean
9 that up. We have our relatives there, so we take care of
10 it.

11 So that's why, when they have -- if they
12 have exploration permitted, there's a graveyard -- they
13 talk about graveyard, if the exploration is bigger and if
14 it get -- exploration gets bigger, then we're going to
15 have to build an airport there. Who knows, maybe they'll
16 just -- maybe they'll do it without a consultation.

17 So they're going to have to put gravel on
18 it, and they're going to build an airport, and they're
19 going to mine -- use explosions to -- to work there. So
20 we have to talk about all these different issues, what we
21 see.

22 That is why, when we talk about issues
23 like that, we have to support each other, we Treaty 8
24 people, that we all come and live among each other. When
25 we come to issues about talking, we have to support each

1 other. That's the way we -- that's how we live on this
2 lake.

3 We -- we hope that we could help people
4 too. The people that live around this lake, we have a
5 road leading to each other. A long time ago, we used to
6 travel among each other just by boat, by paddle. But
7 it's getting to the days we have ski-dooes, by boat. It
8 seems like everyday we're travelling back and forth. The
9 land is so beautiful. When it's calm, it's so beautiful
10 to travel the lake.

11 But somehow the water, the fish, the land
12 gets damaged. Maybe we could get sick from it. How is
13 the mine -- it would be their fault, because there's so
14 much development. Even though we say no, but they're
15 still developing.

16 So we have to have a serious conversation,
17 come to some kind of an agreement and come to some kind
18 of conclusion that can -- decision that the land wouldn't
19 be ruined so that in the future our -- we, the Elders,
20 will be gone. We have to talk. We have make -- put
21 important words on paper so that we could use the land in
22 the future. Everybody too have travel -- works by a
23 regulations and policies today too.

24 So the way we have had a discussion, how
25 people love their land have spoken up, how people are

1 saying not to work the land, not to develop the land.
2 It's right to what people say we -- there's a lot of
3 water and land that are getting polluted from things --
4 spills and gas and things like that. We are concerned
5 about our land. That's why we are talking about it here.
6 That's why I come here.

7 I'd like to thank you. I also -- or, my
8 Chief was here also. He came here for medical reasons,
9 so he was here. But I -- I asked if comm -- he asked me
10 to say a few words. So I want to thank you very much for
11 having a meeting and a discussion.

12 The person said this morning, it's like
13 our fridge out there on our land, because he loves the
14 land. It's like our pillow. And we also survive by the
15 land. It's what he said: We sleep on it, we use it.
16 The land is good, a lot of animals.

17 It's come to the point now when we see
18 agricultural sites, because -- because the roads were
19 used -- haven't been used haven't been used for the past
20 thirty (30), forty (40) years, so you can't see the old
21 trails. So lots of these sites where people have lived
22 in the past, you could see the sites there.

23 So people love their land. So we don't
24 want anything to damage some -- we don't want anything to
25 happen to it. That's why we're having this discussion

1 when it comes to the issues of developers.

2 We are concerned about the water too.
3 We're always talking about that. I wish they could take
4 our words and -- and work by our works -- our words.

5 If we were informed ahead of time of the
6 consultations in the past, we would have been happy about
7 that. And when we work the land and the water with
8 respect, and we also respect the animals when we work the
9 land. That's all I wanted to say. Thank you very much.
10 That's what I wanted to say.

11

12 (INTERPRETATION CONCLUDED)

13

14 THE CHAIRPERSON: Mahsi, Elder from
15 Lutsel K'e, a former chief as well. Is there anybody
16 else from the general public that want to make a
17 statement in regards to Alex Debogorski file? And if you
18 do, you're allowed ten (10) minutes. Okay, if I don't
19 see anybody else -- Liza Pipper Charlo...?

20

21 PUBLIC PRESENTATION BY MS. LIZA PIPPER CHARLO:

22 MS. LIZA PIPPER CHARLO: My name is Liza
23 Pipper. I just want to keep it brief, because my mother
24 and sister, they spoke. So I think it's well understood
25 that our family, the Charlo families, have lived and had

1 cabins out there aside from our other -- our community
2 members.

3 And I wanted to mention my -- my late
4 father, Joe Charlo. Before he passed away, just a few
5 days -- a week before he passed, he mentioned -- I
6 thought I'd like to relay this message. He mentioned
7 about -- he spoke of the water, how precious the water
8 is, and that we need to protect the water all along the
9 shores of the Great Slave Lake, all along the Mackenzie
10 River, because the water is our main survival.

11 We need -- we need healthy water. Without
12 healthy water, then we will have major problems. So
13 whenever you hear the community members speak, we always
14 speak to protect the water, the land, the plants, the
15 animals. And you've me -- you've heard about as long as
16 the sun shines, the grass is green, and the water flows,
17 it will always provide us with healthy lifestyle.

18 So the Mackenzie Valley and Review Board
19 have -- have a mandate to stipulate and set guidelines to
20 protect the land, the water, and the environment. And
21 the Federal and the Territorial also have the mandate.
22 If we were to work together, I think the environment and
23 the land, the water, will be well protected and healthy
24 for the people.

25 So I grew up, and I used to have dog teams

1 when I was young. We used to travel all along this whole
2 area. And we would spend the winter, like mom had said,
3 we travelled by dog teams. So it's in the days where
4 everything was healthy.

5 It's come to this day now where we're
6 having problems, too much development. We're too
7 accepting. We're too welcoming, and we are not being
8 respected in terms our land, our water. That needs to be
9 brought forth. We need to stand strong and united on
10 this -- on this health and environment. We need to
11 listen to the -- our First Nations, our Native
12 communities all along the shores of the Great Slave Lake
13 as well as along the Mackenzie River.

14 And we oppose. I think we're all
15 opposing. The majority of the community people here are
16 opposing further developments, because we do not want
17 more destruction, pollution. And this truck that you've
18 mentioned that's been in the water, I've seen similar
19 situations in the Great Bear Lake.

20 And I've been involved where we had to do
21 salvage of trucks up in the Great Bear Lakes. And it's
22 polluted, the waters up there, from the mines,
23 development. They have to provide shipment of whatever,
24 the ores and everything, that ruined the waters up there.
25 And I'm sure you've all heard from the community members

1 up there that they've had sickness, illness. So we are
2 speaking up to prevent from further destructions of that
3 sort.

4 So, I'm opposing. So, Mashi.

5 THE CHAIRPERSON: Thank you, Liza Pipper
6 Charlo. Is there anybody else from the pub -- general
7 public that want to make statements in regards to Alex
8 Debogorski's EA file? Yes, there's a gentleman in the
9 back.

10

11 PUBLIC PRESENTATION BY MR. ROBERT EKPAKOHAK:

12 MR. ROBERT EKPAKOHAK: Good afternoon,
13 ladies and gentlemen. It's an honour for me to be here.
14 I'm originally from Cambridge Bay, Nunavut.

15 My sister and I, we also work for Nunavut
16 Water Board. And it's very important that -- that -- you
17 guys are not only affected; we're also affected because
18 of these - - these mines and these factories.

19 What happens is these particles travel to
20 the north from the mines and the factories. And I too am
21 all -- am also a miner. I worked at Echo Bay Lupin Mine
22 for a number of years, and I too have seen trucks go
23 through the ice, not only there, but also in Contwoyto
24 Lake. And it -- it takes them years before they can do
25 something about it. However, there's also -- it's also

1 affecting the water, the land, the plants, the air.

2 And in -- in Canada, you know, I was
3 watching -- I was watching on TV the other day, there's
4 only 20 percent of fresh water left in Canada. And we
5 need to protect that. We need to protect our animals.
6 We need to protect our -- our next generation.

7 I may not be from here, but you know what,
8 I live out on the land too. Our food is being destroyed.
9 The trad -- the traditional food doesn't taste as good as
10 it used to back in the '60s as a result of -- of them
11 eating the plants that are affected from these -- these
12 factories and these mines.

13 I thank you very much for giving me this
14 opportunity. My name is -- Robert Ekpakohak.

15 THE CHAIRPERSON: Maybe we'll -- if you
16 could, I'll get you to come up to make sure we got your
17 name spelled right for the record.

18 Okay. Is there anybody else that want to
19 make comments before I go into closing statement --
20 closing remarks?

21

22 (BRIEF PAUSE)

23

24 THE CHAIRPERSON: Okay. I don't see
25 anybody else, so I'm going to go into closing remarks.

1 Before I do that, I just want to say thank you to the
2 Elders that spoke. It was really good that you did that
3 so that the Board could hear what you have to say.
4 Mashi.

5 And I want to go to closing remarks now.
6 I want to ask YKDFN, Todd Slack, to come up and to do
7 quick closing remarks.

8

9 CLOSING COMMENTS BY YKDFN:

10 MR. TODD SLACK: Todd Slack, YKDFN. I --
11 I think that we've heard a lot of good passages and good
12 information today.

13 The recommendations that have been made by
14 -- or, made to the Board in terms of what we see going
15 forward, and in terms of the best options are clear, and
16 they aren't really much of a surprise, as far as I'm
17 concerned. The vast majority of the information is on
18 the record already. A great deal of the Yellowknives'
19 membership has spoken to the Board, and we have four (4)
20 new members speaking today.

21 So, in terms of closing from the
22 Yellowknives Dene, the position is clear, from our
23 perspective, that this project should be rejected until
24 such time that there are effective management measures
25 put into place.

1 The simple fact is that the Crown must be
2 made to do this. They have had ample opportunity over
3 the years to show that they either have good faith and
4 good intentions to do this, or to actually implement
5 those measures. And for whatever reason, they have
6 either chosen not to or simply haven't done it.

7 So with the recommendations that we
8 provided today and the recommendations that were in the
9 CGV/Encore file and the measures that the Board
10 themselves have proposed, I think that there's a good
11 opportunity there to put in place a new framework that
12 might mitigate the impacts for this critical area.
13 Thanks very much. I appreciate the opportunity.

14 THE CHAIRPERSON: Thank you, Todd Slack
15 with YKDFN, for your closing comments. Next I want to go
16 to the GNWT. Have they got any closing comments?

17

18 (BRIEF PAUSE)

19

20 THE CHAIRPERSON: Looks like they left,
21 so I'm going to continue on with Akaitcho IMA Office, Ms.
22 Stephanie Poole.

23

24 CLOSING COMMENTS BY TREATY 8 TRIBAL CORPORATION -

25 AKAITCHO IMA IMPLEMENTATION OFFICE:

1 MS. STEPHANIE POOLE: Thank you.
2 Stephanie Poole, Akaitcho IMA Office. I'll just make
3 some brief closing remarks.

4 I believe our position is clear in our
5 presentation, our recommendations. I just wanted to say,
6 though, in light of some of the things that the Federal
7 Government representatives were saying today, that the
8 Akaitcho Dene cannot be stakeholders when it comes to
9 their land and -- and decisions being made about their
10 land. They are the decision-makers. They've made their
11 decision clear, and -- and we hope you will respect it
12 and uphold their decision. And with that, I'll just say
13 thank you.

14 THE CHAIRPERSON: Thank you, Ms.
15 Stephanie Poole. Mahsi for your closing remarks.

16 I'm going to go to the North Slave Metis
17 Alliance, if there's anybody here.

18

19 (BRIEF PAUSE)

20

21 THE CHAIRPERSON: Okay. If not, I'm
22 going to give the last -- second-last closing remarks to
23 Alex Debogorski.

24

25 CLOSING COMMENTS BY MR. ALEX DEBOGORSKI:

1 MR. ALEX DEBOGORSKI: Alex Debogorski,
2 developer. First, I'd like to thank Mackenzie Valley
3 Review Board and all the people who've taken their time
4 from their day to come and consider this development.

5 I'd, again, like to repeat that ideally,
6 I'd like to see a blanket Section 81 for the Drybones
7 area, with an option to develop, if you wanted to
8 develop. Otherwise, my development plan stands as it is.
9 Thank you very much for your time.

10

11 CLOSING COMMENTS BY THE BOARD:

12 THE CHAIRPERSON: Thank you, Alex
13 Debogorski.

14 And the Chair's quick closing comments. I
15 -- first of all, I want to say thank you to all the
16 presenters that came up to make presentations here today,
17 which included Alex Debogorski, YKDFN, GNWT, Akaitcho IMA
18 Office. North Slave Metis Alliance made a -- gave a
19 PowerPoint presentation, but they weren't here.

20 Also -- also, I wanted to take this
21 opportunity to thank all the Board members that travelled
22 from outlying communities to be here today: Mr. Bayha,
23 Mr. -- Mr. Percy Hardisty, and James Wah-Shee, and Mr.
24 Mercredi, Richard Mercredi. I want to thank you guys for
25 taking the time to come to Yellowknife here and -- and

1 participate in -- in this EA process.

2 I also want to say thank you to the
3 interpreters, Lina Drygeese, Berna Martin, for the
4 Weledeh dialect; and Bertha Catholique and Ann Biscaye
5 for the Chipewyan language. The caterer that was
6 provided today was Mary Betsina, and the transcription
7 was Wendy Warnock. I want to say thank you for that.
8 And the sound was provided by Pido, Trevor Bourque. So I
9 want to say thank you for -- and also YKDFN for allowing
10 us to use their facility here in the community of N'Dilo.

11 But before I do that to you as well, I
12 just want to say that this public hearing, after what
13 happens, after we're done here, is that we -- we break.
14 The Review Board will meet to discuss this public
15 hearing, and they will look at the next course of action
16 and may make a decision anywhere from one (1) to probably
17 four (4) months or so, depending on how we -- we've got
18 to close the public registry and so on, so there's a
19 process. We've got to look at everything first before we
20 make that determination.

21 So, I just want to say as a Chairman for
22 the Mackenzie Valley Impact Review Board, I'm honoured to
23 be here in this community to have this public Hearing
24 here. And I want to say thank you very much for -- for
25 allowing us to be here to do this EA Hearing in this

1 community.

2 So, with that, this concludes the public
3 Hearing for the Debogorski Diamond Exploration Project
4 here in the community of N'Dilo. And I'm going to ask
5 that Judy Charlo to do the closing remarks -- or sorry,
6 closing prayer.

7

8 (CLOSING PRAYER)

9

10 --- Upon adjourning at 4:02 p.m.

11

12 Certified Correct,

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16 Wendy Warnock, Ms.

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