



MACKENZIE VALLEY ENVIRONMENTAL

IMPACT AND REVIEW BOARD

EA14314-01: Jay Project,

Dominion Diamond

Public Hearing

Mackenzie Valley Review Panel:

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Board Member	Kirby Marshall
Board Member	Yvonne Doolittle
Board Member	James Wah-Shee
Board Member	Bertha Norwegian
Board Member	John Curran

HELD AT:

Yellowknife, NT

September 15, 2015

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1	LIST OF UNDERTAKINGS	
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3	6	Dominion will meet with parties
4		during the undertaking period to
5		identify and evaluate additional
6		compensatory mitigation measures
7		that will improve the health of the
8		Bathurst herd; and will solicit input
9		from GNWT to ensure that they are in
10		agreement with the mitigation measures.
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23		between when data is received by the
24		GNWT versus obtained by DDEC 64
25		

1	LIST OF UNDERTAKINGS (cont'd)	
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9		specifics regarding land trains 136
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11		mitigation within the next seven (7)
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14		percent in calf survival, if they have
15		any comment on the compromises or
16		trade-offs that would offset that 3
17		percent loss to the herd 258
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1 --- Upon commencing at 8:40 a.m.

2

3 THE CHAIRPERSON: Good morning,
4 everyone. My name is Joanne Deneron and I am the
5 chair of the Mackenzie Valley Environmental Impact
6 Review Board. Welcome today for the public hearing
7 for the Jay Project.

8 Before we begin, I would like to
9 acknowledge that we are holding this hearing in the
10 traditional territory of the Yellowknives Dene. We
11 will begin this morning with an opening prayer by
12 Joseph Judas. If we can stand, please.

13

14 (OPENING PRAYER)

15

16 THE CHAIRPERSON: Masi. Once again,
17 we have translation available. For those requiring
18 translation, there are receivers at the front of the
19 table when you came in by the door. English is on
20 channel 2. Chipewyan is channel 4. Tlicho Weledenh is
21 on channel 5. The washrooms are out the main door, in
22 the far corner across the hall. And the emergency
23 exits are lit by the signs above the doors.

24 Just an update on the caribou survey.
25 In August the Review Board asked the GNWT to provide

1 updated population information on the 2015 survey of
2 the Bathurst caribou herd. The update was provided by
3 GNWT on September 8th, and is on the public record.
4 On September 11th, the Board provided direction to
5 parties and Dominion on how this new information can
6 be used during these hearings, since it was only
7 submitted to the Board very recently.

8 The Board advised that parties and
9 Dominion may refer to the caribou survey information
10 contained in the GNWT's September 8th correspondence,
11 during presentations or during questioning today. The
12 Review Board would prefer that this new evidence is
13 dealt with at these hearings, but will allow parties
14 and Dominion the opportunity to defer questioning and
15 responses on this evidence until after the hearing.

16 The Review Board reserves the right to
17 explore the content of the September 8th submissions
18 in questions between the Review Board parties and
19 Dominion after the hearings in writing. Parties and
20 Dominion can also address this new evidence in their
21 closing arguments, to be submitted October 23rd and
22 30th, respectively.

23 The procedures for the hearing,
24 presentations and question -- questioning will follow
25 the same format as yesterday. As a reminder, I ask

1 that everyone respect the time requirements of other
2 parties during presentations and questioning, and to
3 use their time productively. Presenters will be timed
4 and given five (5) minute warnings. Keeping to your
5 allotted time is important to make sure that everyone
6 gets their fair chance to be heard. The Board is
7 committed to fairness.

8 Parties will be invited to ask
9 questions in turn after each presentation, and the
10 presenter will be asked to respond to the question.
11 The order of questioning will follow the list of
12 Intervenor shown on page 2 of the agenda. After
13 questions from parties, I will invite questions of
14 staff, counsel, and Review Board members. We also ask
15 that those responding to questions to be direct and
16 helpful in their responses.

17 All questions and answers are permitted
18 at the discretion of the Chair. But once a line of
19 questions is initiated, I will allow parties to
20 question one another directly rather than approving
21 every question. Be advised, however, that I will
22 intervene if the relevance or the appropriateness of a
23 question is not clear to me.

24 If Dominion or a party needs more than
25 a few moments of caucus time prior to responding to a

1 question, I may ask for it to be answered later in
2 writing as a formal undertaking. I want to be sure
3 that valuable hearing time is spent efficiently.

4 Please use a microphone for all
5 questions and responses so that everyone, including
6 the transcriber, can hear you clearly. And please
7 state your name before you speak. I would ask you to
8 do that each time, and please remember that, when you
9 speak, to speak at a pace where our translators can
10 keep up.

11 Members of the public are invited to
12 attend and to speak to the Review Board during the
13 public comment period at 4:30 in the afternoon.

14 Members of the public are welcome to present their
15 views directly to the Review Board, but may not ask
16 questions of Dominion or parties.

17 Members of the public may also submit
18 comments in writing to the Review Board until the
19 public record is closed.

20 If you wish to speak during this time,
21 please say so to the Board staff at the front table at
22 the door when you walked in, and they will compile a
23 list. I will call the names of the people from this
24 list during the public comment period.

25 Our schedule today is this public

1 hearing takes place from 8:30 in the morning to 4:30
2 p.m., and the opportunity for public comments will
3 continue from 4:30 to 5:30 this afternoon. Please
4 remember that all times are ultimately at the
5 discretion of the Chair, and may be changed to respond
6 to issues as they arise.

7 At this time, I would like to introduce
8 just our new Board members and some staff that have
9 joined the -- the table. I would like to introduce
10 Alan Ehrlich, Dr. Anne Gunn, our technical advisor.
11 Wave, Anne, everybody knows you. Thank you.

12 I would also like to induce --
13 introduce our Board members again at the same time.
14 We have Yvonne Doolittle, John Curran, Bertha
15 Norwegian, Kirby Marshall, and James Wah-Shee, myself
16 again, Joanne Deneron.

17 The subjects that we -- that we will
18 hear about over the next several days are important to
19 the residents of the Mackenzie Valley. You are all
20 aware of the latest caribou population estimates which
21 have been added to our public record. These
22 underscore the seriousness of the Board's
23 responsibilities.

24 We will make every effort to listen
25 carefully to you, to get the information we need, and

1 to make the best decisions possible in this
2 environmental assessment.

3 At this time, I would like to invite
4 IEMA to clarify an undertaking from yesterday.

5 MR. EMERY PAQUIN: Thank you, Madam
6 Chair. It's Emery Paquin, with the Monitoring Agency.
7 And I apologize if I was less than clear yesterday in
8 my request for an undertaking, but this is the
9 clarification I wish to put before the -- the Review
10 Board.

11 IEMA wishes to obtain from the GNWT a
12 summary of solid-waste incinerator in-line continuous
13 emission monitoring requirements of Canadian federal,
14 provincial, and territorial governments.

15

16 (BRIEF PAUSE)

17

18 THE CHAIRPERSON: Can I just ask the
19 GNWT if that clarification is understood and all
20 right?

21 MS. LORRAINE SEALE: Lorraine Seale,
22 GNWT. Yes, Madam Chair, that clarification is
23 understood. Thank you.

24 THE CHAIRPERSON: Okay. Thank you. I
25 will now ask Dominion Diamond to introduce your new

1 staff that you have today and to begin your caribou
2 presentation.

3

4 PRESENTATIONS RE: CARIBOU AND OTHER WILDLIFE

5 PRESENTATION BY DOMINION DIAMOND:

6 MR. RICHARD BARGER: Thank you, Madam
7 Chair. Richard Barger, from Dominion Diamond. So
8 new with us at the -- at the front table this morning
9 is Bob Overvold who's our head of communities
10 environment for Dominion Diamond and Dr. Jim Rettie
11 there who works for Golder and consults for -- for
12 Dominion.

13 Madam Chair, just before we start our
14 presentation and I turn it over to our chief executive
15 officer Brendan Bell, I'd just -- I'd like to note
16 that earlier this morning, we provided three (3)
17 pieces of information to your staff -- or filed three
18 (3) pieces of information to your staff in response to
19 questions from -- from yesterday in follow-up that was
20 required from yesterday.

21 First was a response to Undertaking
22 number 2 on greenhouse gas emissions and the source of
23 those emissions. We also provided information in
24 response to a request for the number of women in
25 traditional and non-traditional positions working for

1 Dominion Diamond. And third, an Information Request,
2 I think from -- from a councillor from Deninu Kue
3 concerning the number of employees that work for
4 Dominion Diamond in the communities in the South
5 Slave. So those three (3) pieces of information have
6 been provided to the staff for posting on the
7 registry.

8 With that said, I'll turn it over to --
9 to our CEO Brendan Bell just to start our presentation
10 today.

11 MR. BRENDAN BELL: Madam Chair,
12 Brendan Bell, Dominion Diamond. I want to thank you.
13 It's -- it's an honour to be here in front of the --
14 the Board talking about caribou today. Joseph, thank
15 you very much for the -- for the prayer, much -- much
16 appreciated.

17 There's a -- there's a lot at stake
18 here today, Madam Chair and members of -- of the
19 Board, clearly. This is -- I view this as -- as the
20 most important part of -- of this discussion and --
21 and why shouldn't it be? Caribou, I think, are the --
22 the most important issue in the Northwest Territories
23 and -- and Nunavut today for our communities, for our
24 society as a whole. And -- and therefore, it's --
25 it's the most important part of this discussion with

1 respect to -- to how we develop this project.

2 You'll hear today from -- from
3 scientists from our side and -- and other scientists
4 in the room. We'll make presentations and -- and we -
5 - and we believe that this project will have a very
6 minimal impact on caribou. We believe we've designed
7 it in a manner that mitigates against any potential
8 adverse effects. And there will be a debate, I
9 expect, about attribution with respect to the decline
10 of -- of the caribou herds, which, I think, census or
11 -- or no, admissibility or no, I believe there's
12 probably nobody in the -- in the room who disputes
13 that the caribou are under severe threat. I think we
14 all acknowledge -- acknowledge that.

15 But there'll be discussion about the
16 impacts of development over the last number of years,
17 of climate change, on the ability of the caribou to
18 get to the calving grounds, and what that's meant for
19 predation, what all of this means in terms of hunting.
20 And it's all an important part of the discussion.

21 But before we get into the -- the
22 science and before we get into a discussion about
23 mitigation, I want to give you my pledge, on -- on
24 behalf of Dominion, that we are very invested in
25 finding solutions and outcomes and want to spend a lot

1 of time, if we can, talking about that.

2 You heard yesterday there was a
3 representative from Rio Tinto who -- who was emphatic
4 that -- that -- you know, I -- and we can't make any
5 pledge or commitment on behalf of Diavik. And -- and
6 of course that's the case. I wouldn't attempt to do
7 that. I wouldn't attempt to make any commitment on
8 behalf of any other companies. And I'm not even sure,
9 Madam Chair, I would know where to begin.

10 We are a northern company with northern
11 values. And if you -- if you wonder what we're
12 talking about around the water cooler in the morning
13 in our office, well, it's about the start of the
14 school year, and we're trading the stories about the
15 exploits of our children on the -- on the hockey ice
16 or on the soccer field.

17 But most importantly, we're talking
18 about the decline of the caribou herds. And why
19 wouldn't we be, everybody in the territory is talking
20 about it. Everybody in the territory is concerned
21 about it. We want to be a part of the solution. I'll
22 give you my pledge that we will invest financial and
23 resources otherwise. There are a lot of talented
24 people in this Company prepared to put their
25 collective shoulder to the wheel, but we want to do it

1 in partnership with the Aboriginal communities who
2 obviously have the most at stake here. We want to do
3 it in partnership with government who have the tools
4 that we will need to ensure that we work together to
5 find solutions.

6 I was in one (1) of the Tlicho
7 communities and -- and an Elder stopped me and said:
8 Look, I know there are not a lot of caribou coming
9 around the mine site, but when you are designing this
10 project, I want you to think about the return of the
11 caribou that we're all praying for. The caribou
12 numbers have ebbed and flowed over the years and we're
13 obviously at a bit of a low, but they will be back.
14 We believe they'll be back. We want you to build this
15 project in a manner that ensures that when they do
16 come back, there aren't adverse impacts.

17 And that's -- that's what we believe we
18 have done. But -- but more than that, beyond the --
19 the sort of reach of this project, as a company with
20 northern values, and these are -- you know, the -- I
21 would -- I would emphasize, these -- caribou are not a
22 -- not a priority for the Company. Priorities come
23 and go. Priorities change.

24 This is protection of the environment,
25 protection of this caribou herd is a value for this --

1 this northern company, just as it's a value for
2 everybody in the room, I believe. But we are
3 committed to working with the Aboriginal communities
4 and with government to find solutions. And I hope
5 that we can focus a -- a significant amount of our
6 effort and discussion here today on that.

7 Thank you, Madam Chair. With that, I'd
8 like to pass it over to Elliot Holland, who will take
9 you through our presentation.

10 MR. ELLIOT HOLLAND: Thank you.
11 Elliot Holland, for Dominion. As Brendan noted,
12 Dominion Diamond recognizes and understands the
13 critical importance of the Bathurst herd to the
14 ecosystem and the people of the North. During this
15 process, Dominion Diamond has carefully and thoroughly
16 examined the potential impact of the Jay Project on
17 the Bathurst herd, incorporating both scientific and
18 traditional knowledge in its assessment.

19 We've incorporated measures in the Jay
20 Project to avoid or mitigate the impact of the project
21 on the Bathurst herd. Based on that work, Dominion
22 Diamond concludes that the residual effects of the Jay
23 Project on the Bathurst herd are small and those
24 changes would not be distinguishable from natural
25 variation.

1 Nonetheless, like the community
2 representatives and other parties here today, Dominion
3 Diamond is deeply concerned about the current and
4 future health of the Bathurst herd. Dominion Diamond
5 has again considered the recommendations related to
6 caribou, compensatory mitigation that are provided by
7 IEMA, Lutsel K'e Dene First Nation, North Slave Metis
8 Alliance, YK Dene First Nation, and the Tlicho.

9 Based on all of the most recent
10 information, we suggest the following as an additional
11 Dominion undertaking. Dominion Diamond commits to
12 meet with the parties during the undertaking period to
13 identify and evaluate additional measures that could
14 increase mitigation of project effects in caribou that
15 could improve the overall health of the Bathurst herd.

16 Dominion will provide a summary of the
17 meetings held and a description of additional
18 mitigative actions that may be identified and agreed
19 through these meetings. Given its important role in
20 the management of the Bathurst herd, we believe it
21 would be particularly important that GNWT is in
22 agreement with the additional mitigative measures that
23 may be under consideration, and Dominion will,
24 therefore, solicit this input from GNWT.

25

1 --- UNDERTAKING NO. 6: Dominion will meet with
2 parties during the
3 undertaking period to
4 identify and evaluate
5 additional compensatory
6 mitigation measures that
7 will improve the health of
8 the Bathurst herd; and
9 will solicit input from
10 GNWT to ensure that they
11 are in agreement with the
12 mitigation measures.
13 Dominion and other parties
14 will then provide a joint
15 summary of these meetings.
16 Dominion will also report
17 on any actions that may be
18 taken as a result of these
19 meetings
20

21 MR. ELLIOT HOLLAND: With that, I --
22 I'll pass the discussion to Dr. Jim Rettie, who will -
23 - who will give our -- our technical presentation.

24 DR. JIM RETTIE: Thank you. Jim
25 Rettie, Golder Associates. Good morning, Madam Chair,

1 Board members, and all parties involved here today.
2 I'm here to speak to -- with you today about the
3 assessment of the effects of the Jay Project on
4 caribou and wildlife.

5 My presentation today will focus on
6 three (3) main items. First, the additional
7 information that has been provided since April 2015
8 technical sessions. Second, the Intervenor technical
9 report recommendations. For this presentation, these
10 have been summarized and organized into eight (8)
11 themes. And third, Dominion Diamond's responses to
12 Intervenor recommendations.

13 For the Jay Project, the cumulative
14 effect assessment for caribou and other wildlife
15 valued components were assessed using an ecologically
16 relevant and conservative approach which also
17 integrated traditional knowledge.

18 Traditional knowledge was used to
19 inform the assessment in several ways. These include
20 the selection of valued components and assessment
21 endpoints; the identification of effects, pathways,
22 and mitigation; the importance of the narrows and Lac
23 du Sauvage esker and caribou -- to caribou migratory
24 movements; the selection of the Jay road route; the
25 knowledge that caribou populations increase and

1 decrease through time; the ability of fire and climate
2 change to influence caribou abundance and
3 distribution; and the information that caribou are
4 arriving on the wintering grounds later in the year.
5 Dominion Diamond has and will continue to engage with
6 communities on caribou and wildlife mitigation and
7 monitoring, to provide opportunities to integrate
8 traditional knowledge into all phases of the Jay
9 Project.

10 The first item in my overview list was
11 the additional information provided since the April
12 2015 technical sessions. Since the April technical
13 sessions, Dominion Diamond submitted a revised
14 Wildlife Effects Monitoring Plan to public record June
15 1st, 2015. The Wildlife Effects Monitoring Plan
16 includes an appendix containing the revised Caribou
17 Road Mitigation Plan.

18 A workshop for the Caribou Road
19 Mitigation Plan was held on May 22nd, 2015, and
20 another workshop was conducted on June 25th, 2015, to
21 get input into the Wildlife Effects Monitoring Plan
22 and a revised version of the Caribou Road Mitigation
23 Plan. These workshops provided opportunities for
24 important input from communities, from government,
25 from technical specialists, and from the independent

1 environmental monitoring agency.

2 Dominion Diamond provided multiple
3 Caribou Road Mitigation Plan and Wildlife Effects
4 Monitoring Plan revisions based on workshop input.
5 For the Caribou Road Mitigation Plan, there were two
6 (2) workshops and two (2) revisions. For the Wildlife
7 Effects Monitoring Plan, there was one (1) workshop
8 and one (1) revision.

9 The most recent versions of both the
10 Caribou Road Mitigation Plan and the Wildlife Effects
11 Monitoring Plan were submitted on July 31st, 2015.
12 The Wildlife Effects Monitoring Plan will evolve
13 further as a result of input from future management
14 activities, future -- excuse me -- future engagement
15 activities, and the results of the monitoring program.

16 The second and third items on my
17 overview list for this presentation were the
18 Intervenor technical report recommendations, and
19 Dominion Diamond's responses to those recommendations.
20 I noted that they had been organized into eight (8)
21 themes. I'm going to go through each of those themes,
22 and integrate the technical report recommendations
23 with Dominion Diamond's responses.

24 The first theme is wildlife plan
25 documents. This is a series of recommendations from

1 the Government of the Northwest Territories. The
2 Government of the Northwest Territories recommendation
3 8A, was that Dominion Diamond provide more detailed
4 procedures for key mitigations and monitoring,
5 including road surveys, how collaring information will
6 be used, deterrent procedures, and wildlife encounters
7 and incidents.

8 In response, Dominion Diamond agrees
9 and has incorporated more details on mitigation and
10 monitoring with respect to road surveys, collar data,
11 deterrence procedures, and incidents in several
12 sections of the Wildlife Effects Monitoring Plan, and
13 the Caribou Road Mitigation Plan.

14 The Government of the Northwest
15 Territories Recommendation 8(b) was that Dominion
16 Diamond revise the objectives of the document to
17 provide a clearer framework for the contents of the
18 plan. In response, Dominion Diamond agrees and this
19 has been included in the Wildlife Effects Monitoring
20 Plan.

21 Continuing on, the Government of the
22 Northwest Territories Recommendation 8(c) was that
23 Dominion Diamond further develop the concordance
24 table, Section 1.5, to link specific sections of the
25 document with the various mandates and jurisdiction of

1 the regulatory agencies. In response, Dominion
2 Diamond agrees and the concordance table has been
3 completed, and the revised -- in the revised Wildlife
4 Effects Monitoring Plan.

5 The Government of the Northwest
6 Territories Recommendation 8(d) was that Dominion
7 Diamond revise the Wildlife Effects Monitoring Plan to
8 include monitoring for the magnitude and size of the
9 zone of influence, in accordance with the
10 recommendation of the zone of influence technical task
11 group. In response, Dominion Diamond agrees and
12 monitoring to address the zone of influence is
13 explained in Section 5.6.5 of the Wildlife Effects
14 Monitoring Plan.

15 To continue with the Government of the
16 Northwest Territories Wildlife Plan recommendation,
17 Recommendation 8(e) was that Dominion Diamond revise
18 the Wildlife Effects Monitoring Plan to provide
19 clearer objectives for the camera monitoring,
20 including supporting methodology and a section on past
21 scope and improvements.

22 In response, Dominion Diamond agrees,
23 and monitoring objectives, past scope, and
24 improvements are provided for all components of the
25 Wildlife Effects Monitoring Plan.

1 The Government of the Northwest
2 Territories Recommendation 8(f) was that Dominion
3 Diamond develop a reliable way to monitor traffic
4 levels and provide details on mitigation actions in
5 the Wildlife Effects Monitoring Plan.

6 In response, Dominion Diamond agrees
7 with the recommendation, and is currently developing a
8 system to collect data on heavy-haul traffic along the
9 Misery and Jay Roads. The Caribou Road Mitigation
10 Plan, which is part of the Wildlife Effects Monitoring
11 Plan, has several triggers and action levels for
12 mitigating traffic effects to caribou and other
13 wildlife.

14 The Government of the Northwest
15 Territories Recommendation 8(g) was that Dominion
16 Diamond revise the Wildlife Effects Monitoring Plan to
17 provide more details on procedures for monitoring
18 approaching caribou, including at intermediate
19 distances.

20 In response, Dominion Diamond agrees,
21 and the Wildlife Effects Monitoring Plan has been
22 revised to provide more details on procedures for
23 monitoring approaching caribou.

24 The Government of the Northwest
25 Territories Recommendation 8(h) was that Dominion

1 Diamond revise the Wildlife Effects Monitoring Plan to
2 include further detail regarding when and how
3 mitigations for reducing the barrier effect of the
4 road are applied for wildlife-valued components other
5 than caribou.

6 In response, the key objective of the
7 Caribou Road Mitigation Plan is to avoid and minimize
8 changes in migratory movements, energetics and
9 reproduction, and connectivity of the herd which could
10 otherwise result in significant effects to the
11 population.

12 Barrier effects were not identified as
13 generating a significant risk to other wildlife
14 populations.

15 The primary effect of mitigation action
16 for limiting road effects that are currently in place
17 at Ekati is stopping vehicles and giving all wildlife
18 the right of way when they are approaching or on
19 roads.

20 Posting signs and reducing speed limits
21 in areas where wildlife are known to be denning or
22 using frequently has also been implemented at the
23 Ekati mine. No revisions to the Wildlife Effects
24 Monitoring Plan are required to incorporate additional
25 mitigation for barrier effects to other wildlife.

1 The final recommendation regarding
2 wildlife plan documents was the Government of the
3 Northwest Territories Recommendation 8(I), that
4 Dominion Diamond revise the Wildlife Effects
5 Monitoring Plan to ensure that appropriate action
6 levels, whether quantitative or qualitative, with
7 associated actions are applied wherever possible to
8 support adaptive approaches to managing impacts to
9 wildlife.

10 In response, Dominion Diamond agrees,
11 and the July 31st, 2015, revisions to the Wildlife
12 Effects Monitoring Plan address this recommendation.
13 No further additions are required to incorporate
14 additional action levels for adaptive management.

15 Adaptive management in mitigation and
16 monitoring has been implemented at Ekati mine since
17 1997. Appendix C of the Wildlife Effects Monitoring
18 Plan provides a summary of the changes to monitoring
19 from 1997 to 2014.

20 Appendix D of Wildlife Effects
21 Monitoring Plan identifies the hierarchical levels of
22 mitigation actions that have been applied at the Ekati
23 mine, and will be extended to the project to avoid and
24 limit effects to caribou and wildlife from primary and
25 secondary pathways.

1 Feedback on the effectiveness of
2 mitigation and monitoring for the application of
3 adaptive management in the operation of the Ekati mine
4 and Jay Project is a key element of the Wildlife
5 Effects Monitoring Plan in Sections 2.2 and 4.5, and
6 will continue to evolve into closure and reclamation
7 of the mine.

8 The second theme of technical report
9 recommendations was recommendations from Environment
10 Canada on migratory birds and species at risk. The
11 recommendations were that the effectiveness of
12 proposed mitigation will need to be monitored to
13 trigger an adaptive management response to avoid
14 disturbance and incidental take to migratory birds.

15 This includes monitoring bird use of
16 mine-altered water bodies and reporting impacts to
17 species at risk. In response, Dominion Diamond agrees
18 with all the recommendations. Dominion Diamond will
19 develop a fish-out plan with mitigation strategies to
20 avoid water bird mortalities in collaboration with
21 Environment Canada.

22 The conceptual Wildlife Effects
23 Monitoring Plan includes mitigation to avoid
24 incidental take and monitoring of migratory birds and
25 species at risk at the Jay Project and Ekati mine.

1 Monitoring of the use of mine-altered water bodies by
2 birds will be included in the Wildlife Effects
3 Monitoring Plan.

4 The third theme of technical report
5 recommendations was regarding the determination of
6 significance. The recommendation was that the Board
7 make a determination that the Jay Project would have
8 significant adverse cumulative impacts on the Bathurst
9 caribou herd.

10 In response, Dominion Diamond does not
11 agree with the recommendation. Based on the most
12 recent June survey, Dominion Diamond understands that
13 the continued decline of Bathurst caribou may be
14 considered as ecologically and culturally significant.
15 Both traditional knowledge and science indicate a
16 history of natural population cycles for the Bathurst
17 herd.

18 Declines in adjacent herds without
19 mines demonstrate that natural factors are important
20 in changes in caribou abundance. The seasonal ranges
21 of the Bathurst herd are intact, are largely
22 undisturbed, and are still being used. Over 98
23 percent of the physical range has no development.

24 Population models demonstrate that
25 cumulative effects do not influence the herd size

1 trajectory, which is primarily influenced by survival
2 and reproduction rates associated with natural
3 population cycles. Multiple lines of evid -- evidence
4 in the Developer's Assessment Report and responses to
5 adequacy review and Information Requests show no
6 significant contribution from development on decline
7 in the population. The Jay Project will have no
8 significant incremental and cumulative effect on the
9 Bathurst herd.

10 The fourth theme of technical report
11 recommendations was the Jay road design and utilities.
12 The recommendations were to use the proposed Jay
13 Project road alignment Alternative number 4 to
14 consider esker crossing alternatives and to bury the
15 required pipe and powerlines.

16 Dominion Diamond agrees with the
17 recommendation regarding pipelines and they will be
18 covered except where required for safety or
19 inspection. Dominion Diamond does not agree with the
20 other recommendations.

21 Following the April technical session a
22 rude alternatives analysis was completed as an
23 undertaking. The analysis included Jay road
24 Alternative number 4. The proposed road alignment
25 number 4 is less caribou friendly. It is longer. It

1 requires more safety berms. It provides fewer caribou
2 crossings and it requires more traffic due to a
3 greater amount of incline.

4 The selected road alignment, Alignment
5 number 3, has the smallest impact on the esker and
6 allows most of the road to be developed as a caribou
7 crossing. The use of an overpass on the esker is not
8 feasible due to the size of equipment and the need for
9 fencing.

10 Dominion Diamond recognizes the concern
11 by a number of parties regarding the potential effects
12 of powerlines on caribou movement. This is why the
13 potential for overhead powerlines to act as a barrier
14 to caribou movement was identified at the beginning of
15 the assessment process as a primary pathway by which
16 the Jay Project might affect caribou. And an analysis
17 was completed on the pathway in the Developer's
18 assessment report. Published research suggests that
19 effects from powerlines are minor when compared to
20 active roads.

21 Qualitative analysis predicted that the
22 presence of the powerlines should result in negligible
23 changes to caribou movements and distribution relative
24 to increased traffic on the Jay road. Therefore, the
25 potential adverse effects of increased traffic on the

1 Jay road were recognized as the focus of concern. The
2 caribou road mitigation plan arose from concerns over
3 the effect of the Jay road on caribou.

4 Burying the powerline through the esker
5 cut would require substantive extra work to bring the
6 high voltage cables to the ground, encase them in a
7 protective conduit and elevate them again. The loss
8 of ability for safety inspection on that portion of
9 the high voltage cables would introduce unnecessary
10 operational and safety risks.

11 Dominion Diamond's work has included
12 engagement with members of the impact benefit
13 agreement groups, including ariel reconnaissance and
14 on-ground engagement to gather input on a route with
15 the least impact to caribou.

16 The fifth theme of technical report
17 recommendations was regarding the caribou zone of
18 influence. The recommendations were that Dominion
19 Diamond estimate the zone of influence, distance, and
20 magnitude with 2009 and 2012 ariel survey data and
21 that Dominion Diamond complete ariel surveys and zone
22 of influence analysis for the Jay Project at Ekati
23 Mine.

24 In response, Dominion Diamond agrees
25 with the recommendation to analyze 2009 and 2012 ariel

1 survey data. The analysis result -- results will be
2 presented in the 2015 Wildlife Effects Monitoring
3 Program report, that is in the report to be submitted
4 in 2016.

5 Following Government of the Northwest
6 Territories' Recommendations 7 and 8, Dominion Diamond
7 will collaborate with the Government of the Northwest
8 Territories on regional programs and actions and work
9 with the zone of influence technical task group on
10 developing approaches and methods for monitoring and
11 analysis.

12

13 (BRIEF PAUSE)

14

15 DR. JIM RETTIE: The sixth theme of
16 the technical report recommendations was the
17 offsetting of the impacts of the project on caribou.
18 The recommendation was that Dominion Diamond shall
19 prepare a compensatory mitigation or offsetting plan
20 for caribou.

21 The purpose of the plan is to enhance
22 the ability of the Bathurst caribou herd to recover to
23 its previous abundance as measured through reductions
24 in energy loss and positive changes in calf production
25 and survival. Dominion Diamond's response to this

1 recommendation was provided by Mr. Holland prior to my
2 presentation.

3 The seventh theme of technical report
4 recommendations was regarding effects research. The
5 recommendations were that Dominion Diamond, with other
6 mine operators and the Government of the Northwest
7 Territories where possible, shall develop and
8 implement a collaborative research program designed to
9 identify the causes of the zone of influence for
10 caribou avoidance and the Developer collaborate with
11 impacted communities, the Government of the Northwest
12 Territories, and other mine operators to commission
13 independent research into which elements of the
14 project are having impacts upon caribou, their
15 severity and innovative mitigation measures to reduce
16 these impacts.

17 In response, the Government of the
18 Northwest Territories already leads a collaborative
19 group, the Zone of Influence Technical Task Group, in
20 which Dominion Diamond is a participant and which
21 Dominion Diamond will continue to support.

22 Experimentation to determine zone of
23 influence causes and effects cannot be completed owing
24 to technical challenges and constraints in
25 establishing cause and effect relationships between

1 mine activities and traffic that generates similar and
2 multiple forms of sensory disturbance simultaneously.

3 The final theme of technical report
4 recommendations was the effects of the project on the
5 Diavik Diamond Mine. The recommendations were that
6 the proponent be required to engage with Diavik
7 Diamond Mine Incorporated to develop mutually
8 acceptable monitoring and mitigation to effectively
9 eliminate these effects of Diavik, and commit to
10 advancing these measures and any necessary revisions
11 for review and acceptance by the Land and Water Board,
12 and the parties to the environmental agreement.

13 In response, Dominion Diamond engaged
14 with Diavik during the environmental assessment
15 process to discuss potential effects from the Jay
16 Project on caribou and wildlife. Dominion Diamond
17 agrees with Diavik's recommendation to develop
18 mutually acceptable monitoring and mitigation to
19 effectively eliminate potential effects of Diavik
20 mine, and commits to advancing monitoring and
21 mitigation measures with any necessary revisions for
22 review and acceptance by the Land and Water Board, and
23 by the parties of the environmental agreement.

24 Dominion Diamond has committed to
25 continue to engage with Diavik Diamond Mine on the

1 development of mutually acceptable environmental
2 monitoring plans for water and wildlife, where there
3 is spatial overlap of interests or needs. Dominion
4 Diamond also commits to advancing the Environmental
5 Monitoring and Mitigation Plans according to the
6 applicable review process, including engagement with
7 stakeholders.

8 Dominion Diamond anticipates that
9 regulatory approvals for the Jay Project will, by
10 necessity, be focussed specifically on regulating the
11 potentially -- the -- excuse me -- the potential
12 effects of the Jay Project. These plans and programs
13 are anticipated to undergo review through the Land and
14 Water Board, or the Ekati mine environmental
15 agreement.

16 In summary, the Jay Project and
17 cumulative effects assessment for caribou and other
18 wildlife value components were assessed using an
19 ecologically relevant and conservative approach, which
20 also integrated traditional knowledge. A conservative
21 approach was used to manage uncertainty and to avoid
22 under-estimating significant ecological effects, which
23 is important in the protection and management of
24 wildlife populations. The Jay Project will have no
25 significant incremental and cumulative effect on

1 barren ground caribou and other wildlife.

2 Dominion Diamond provided conceptual
3 plans to mitigate and monitor effects from the Jay
4 Project and Ekati mine on caribou and other wildlife.

5 The plans were revised based on engagement with the
6 Mackenzie Valley Environmental Impact Review Board,
7 communities, government, technical specialists, and
8 the Independent Environmental Monitoring Agency.

9 Engagement and integration of traditional knowledge in
10 development of monitoring and mitigation plans will
11 continue through future project phases. Dominion
12 Diamond will also continue to support regional
13 initiatives as appropriate. In closing, Dominion
14 Diamond thanks the parties for their contribution
15 during the project environmental assessment process.

16

17 QUESTION PERIOD:

18 THE CHAIRPERSON: Thank you. At this
19 time, we'll follow the line of questioning. Questions
20 from the Monitoring Agency?

21 MR. BILL ROSS: Bill Ross, Monitoring
22 Agency. Thank you, Madam Chair. At the beginning of
23 the Dominion Diamond presentation, there was a
24 suggestion that we and others meet with Dominion
25 Diamond to discuss ways of dealing with some of the

1 wildlife issues, and especially the caribou issues,
2 and that Dominion Diamond would subsequently undertake
3 to report to the Review Board on the outcomes of such
4 a meeting.

5 The Independent Environmental
6 Monitoring Agency is -- is certainly pleased to -- to
7 participate in such meetings, but the outcome of them
8 should be jointly submitted by all parties and not
9 submitted only by Dominion Diamond. I -- I am
10 assuming that that's acceptable to Dominion Diamond,
11 but I think it's -- it's a preferred way of -- of
12 dealing with that kind of a -- a process, if -- if
13 that's okay. I -- I would -- I'm not sure I'm looking
14 for an answer, but that's a suggestion primarily to
15 the Review Board, but also to Dominion Diamond. I --
16 I would move on to questioning if -- if you think
17 that's okay now, Madam Chair.

18 THE CHAIRPERSON: Is there a response
19 from Dominion?

20 MR. RICHARD BARGERY: It's Richard
21 Bargery, Dominion Diamond. I can confirm, as far as
22 the -- the meetings are concerned, yes, a -- a joint
23 summary is an appropriate way to go, I think, and --
24 and we would certainly support that. Thank you.

25 The second part of our -- our

1 commitment was to provide to -- to the Board any
2 actions that we may take as a result of those meetings
3 as well. And that would probably be a Dominion
4 Diamond alone document. Thank you, Madam Chair.

5 MR. BILL ROSS: Now I -- I would move
6 on -- Bill Ross, Monitoring Agency. I would move on
7 to questions I have. I have two (2), and then I will
8 turn them over to Kim Poole for some further
9 questions.

10 The first one relates to a -- a
11 population modelling exercise. I -- I'm not sure -- I
12 haven't seen this, but did -- did Dominion Diamond
13 undertake a population modelling exercise that would
14 have started with the population of, in round numbers,
15 four hundred and fifty thousand (450,000) animals in
16 the 1980s, and then project what the population of the
17 Bathurst herd would be in the year 2015 if there were
18 no developments in the area?

19

20 (BRIEF PAUSE)

21

22 DR. JIM RETTIE: Jim Rettie, Golder
23 Associates. No, we did not model the population from
24 the mid-'90s population of -- I believe you said
25 approximately four hundred thousand (400,000).

1 Our model runs were based -- they were
2 based on the female component of the herd only. And
3 we modelled from the 2012 population estimate of
4 approximately sixteen thousand (16,000) females. And
5 all of our model runs began there.

6 MR. BILL ROSS: As -- as a follow-up,
7 is there some reason why you didn't model from 1980s
8 through to the present, absent developments in the --
9 in the range?

10

11 (BRIEF PAUSE)

12

13 THE CHAIRPERSON: Just a reminder,
14 when you're speaking, if you could please identify
15 yourself each and every time you question?

16 MR. BILL ROSS: I -- I was Bill Ross,
17 Monitoring Agency. I'm sorry, Madam Chair.

18

19 (BRIEF PAUSE)

20

21 DR. JIM RETTIE: Jim Rettie, Golder
22 Associates. We ran the -- the initial block of
23 population models on a number of different models in
24 response to requests from the parties. And we did so
25 with the objective of determining the effect of

1 development on the population from the current point
2 forward.

3 MR. BILL ROSS: Bill Ross, Monitoring
4 Agency. How difficult would it have been to do the
5 modelling from 1980s through to the present?

6

7 (BRIEF PAUSE)

8

9 MR. RICHARD BARGERY: Just give us a
10 couple of seconds, Madam Chair.

11 DR. JIM RETTIE: The objective of the
12 modelling was to assess the effect of development on
13 the landscape on the Bathurst caribou herd. In terms
14 of the certainty of the amount of development present
15 on the landscape, the best and most reliable
16 information is far more recent than the 1980s. It
17 dates probably back to about 2000.

18 So in terms of trying to model
19 development against population size prior to that
20 would have been a -- a problem in the absence of
21 reliable information on development.

22 MR. BILL ROSS: Bill Ross, Monitoring
23 Agency. You indicate the problem would have been
24 about the knowledge of what development was there.
25 But if one assumes there was zero development, then

1 that wouldn't be much of a problem.

2 Is -- is the understanding of the
3 Bathurst herd dynamics good enough to do that
4 modelling?

5

6 (BRIEF PAUSE)

7

8 DR. JIM RETTIE: Jim Rettie, Golder
9 Associates. An important part of our modelling
10 exercise was to look at the effects of development
11 through the encounters of caribou with developments
12 and the zones of influence around them.

13 Prior to the mid-1990s, we had no
14 information on caribou movements. There were no
15 collared animals in the Bathurst herd which would
16 provide us information about their movements, coupled
17 with an absence of reliable information on locations
18 of all developments on the landscape, would make any
19 modelling highly speculative.

20 And there's -- there's also -- yeah,
21 also -- I'll finish there.

22 MR. BILL ROSS: Bill Ross, Monitoring
23 Agency. Different -- excuse me. A different
24 question. Your criteria for determining significance
25 of effects on the Bathurst herd are that the Bathurst

1 herd have a self-sustaining and ecologically effective
2 barren ground caribou population.

3 Why would you -- why would you exclude
4 from the criteria for significance the continued
5 ability of Aboriginal people to harvest caribou?

6

7 (BRIEF PAUSE)

8

9 DR. JIM RETTIE: Jim Rettie, Golder
10 Associates. The assessment of ongoing opportunities
11 for traditional harvest of caribou was addressed in
12 Section 15 of the Developer's Assessment Report.

13 MR. BILL ROSS: I think -- Bill Ross,
14 Monitoring Agency. My question was: Why was that not
15 a criterion for sig -- for determining whether the
16 effect was significant?

17 I -- I am told I also erred
18 grammatically in posing the question earlier. I meant
19 to refer to Aboriginal peoples, not Aboriginal people.

20

21 (BRIEF PAUSE)

22

23 MR. RICHARD BARGERY: Richard Bargery,
24 Dominion Diamond. So I -- I'm just trying to
25 understand the point, because it was assessed for

1 ecological effectiveness in -- in Section 15. So
2 perhaps I can ask Mr. Ross why -- why that isn't
3 sufficient or -- or what -- what his specific point is
4 again.

5 MR. BILL ROSS: Bill Ross, Monitoring
6 Agency. It is important to convey to the Review Board
7 and to other parties how you determine significance of
8 effects. It is quite clear that with respect to
9 caribou and some other value components, you used the
10 sole endpoint as effects on self-sustaining and
11 ecologically effective populations.

12 The Monitoring Agency suggested that
13 other societal values should properly play a role in
14 determining significance of effects on caribou. And
15 your response to us was that you stood by what you had
16 submitted in the DAR as self-sustaining and
17 ecologically effective barren ground populations,
18 caribou populations.

19 And it -- I just don't understand why
20 your position is that societal values, such as the
21 ability of Aboriginal peoples to harvest caribou,
22 would not determine -- would not play an important
23 role in determining significance of adverse effects.

24

25 (BRIEF PAUSE)

1 DR. JOHN VIRGIL: Madam Chair, John
2 Virgil, of Golder Associates. In the caribou Section
3 12, we looked at the ecological effects from all
4 factors, including natural and development, on
5 caribou. And we used the assessment endpoint self-
6 sustaining and ecologically effective populations.

7 Ecologically effectiveness is the
8 interactions of ecological sur -- or ecological
9 services that benefit other wildlife and the
10 environment, including the use of caribou by people.
11 In Section 15, we explicitly looked at the effects of
12 development and other factors on the continued
13 opportunities for traditional and nontraditional
14 harvesting of caribou.

15 That is where the Section 15 assessment
16 was based on a number of different measurement
17 indicators, including the availability of -- of an --
18 an abundance -- or the abundance in distribution of
19 wildlife, disturbance to preferred wildlife harvesting
20 areas, sensory disturbances, social and economic
21 factors affecting partitioned -- or participation in
22 traditional land use, along with some other things,
23 like human health, the ability of people to continue
24 to safely eat wildlife, including caribou.

25 We separated these two (2) things in

1 terms of focussing the assessment on the ecological
2 effects of caribou in Section 12 and focussing the
3 effects on societal values in Section 15. They're
4 both important. We separated them so that the
5 decision makers would have the information separately
6 to then provide an informed decision based on that
7 information. Thank you.

8

9 (BRIEF PAUSE)

10

11 MR. KIM POOLE: Kim Poole, for the
12 monitoring agency. Could I have that first -- yeah,
13 not that one.

14

15 (BRIEF PAUSE)

16

17 MR. KIM POOLE: That one. Oh, could I
18 also have a pointer, please? Either Chuck, or Rick,
19 do you have one?

20

21 (BRIEF PAUSE)

22

23 MR. KIM POOLE: Thank you. Kim Poole,
24 again for the Monitoring Agency.

25

So there has been a lot of discussion

1 about zone of influence. And I'd just like to ask a
2 clarification. As a simple introduction, just so that
3 everyone in the room is familiar with what the zone of
4 influence actually means, it's an area around
5 development within which caribou numbers are less than
6 would be expected based on the habitat available, if
7 the development wasn't there.

8 This was -- the initial work was
9 conducted with Boulanger, et al, that took aerial
10 survey data from the 2003 to 2008 period, and combined
11 that data to come up with an estimated zone of
12 influence of approximately 14 kilometres around the
13 combined Ekati and Diavik footprints. Subsequent to
14 that work, changes in computer modelling and analyses
15 has enabled the zone of influence to be calculated on
16 an annual basis, based on the aerial surveys from any
17 given year.

18 The figure that's up on the slide here
19 is from an appendix to the Zone of -- Zone of
20 Influence Technical Working Group Report from March of
21 this year. There's essentially two (2) components to
22 a zone of influence analysis. One (1) is the upper
23 figure where the distance is calculated. And they --
24 has worked out since about 2002 or 2003. The distance
25 has been fairly consistent at about 14, 15, give or

1 take, kilometres from the footprint, except for 2007.

2 A second aspect of the zone of
3 influence analysis is the magnitude or strength of the
4 zone of influence. And that is represented by the
5 lower figure, which shows that -- and what we mean by
6 this, and it's essentially the difference in caribou
7 abundance, the number of caribou within the zone of
8 influence compared to outside of the zone of
9 influence, beyond the influence of any development.

10 What it appears to be is that from
11 about 2003 or 2004, the magnitude of the zone of
12 influence has increased. And this has occurred
13 despite the mitigation that Dominion Diamond and its
14 predecessors have undertaken, and despite the adaptive
15 management. We suggest -- the agency believes this is
16 a very worrying trend, and that irrespective of
17 declining Bathurst herd numbers, the extent of
18 avoidance of mine infrastructure has increased over
19 time.

20 Could Dominion Diamond comment on
21 whether the increasing magnitude in the zone of
22 influence was assessed in the DAR, and could influence
23 the assessment and the significant determination in
24 the assess -- in the DAR?

25

1 (BRIEF PAUSE)

2

3 MR. RICHARD BARGERY: Madam Chair, I
4 think we -- it's going to take -- take us a few min --
5 a few moments here to -- just to have a -- a
6 discussion on this -- this issue, so if you could just
7 bear with us for -- just for a second.

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: While they're doing
12 the deliberation there, we will take a five (5) minute
13 break.

14

15 --- Upon recessing at 9:49 a.m.

16 --- Upon resuming at 9:59 a.m.

17

18 MR. KIM POOLE: Madam Chair, may I --
19 Kim Poole, with the Monitoring Agency. Can I do one
20 (1) clarification to the data that's on the -- on the
21 screen here?

22 THE CHAIRPERSON: Certainly.

23 MR. KIM POOLE: Yeah, Kim Poole, with
24 the Monitoring Agency. Just to clarify that the data
25 that is being presented on the screen is on the public

1 registry. It was submitted sometime in the spring
2 with the Zone of Influence Technical Task Group
3 Report, and it is on the public registry in the
4 Monitoring Agency Technical Report, which was filed,
5 whenever, a few weeks ago. Thank you.

6 THE CHAIRPERSON: Dominion...?

7 MR. RICHARD BARGER: Yeah, Richard
8 Barger, Dominion Diamond. We understand that, and I
9 think it was in response to an IR in -- one of -- the
10 first IR -- the first round of IRs, I think, is when
11 the -- the information was filed, but, Dr. Rettie?

12 DR. JIM RETTIE: Jim Rettie, Golder
13 Associates. Madam Chair, Mr. Poole has presented two
14 (2) sets of data here on the screen for us to look at.
15 What's not evident here is what analysis was done to
16 support his assertion that there are trends in these
17 sets of data. There's a considerable amount of
18 variation in -- represented in some manner with the --
19 with the lines that run vertically through the points,
20 but we're not certain about how the trend assessment
21 was made and what the uncertainty in that trend is, so
22 not only a trend line, but -- but confidence limits
23 around that trend, and those are not presented here.

24 So we're not certain about what these
25 graphs are able to tell us and what the data that are

1 presented in them are able to tell us. In our
2 assessment of the zones of influence and their effects
3 on the -- their -- the effect of the Jay Project and
4 the zones of influence around the project and other
5 developments on the Bathurst caribou herd, we employed
6 a 15 kilometre zone of influence around all projects,
7 which, as you can see, coincides with that top line of
8 -- that represents distance to animals.

9 There are different means of assessing
10 how large zones of influence are, but the ones that we
11 adopted was consistent with what was available in the
12 literature and available from research on the Bathurst
13 caribou herd, the animals, for this project.

14 Further, there are an -- an additional
15 two (2) years worth of data that would inform this
16 zone of influence determination, and Dominion Diamond
17 has committed to analyzing those in response to
18 recommendations from several parties and those will be
19 provided in the Wildlife Effects Monitoring Plan
20 Report in 2016.

21 And Dominion Diamond has made a -- a
22 commitment to continue to work with the Zone of
23 Influence Technical Task Group on developing
24 approaches for the assessment of zones of influence
25 around the mining projects in the Northwest

1 Territories. Thank you.

2 MR. KIM POOLE: Kim Poole, with the
3 Monitoring Agency. Thank you for that response. I'm
4 actually going to touch on this a little bit more
5 during our presentation later this morning or this
6 afternoon.

7 Chuck, could I have please the next
8 figure that I gave you, the map, put up, please?

9

10 (BRIEF PAUSE)

11

12 MR. KIM POOLE: This map is provided
13 in the DAR, the caribou Section 12. I'm sorry, it's -
14 - I'm being told is map number 12.4.3 in DAR Section
15 12, page 104, CPR number 132. Does that cover it?
16 Sorry. Okay.

17 The Company -- the -- Dominion Diamond
18 has told us repeatedly that the analysis conducted in
19 the DAR has been conservative, and -- and they've
20 covered off essentially all the bases. To quote:

21 "All the analyses -- all the
22 analysis used a precautionary
23 approach to predict the maximum
24 effects."

25 What this shows is the caribou

1 deflection route in purple assumed that caribou would
2 go if they encountered the mine footprint. So the
3 mine -- the main mine footprint is from the main mine
4 site down to Misery.

5 In their analysis, they assumed that if
6 a caribou were to try and come through here -- and
7 just for background, these green lines are caribou
8 movement routes based on traditional knowledge -- they
9 assumed that a caribou would deflect around the mine
10 site, and they then assessed the energetic costs of
11 that deflection to come up with their conclusions in
12 the assessment.

13 However, recently -- well, it's been on
14 the books since the early 2000s -- the Sable Project
15 has recently -- I believe this was introduced
16 yesterday in the -- in the hearings, that the Sable
17 Project will be going ahead. And if I am correct, the
18 Sable Project is occurring approximately right here.
19 Please tell me if I'm wrong.

20 My point I want to make, though, is,
21 granted that the Sable Project is a fairly small pit,
22 it's still going to involve at least three (3) or four
23 (4) years of truck traffic from the main Ekati mine
24 site up to Sable and back, top stripping and then
25 mining and hauling stuff, hauling ore back to the

1 processing plant.

2 Was this considered -- my question to
3 Dominion Diamond is that the disturbance that's going
4 to occur on this -- in this -- during the Sable
5 Project will partially overlap with the Jay Project.
6 Was this considered when the deflection rate -- route
7 for caribou was determined? And is it a reasonable
8 assumption that caribou deflection will go on the
9 route that is shown in purple? Thank you.

10 DR. JIM RETTIE: Jim Rettie, Golder
11 Associates. Madam Chair, the -- Mr. Poole raises a --
12 a good point. And in December of 2014, there was an
13 addendum to the Developer's Assessment Report, the
14 Sable addendum, provided. In that report, we -- we
15 map -- there is map 4.2-4, which is an updated version
16 of this that does show a deflection route that goes
17 around the Sable Project.

18 The energetic costs and the number of
19 encounters that animals were subjected to in all of
20 our future energetic modelling were based on them
21 following the path that would take them around the
22 Sable Project as well. And the population modelling
23 that we subsequently did incorporated the costs, the
24 energetic costs, that were associated with that larger
25 deflection route.

1 MR. RICHARD BARGERY: Madam Chairman,
2 Richard Bargery, Dominion Dia -- Diamond. If I could
3 just -- just say we did do the assessment for Sable
4 and -- and filed that as an addendum. But, I mean,
5 really, we're talking -- I'm not sure how many more of
6 these sort of -- sort of specific modelling questions
7 that -- that IEMA might have.

8 We are really talking about, as -- as
9 our CEO said at -- at the start, about small to -- to
10 very small potential effects from -- from development.
11 And as we said and committed to at the beginning, we
12 are open to continuing that discussion about how to
13 mitigate effects. And we -- we made the offer of a --
14 of a meeting, and -- which I think was, at least from
15 IEMA's perspective, accepted.

16 So I -- I just want to make the point
17 that, you know, we are open to continuing that
18 discussion as a company and -- and coming back to the
19 Board at the end of the undertaking period with the
20 res -- both the results of that and additional actions
21 we may take. Thanks.

22 MR. KIM POOLE: Kim Poole, with the
23 Monitoring Agency. Thank you to both of you for that
24 clarification. My next question relates to the -- the
25 WEMP and the Caribou Road Mitigation Plan, the CRMP,

1 where the presentation stated, and I'm just
2 paraphrasing, that details on the collar monitoring
3 are provided in the latest appendix to the WEMP, the
4 CRMP.

5 I would like Dominion Diamond -- I
6 didn't actually review the -- I did review the Caribou
7 Road Mitigation Plan recently, and I was unable to
8 find these details on how the collars are going to
9 work.

10 One (1) of the concerns is that between
11 the road mitigation -- the road monitoring, where
12 technicians will be essentially selecting sites on the
13 road to look for caribou, and the collars, it's --
14 there's a large scale difference between what happens
15 within a few hundred -- 5, 6, 800 metres of the road
16 and what the collars can provide. It is still not
17 clear how the collars will work in a realtime basis on
18 informing Dominion on when caribou are getting close
19 and in the area. And what I would appreciate would be
20 if Dominion could give us further details on the
21 timing.

22 The collars are not downloaded, you
23 know, every few hours. They download it every day or
24 two (2). It takes a while to process them. The
25 information has to then theoretically get transmitted

1 from ENR to Dominion Diamond. And given at times of
2 the year that caribou are travelling up to 5 or 10
3 kilometres a day, perhaps even more during spring
4 migration, how would the collars being abl -- be able
5 to realtime inform the mine of when mitigation has to
6 be kicked up or down?

7

8 (BRIEF PAUSE)

9

10 MR. RICHARD BARGERY: Madam Chair,
11 given the -- the level of detail here, we don't want
12 to sort of huddle on this. We would take this as an
13 undertaking to get -- to come back on. We'd also be
14 open to having the specific discussion about how that
15 would work at our -- our -- at the meeting that we
16 proposed between now and October 9th. And we're more
17 than -- more than happy to have that sort of specific
18 discussion at that -- at that side -- side meeting
19 with the results reported back to the Board.

20 THE CHAIRPERSON: Okay. Counsel...?

21 MR. JOHN DONIHEE: It's John Donihee,
22 as Board counsel. Sorry, I don't understand how the -
23 - the offer to have a meet -- side meeting relates to
24 answering the question.

25 If -- if you're going to answer the

1 question, that -- that could be Undertaking number 6.
2 And I guess if there are side meetings that -- 7, I'm
3 sorry. If -- if there are side meetings that go on
4 and there's something that emerges from that -- that's
5 -- that can be reported to the Board before the record
6 closes, I suppose we'll have to talk about how to get
7 it on the record.

8 MR. RICHARD BARGER: Richard Barger,
9 Dominion Diamond. Fair point. We'll -- we'll provide
10 it as an undertaking, and we will talk to -- to IEMA
11 about the issue in the interim when we're -- when
12 we're doing that work.

13

14 --- UNDERTAKING NO. 7: Dominion will provide
15 details from the CRMP
16 regarding how collar data
17 can be incorporated into
18 real-time monitoring
19 efforts, given the scale
20 differences between
21 on-road visual
22 observations and collar
23 data, as well as the
24 timing differences between
25 when data is received by

1 the GNWT versus obtained
2 by DDEC

3

4 MR. KIM POOLE: Kim Poole, with the
5 Monitoring Agency. This will be my final question for
6 now. I do have a fairly technical question. But I
7 mentioned to Rick earlier that I was just going to try
8 and figure that out with his own staff rather than
9 take up the -- the Board's time.

10 One (1) of the concerns -- one (1) of
11 the major concerns that the Monitoring agent has --
12 Agency has, and it was reflected in many of the other
13 technical reports from the communities, and was that
14 more precautionary traffic management is required to
15 decrease potential sensory disturbance to caribou, and
16 to try and reduce any potential barrier effect of the
17 road.

18 The latest version of the Caribou Roads
19 Mitigation Plan suggests that -- I believe it's road
20 closures will be considered when approximately 1
21 percent of the breeding -- of the females, the cows in
22 the Bathurst herd, which I think were -- the breeding
23 females were estimated at roughly eight thousand
24 (8,000) I think in this last census. Have to be
25 within 200 metres of the road before road closures

1 will be considered. So simple math suggests that if
2 there was fifty (50) or sixty (60) cows with calves
3 within 200 metres of the road, road closures may not
4 occur.

5 Would Dominion Diamond please clarify
6 in real terms how road closures may or may not be
7 instit -- instituted, based on the number of either
8 cows and calves at various times of the year, or non-
9 nursery groups at different distances from the road?
10 Thank you.

11

12 (BRIEF PAUSE)

13

14 MR. RICHARD BARGERY: Richard Bargery,
15 Dominion Diamond. So as -- as Kim has pointed out, I
16 mean, we have put in place a Caribou Roads Mitigation
17 Plan. We've gone through a fairly in -- extensive
18 engagement process with the parties, a couple of
19 workshops, a number of iterations of this plan. We
20 think it's -- it's a unique sort of plan in the
21 Northwest Territories for how we operate when caribou
22 are moving through that area. And certainly something
23 that -- that has -- has come as a result of, you know,
24 the discussions that we've had and the engagement
25 we've had with communities over the -- over the course

1 of the last two (2) years.

2 And that's resulted in ideas that have
3 come out, such as full road closures when caribou are
4 moving through. And as Kim noted, there's a number of
5 triggers in -- in that -- in that plan for when we
6 would take certain actions. I'm going to ask Harry
7 O'Keefe from Dominion just to -- to talk a little bit
8 about those triggers and sort of -- I think Kim's
9 words to how -- how we would operate in real time when
10 caribou are moving through that area.

11 MR. HARRY O'KEEFE: Good morning,
12 Madam Chair. Harry O'Keefe, Dominion Diamond. So --
13 so as Kim pointed out 1 percent is one (1) of our
14 triggers that we use to close the road. It is not the
15 only trigger that we've chosen, but 1 percent was
16 chosen through -- through the engagement review and
17 development of the Caribou Road Mitigation Plan.

18 But in addition to that there are many,
19 many factors that need to be taken into account when
20 you're considering how best to -- to protect caribou.
21 And that -- that includes their behaviour and response
22 to -- to sensory disturbance. We currently have two
23 (2) full time wildlife technicians on site, and they
24 are responsible for going to any spot around site
25 where caribou have been identified and completing

1 behavioural surveys.

2 The -- the purpose of these surveys is
3 for us to identify their response to stressors. And
4 if they are seen to change their behaviour that is
5 also a trigger for road closures. So changes from the
6 behaviour they were expressing, whether it be alert
7 behaviour, standing, moving. In -- in addition to
8 that there is one (1) more consideration, and that's
9 the -- the changes in seasonal behaviour of caribou
10 during the northward migration to the calving grounds.

11 Caribou express very directional
12 movement so that allows you to prepare and -- and
13 close the road in advance of them coming that close,
14 because you're expecting them to move through so you
15 can say, We're closing the road, the caribou are
16 coming. We want to shut down the road before they
17 display any kind of deflected behaviours, allow them
18 to cross, reopen the road.

19 In the post-calving period they --
20 they're much more sedentary. And so that's when the
21 behaviour analysis is very important to ensure that
22 we're not changing what they are doing when they're
23 beside the road choosing to use that area. Thank you.

24

25 (BRIEF PAUSE)

1 MR. KIM POOLE: Kim Poole, with the
2 monitoring agency. Thanks for the clarification,
3 Harry. We have no further questions at this point.

4 THE CHAIRPERSON: Line of questioning,
5 Government of the Northwest Territories?

6 DR. JAN ADAMCZEWSKI: Good morning.
7 Jan Adamczewski, with the Government of Northwest
8 Territories Environment and Natural Resources. Just
9 one (1) follow-up question since IEMA was pretty
10 thorough in their questioning.

11 I'm looking at document DAR-MVEIRB-15
12 February 2015, and this is the results of the
13 population liability analysis for the Bathurst caribou
14 herd.

15

16 (BRIEF PAUSE)

17

18 DR. JAN ADAMCZEWSKI: I guess now I'm
19 -- now I'm important. I'll start over. And again,
20 I'm -- just a little bit of a follow-up question to
21 Kim Poole and Mr. Ross from IEMA.

22 So I'm looking at the results of the
23 population viability analysis for the Bathurst caribou
24 herd and I'm looking at the base case 1, which is
25 basically 2014 development. There are two (2)

1 scenarios. And accepting the limitations of this type
2 of modelling, this seems to indicate that development
3 to date, cumulative effects to date have had something
4 on the order of a 4 percent reduction from reference
5 condition.

6 That would suggest to me that there has
7 been a relatively small but measurable effect of mines
8 to date on the caribou herd. And I'm asking for
9 clarification as to whether you're saying there is
10 such an affect or -- or there isn't?

11 DR. JIM RETTIE: Jim Rettie, Golder
12 Associates. Yes, with the -- the -- all the
13 conservative factors that we built into our models
14 that's right. It's -- it's approximately 4 percent
15 with the -- I think -- I think that's not -- that's --
16 that's slightly high but it's only slightly. So yes,
17 that's correct.

18 We are saying that there -- there is an
19 effect of development applying the conservative values
20 that we've used in our assessments.

21 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
22 with GNWT again. Thank you for the clarification.
23 And, Jim, just to follow up one (1) bit further,
24 working from the same table, your projected future
25 development scenarios kind of take us to something on

1 the order of an 8 percent reduction from reference
2 condition for population viability analysis.

3 That's getting a bit bigger and would -
4 - would you say that that becomes a significant effect
5 for the Bathurst herd?

6 DR. JIM RETTIE: Jim Rettie, Golder
7 Associates. Could you let me know which line we're
8 looking at here just so I can make sure I'm looking at
9 the right information.

10 DR. JAN ADAMCZEWSKI: Pardon me. Jan
11 Adamczewski, with GNWT again. So this is page 7,
12 table 15.3, and it's kind of the last of the table.
13 This is the representative fut -- future development
14 Scenario 2. And I'm looking at the reduction from
15 reference condition and the carrying capacity of 8.4
16 percent.

17 I mean, I do realize in some cases
18 we're talking about small percentages. And I'm asking
19 whether you would judge that to be a significant
20 effect for the Bathurst herd?

21 DR. JIM RETTIE: Jim Rettie, Golder
22 Associates. The -- excuse me -- the table to which
23 you're referring is -- that -- those are actually the
24 scenarios that were used. That's not the -- those are
25 not the results of the analysis.

1 The -- the 8.4 percent reduction from
2 reference condition related to the amount of area --
3 the amount of -- the amount of habitat that
4 conceivably would be lost under that future
5 development scenario compared to what the amount of
6 area has been used -- that has been used historically.

7 So the -- if you can see the reference
8 in there that the -- the carrying capacity for that
9 model was set at two hundred and sixty-six thousand
10 (266,000) animals. That's an 8.4 percent reduction in
11 habitat. So that's not the result of the model.

12 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
13 with GNWT. Thank you for the clarification. I would
14 maybe switch now to Table 15.6, which does have the
15 percentage change I guess in final abundance from
16 reference. That would suggest representative future
17 development plus Jay. There could be a substantial
18 effect there.

19 Would that be correct?

20 DR. JIM RETTIE: Jim Rettie, Golder
21 Associates. The -- the effects shown in -- in Table
22 15.6, as you note, it shows a decline of 28.5 percent
23 of the population. That's over a ten (10) year period
24 with -- and that's with a -- with a scenario that
25 involved high levels of insect harassment.

1 And that is the driving factor in most
2 of the population declines in our modelling was the --
3 was the natural effects of energetic loss as a
4 consequence of -- of insect harassment.

5 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
6 GNWT. That's fine for me at this point. Thank you.

7 THE CHAIRPERSON: Questions from
8 Yellowknives Dene First Nation?

9 MR. ALEX POWER: Alex Power,
10 Yellowknife Dene -- Yellowknives Dene First Nation. I
11 guess I'd like to first offer up a correction for Mr.
12 Rettie -- or Dr. Rettie -- relating to the
13 availability of population data and movement patterns
14 of caribou prior to -- prior to -- I think it was 1990
15 that Bill had referred to in his question, Bill with
16 IEMA. Thank you.

17 I mean, this information is available
18 through traditional knowledge. And I think this
19 speaks to -- or points to the frustration felt by the
20 parties in general at what's perceived as a systematic
21 bias against traditional knowledge and it's use in --
22 in discussing caribou.

23 Okay. So now I still have a question.

24 MR. RICHARD BARGERY: Madam -- Madam
25 Chair, sorry. We -- we did not hear Alex, the first

1 part of it. So, yeah, sorry. I apologize for that.

2 MR. ALEX POWER: Alex Power --

3 THE CHAIRPERSON: Can you repeat it
4 again, please?

5 MR. ALEX POWER: Alex Power, YKDFN.

6 So I was offering up a correction for what was
7 previously stated about a lack of availability. I was
8 offering up a correction for the statement that there
9 was a lack of data on caribou population and movements
10 prior to 1990 in response to the question from Bill
11 with IEMA.

12 Of course, this -- this information is
13 available via traditional knowledge. And I think that
14 this underlines the frustration felt by the parties
15 generally with regard to what's seen as a systematic
16 bias against traditional knowledge and its
17 application, especially with regard to caribou
18 movement and population changes.

19

20 (BRIEF PAUSE)

21

22 THE CHAIRPERSON: Dominion, did you
23 wish to reply?

24

25 (BRIEF PAUSE)

1 MR. RICHARD BARGERY: Richard Bargery,
2 Dominion Diamond. So we did use the traditional
3 knowledge caribou trails in our analysis. I -- I
4 think what Dr. Rettie said was that there wasn't any
5 availability of -- of collared caribou data in the
6 1990s or -- or pre-2000 or was less -- less
7 consistently reliable, at least, anyway, and I think
8 that was the point, so maybe it's a clarification of
9 what said originally.

10 So we certainly -- certainly, from our
11 perspective, as -- you know, as we've said throughout
12 this process, the incorporat -- or the -- as -- as Bob
13 Overvold reminded me yesterday, the alignment of -- of
14 traditional knowledge into our -- into our project is
15 an important work that we do and something that we
16 take very, very seriously.

17 So that's, I guess, our perspective.
18 Thank you.

19 MR. ALEX POWER: Alex Power, YKDFN.
20 Thank you for your response. My next question, if
21 it's okay with the chair, I would -- I would like to
22 state twice, once to Dominion and once maybe a little
23 less jargony so that it's a bit easier for people to
24 take in because it -- it refers to the model and --
25 and how that modelling was performed.

1 So I'd like to ask them, and -- and
2 then just sort of restate it in a way that isn't so
3 opaque, I guess, if that's all right?

4 THE CHAIRPERSON: So you have two (2)
5 questions, it's the same question but just said
6 differently?

7 MR. ALEX POWER: Alex Power, YKDFN.
8 Yes, just -- just for clarity. So I have a question
9 about the modelling that was performed, about the
10 caribou -- caribou numbers and -- and the direction of
11 the population. And -- and specifically, I'm curious
12 about any stochastic modelling that was performed on
13 very small population numbers.

14 So, you know, sub eight thousand
15 (8,000) and if this stochastic analysis was performed
16 in a way that accounts for sort of parameter variation
17 that reflects sort of a loss of robustness by the herd
18 due to low population size, so, for instance, with an
19 increase in parameters around predation or sensitivity
20 to deflection and energetics that are -- that might be
21 more -- they may be more susceptible to due to their
22 low population.

23 And -- and so to restate that, what I'm
24 trying to ask is that, with a small population, you
25 know, stochastic effects, so just random variations,

1 are more pronounced. So, you know, the most extreme
2 example. If you have two caribou and you kill one
3 (1), that's a 50 percent in the population drop.

4 And so I'm asking: If the modelling
5 took account of that for very small numbers of caribou
6 when stochastic effects are -- are most pronounced,
7 and also if it took account of the potential for the
8 herd's loss of protection against factors, such as
9 predation from wolves, because they derive quite a bit
10 of their robustness to predation from just having
11 large numbers?

12 Thank you.

13 DR. JIM RETTIE: Jim Rettie, Golder
14 Associates. As I mentioned in response to the -- to
15 Bill Ross's question earlier, all of the modelling
16 scenarios were -- began with a estimated population
17 from the 2012 survey results, so approximately sixteen
18 thousand (16,000) female animals.

19 There was stochasticity built in, so
20 the variance was accounted for in the demographic
21 parameters. And -- and there was environmental
22 stochasticity built into the model. So as in the
23 scenarios where there was population decline, the --
24 the susceptibility of a population to that
25 stochasticity would have been reflected in the fact

1 that in -- in any of the thousands of runs that were
2 run through for -- for each modelling scenario, when
3 they -- when they bump down below zero, obviously that
4 population didn't reappear, so -- so it was accounted
5 for in terms of the -- in terms of the likelihood of a
6 population being extirpated.

7 And just to follow up on the -- the
8 question, the previous question from -- from Dr.
9 Adamczewski, the -- the models that -- that we did run
10 and the -- the numbers that we had shown with respect
11 to his question, while the majority of the -- the
12 decline that was noted in that -- that ten (10) year
13 scenario was a consequence of -- of insect harassment.
14 The -- the decline that's accounted for by the Jay
15 Project is approximately .3 percent per year. So it's
16 -- it's very small. And I think I'll leave it at
17 that. Thank you.

18 MR. ALEX POWER: Alex Power, YKDFN.
19 Just a -- just a follow-up, just for -- for my
20 clarification. So it wasn't -- it wasn't clear to me
21 if parameters around, you know, things like predation
22 or in -- insect harassment were weighted differently
23 depending on population size.

24 So, you know, was -- was the weight of
25 insects -- or -- or, say, I'll -- I'll use predation.

1 Was the weight of predation varied as the population
2 dropped? As -- as, you know, will this become, you
3 know, potentially more effective in -- in their
4 hunting on -- on small groups versus larger groups?

5

6 (BRIEF PAUSE)

7

8 DR. JIM RETTIE: Jim Rettie, Golder
9 Associates. Your question, as I understand it, is --
10 is whether there is a density-dependent effect being
11 modelled into the environmental parameters that affect
12 the population decline. In terms of predation, not
13 explicitly. In terms of insect harassment, that's not
14 something that we would expect to see any density-
15 dependent effect from. There was density -- density-
16 dependent envir -- habitat parameters included in the
17 -- in the model. So there -- so there was an
18 accounting for the amount of available habitat and how
19 that changes with the numbers of animals in the
20 population at any given point in time. Thanks.

21 MR. ALEX POWER: Alex Power, YKDFN.
22 Thank you. That clarifies that. Okay. I -- we would
23 also like to -- to state, just, I think, for context,
24 you know, it's -- it's repe -- repeatedly been said
25 that the -- the natural population number in caribou

1 vacillates, goes up sin -- goes up and down. And, you
2 know, rapid declines aren't -- aren't unheard of and
3 are seen as a -- a natural sort of trajectory for
4 caribou herds.

5 But just because they go down naturally
6 doesn't mean that every instance of -- of the
7 population declining goes down. And so I think -- or
8 is natural, sorry. I mean, decline is natural just
9 because declines naturally occur, it's not necessarily
10 the case. And I think, you know, it's important to
11 not just automatically acce -- accept that as the base
12 assumption.

13 So with that in mind, do you think that
14 -- or have -- have you given thought to, you know,
15 accounting for non-linear interactions in -- in all
16 the stressors that -- that caribou face? And so by
17 that I mean, you know, the -- you keep saying, you
18 know, the -- the road is a trivial effect. The, you
19 know, waste rock pile is a trivial effect. The new
20 pit is a trivial effect, bisecting their migratory
21 route is a trivial effect.

22 But when you put all these things
23 together, it's not unreasonable to believe that they
24 would have a effect that's disproportionate to the
25 additive effect of each of these items. So, you know,

1 the -- to put it just sort of figuratively, it's like
2 the straw that broke the camel's back, and especially
3 in the case of a small herd that's potentially more
4 susceptible to stressors.

5 So, you know, how -- how is -- how is
6 that accounted for?

7 MR. RICHARD BARGERY: Richard Bargery,
8 Dominion Diamond. I'll -- I'll let Dr. Rettie talk
9 about the -- the modelling and -- and what was done to
10 deal with the specific stressors that -- that Alex
11 raised. So just to be clear, we have said there is
12 going to be a small effect from the development.
13 We've put in place mitigations. That's the reason we
14 developed the Caribou Roads Mitigation Plan. That's
15 why we've committed to the additional, you know,
16 discussion on this issue.

17 But I'll turn it over to Dr. -- Dr.
18 Rettie to talk about some of the specific things that
19 you -- that you'd raised, Alex.

20 I'd also say that we -- we never said,
21 "trivial effect" ever, anywhere. So I just want to
22 make that point.

23 DR. JIM RETTIE: Thank you. Jim
24 Rettie, Golder Associates. There were a couple of
25 points that you made, and I'm hoping I'm going to

1 address them in the -- and please let me know if I've
2 missed any.

3 One (1) of the points that you
4 mentioned was that there was a -- not all declines are
5 a consequence of natural effects.

6 While true, I think it's important to
7 note that there have been declines in adjacent herds
8 without mines that demonstrate that natural factors
9 are quite important in -- in changes to caribou
10 abundance. That includes the -- the Bluenose-East and
11 the Ahiak herds, most -- most relevently for the --
12 for the Bathurst herd.

13 And in terms of the -- the cumulative
14 effects and how they -- how they were amalgamated, the
15 means by which we did our modelling accounted for the
16 interactions of animals with the zones of influence
17 and the -- around the -- around all developments,
18 specifically including the -- the Diavik and Ekati
19 mine complex.

20 And we looked at the fact that,
21 together, in the scenario that we modelled for
22 energetic loss, it required that animals be deflected
23 in their migration route around the entirety of that
24 complex. And consequently, we -- we sought to account
25 for the maximum potential effect of the combined

1 developments on the landscape.

2 Thank you for your question.

3 THE CHAIRPERSON: Can I just ask, if
4 you're asking questions, if you could speak right into
5 the mic. Thank you. The sound system is turned up as
6 high as it can go, so we would need you to speak
7 directly into the mic. Thank you.

8 MR. ALEX POWER: Alex Power, YKDFN. I
9 guess firstly I'd like to say it's a -- it's a first
10 for me to be told that I either don't talk enough or
11 loudly enough. It's not a common refrain, so I'll
12 take it as a compliment or a positive.

13 I guess just a final comment couched --
14 comment couched in a -- in a question. I find -- I
15 find it -- YKDFN finds it really hard to I guess
16 understand how a herd that, you know, we're having a
17 discussion about potential extirpation about, you
18 know, that -- that -- that's in such a -- such dire,
19 you know, decline which has been happening for years,
20 how taking, you know, a number of factors that we know
21 do deflect caribou and do have an impact on caribou,
22 adding them all together and coming up with -- with no
23 significant impact, it just takes a -- for us, a --
24 it's a big leap to sort -- to sort of accept that and
25 then to be, Well, the -- the onus is on everyone to

1 show that -- you know, that -- that there is an impact
2 when in -- when in fact we believe it should be the
3 other way around and it has to be demonstrated there
4 won't be an impact.

5 And I guess we don't feel that that's
6 the case. So I don't know if there's a question in
7 there other than that how do you -- how do you add all
8 these things together and then still come up with no
9 significant impact? It just -- the arithmetic just
10 doesn't work for us.

11 And, I mean, not to use arithmetic
12 figuratively as opposed to the model, but it just --
13 you know, the roads deflect -- all these things have
14 been shown to have an effect in the zone of influence.

15 So when you turn around and say there's
16 no significant effect, it just -- I just don't know
17 how to reconcile that. And I was hoping maybe you
18 could help me.

19 MR. ELLIOT HOLLAND: Elliot Holland,
20 for Dominion Diamond. We understand that -- that this
21 is a -- a difficult decision for -- for the
22 Yellowknives and -- and really for all the parties,
23 the assessment to grapple with. And -- and really the
24 -- the issue at hand is that we are at a point where,
25 you know, any impact from here is -- is going to be

1 meaningful.

2 What we know is that we're talking
3 about a 7-kilometre road in a -- a vast range of the
4 herd. And, you know, in the modelling results we had
5 a lot of technical discussion about a lot of
6 complicated statistical concepts, but I -- I think if
7 you bring it back to a quite simple point.

8 We'd say that -- that the effects --
9 the -- the incremental effects of the projects are --
10 are extremely small. We're talking -- you know, we
11 can debate is it point two (.2) here on this measure
12 and point three (.3) here if you look at it this other
13 way. But we have to set all of that aside and we say,
14 You know, given the situation if there is an effect,
15 any effect, that's -- that's important and it needs to
16 be dealt with.

17 And -- and that's why when we designed
18 the project we've taken so many different steps to --
19 to mitigate these potential impacts. Those steps
20 include building the -- the majority of the -- the
21 road as a -- as a caribou crossing according to
22 designs that have been developed through our
23 engagement and through traditional knowledge, setting
24 up ore stockpiles on either side of the Jay road so
25 that we can close the road when -- when we need to

1 according to a set of rules that were developed with
2 extensive engagement with the parties.

3 Building egress routes on and off the
4 waste rock storage pile. I mean, the -- the list is
5 long. And even after all of those things that -- that
6 we've committed to and put in our design, we're
7 willing at this point to -- to go back to the parties
8 and say, Right, you've seen all of that. It's still
9 concerning. What more can we do, right. And -- and
10 we've -- we've taken an undertaking today to -- to go
11 and have that discussion.

12 After all of that, you know, that
13 doesn't mean that everyone here is going to feel good
14 about that set of decisions. We understand that, but
15 it -- you know, it's Dominion's commitment that --
16 that we're doing what we can. We're -- we're
17 respecting this valued component to the best of our
18 ability and -- and that's where we come from, but it
19 is a hard decision. We -- we certainly acknowledge
20 that.

21 MR. ALEX POWER: Alex Power, YKDFN.
22 Certainly YKDFN recognizes all the -- all the work
23 that you've done including engagement. It's in no way
24 meant to detract from that. And I think this just
25 reflects the sort of immediacy and -- and significance

1 of the situation and that's why in spite of all that
2 there's still a number of concerns.

3 And you know, you talk about a 7
4 kilometre road, but -- and granted in the landscape
5 that's not very big, but, you know, when you're
6 dangling from a rope that's 1 inch thick and someone
7 cuts that rope, 1 inch is a pretty big distance. And
8 I think that's sort of the feeling that people have
9 around bisecting this historically significant
10 migratory route.

11 I have no more questions.

12 THE CHAIRPERSON: Questions from
13 Lutsel K'e Dene First Nation.

14 MR. PETER UNGER: Peter Unger, Lutsel
15 K'e Dene First Nation. Thank you, Madam Chair. So my
16 first question, I guess, so Dominion Diamond admits
17 there will be some impacts. You know, there's a
18 dispute as to what the numbers will be. We've been
19 arguing about that a bit earlier.

20 Whereas the GNWT has imposed a hunting
21 ban on the Bathurst herd with a direct quote from the
22 Minister saying that the Bathurst herd cannot support
23 any harvest at all, so even one (1) caribou harvested
24 is a significant impact.

25 How does Dominion Diamond reconcile

1 their position that mine effects will not be
2 significant with the GNWT's position that the Bathurst
3 herd is in such a precarious position that any
4 harvesting at all would be a significant impact?

5 Thank you.

6

7 (BRIEF PAUSE)

8

9 MR. RICHARD BARGERY: Richard Bargery,
10 Dominion Diamond. Thank you. Thank you, Peter, for
11 the -- for the question.

12 We -- I think we've always said there
13 would be a small effect from the project that's --
14 that was shown in -- in the modelling. What we've
15 said as well is that we've -- we think we've taken all
16 reasonable and appropriate steps to mitigate those
17 effects through a variety of things, which Elliot
18 talked about some of them.

19 I mean, we instituted the Caribou Roads
20 Mitigation Plan. We've agreed to construct the Jay
21 road largley as a caribou crossing. We've cut to the
22 esker at the narrowest point. As a matter of fact,
23 we've done a significant amount of engagement on both
24 the route and the cut through the esker for the road
25 with communities including with Lutsel K'e Dene First

1 Nation.

2 So we -- we've -- we've taken all those
3 steps. We're also prepared to enter into a discussion
4 on, I always get it wrong, compensatory mitigation
5 with the parties to talk about other things that we
6 may be able to do over and above. So we think we've -
7 - we've been very responsible in the development of --
8 of the Jay Project and -- and in how we deal with
9 caribou.

10 I would also say that Ekati has had a
11 very good historic -- historically, Ekati's had a very
12 good record when it comes to caribou. We've -- you
13 know, certainly caribou go through the site on a
14 regular basis. They are definitely given priority in
15 all cases. This is -- this will be even more so
16 during the Jay Project.

17 We've never had a caribou fatality from
18 a vehicle, caribou interaction on the road. We
19 operate, we think, in a responsible and
20 environmentally -- in an environmentally responsible
21 manner when it comes to caribou and in all matters.

22 We also think it's important in the
23 discussion as we had yesterday about the significant
24 benefits that Ekati brings to the North in terms of
25 its economic benefit and -- and the balance in the

1 discussion and the need for that in the territory and
2 what that would mean to -- to the territory, the loss
3 of those jobs, the loss of those contracting
4 opportunities, all those kinds of things, and that
5 needs to be a factor in that discussion, as well.

6 So hopefully, Peter, that -- that
7 answers your question. But we do think that we --
8 like I say, we operate in a -- in a very, very
9 responsible manner. And we think we proposed a
10 project that -- that's been done with significant
11 input from communities and designed in a way that
12 mitigates effects on caribou, but -- and we're -- and
13 we're more than prepared to continue that discussion,
14 as well.

15 MR. PETER UNGER: Thank you. Peter
16 Unger, Lutsel K'e Dene First Nation. I'm not arguing
17 that the Company's not making efforts to -- to
18 mitigate. I'm not arguing that they're not putting a
19 lot of effort into mitigating.

20 What I'm saying is that the Company's
21 holding the position that, even though they're
22 minimal, the impacts they're going to have are not
23 significant, whereas the GNWT has the position that
24 any loss of caribou is significant, based on their
25 harvesting then.

1 My question is: Who's wrong, then?

2

3 (BRIEF PAUSE)

4

5 MR. BRENDAN BELL: Madam Chair,
6 Brendan Bell, Dominion. Look, I -- I don't think
7 anybody's wrong in this -- in -- in this discussion.
8 I think the GNWT is -- is absolutely right, that --
9 that the herd can't support harvesting. I think
10 they've taken that position in consultation with --
11 with communities. I believe communities agree with
12 this by and large, with this position.

13 I mean, obviously, harvesting is
14 assured mortality, isn't it? Isn't that what we're
15 talking about? We don't believe that the -- the
16 impacts of this incremental development assure
17 mortality of the herd. We acknowledged that there are
18 impacts on the herd. They certainly require
19 mitigation.

20 We are -- we are endeavouring to -- to
21 mitigate against any impacts that -- that the caribou
22 would see. But I think to suggest that that's -- can
23 be equated to harvesting and assured mortality, I
24 think you're -- you're drawing a -- a conclusion here
25 that -- that I think is erroneous in that respect.

1 So I think -- I think both responses
2 are right. And we certainly respo -- we certainly
3 support the position of -- of the government in this
4 respect.

5 MR. PETER UNGER: Thank you. Peter
6 Unger, Lutsel K'e Dene First Nation. In Section 12.43
7 of the DAR, basically, if we look at your numbers, we
8 come out with a 5.4 percent reduction in parturition
9 rates.

10 Is it Dominion Diamond's assertion that
11 this would not decrease the number of caribou in the
12 herd?

13

14 (BRIEF PAUSE)

15

16 DR. JIM RETTIE: Madam Chair, Jim
17 Rettie, Golder Associates. The effects of the project
18 activities and downstream effects on the Bathurst
19 caribou herd were presented most clearly in the
20 population model, DAR MVEIRB 15, which was a response
21 to the adequacy review comment. The -- the details
22 are there, and the -- the follow-through from the
23 numbers -- the disturbance through to the effects on
24 the population. Thank you.

25 MR. PETER UNGER: Peter Unger, Lutsel

1 K'e Dene First Nation. To save everyone a bit of
2 reading, then, let's make it simpler. Is it Dominion
3 Diamond's assertion that the effects of the project
4 will not reduce the population of the Bathurst caribou
5 in any way? That's how I'm equating it to harvesting,
6 a reduction in population. It's true that it may be
7 not be direct mortality, but to me the end-point is a
8 reduction of population.

9 So I am asking: Is Dominions Diamonds
10 (sic) asserting that there will be no reduction in
11 population?

12 DR. JIM RETTIE: Jim Rettie, Golder
13 Associates. Madam Chair, based on our very
14 conservative assessment of the effects on the
15 population, our conclusion is that the Jay Project
16 would have an effect of 0.3 percent decline in the
17 population on an annual basis.

18 MR. PETER UNGER: Thank you. That's -
19 - that's Peter Ung -- Peter Unger, Lutsel K'e Dene
20 First Nation again. Yeah, but that's still a
21 reduction, where as the GNWT says that no reduction is
22 allowed. They're not saying that every Aboriginal
23 group can hunt twenty (20) caribou, or ten (10)
24 caribou. They've put an emergency stop to it, saying
25 that no reduction is acceptable any more. So that's

1 how I equate it.

2 And so my question is: How do you
3 reconcile that, even with .3 percent if -- if that's
4 the number?

5 MR. RICHARD BARGERY: It's Richard
6 Bargery, Dominion Diamond. I won't -- as I said
7 earlier to -- in an ear -- an earlier response to you,
8 Peter, we have said, you know, there is a potential
9 effect as -- as Dr. Rettie pointed out. You know, we
10 -- we think we've done a very conservative -- we've
11 modelled this on a conservative basis. It -- it's a
12 very small effect. We've mitigated that effect in a
13 variety of ways through the project. And we are also,
14 again as I -- as I noted a number of times today, open
15 to the discussion about compensatory mitigation as
16 well.

17 So I'm not sure this is -- your -- your
18 -- I mean, your question is specific: How do you
19 reconcile it? I'm not sure we can reconcile it as --
20 as Brendan pointed out. You know, we're supportive of
21 the -- the ban on hunting. We're supportive of doing
22 -- of -- of developing this project in a responsible
23 manner. And -- and we think we are doing so. And
24 we're doing so in a way that will allow for the
25 project to go forward, and the benefits that Ekati

1 provides to the territory, to its people, to the
2 government will -- will continue for another eleven
3 (11) years. Thank you.

4 MR. PETER UNGER: Thank you. Peter
5 Unger, Lutsel K'e Dene First Nation. I'll -- I'll
6 move on then. Going on to power lines. So numerous
7 recent studies have shown that caribou actively avoid
8 power line -- power lines due to UV light emission.
9 The Company has stated that power lines are less of an
10 impact than road traffic, and that they don't want to
11 bury their par -- power lines for various reasons.
12 So what about when there's no traffic?
13 When there are stoppages will you be shutting off
14 power to these power lines? Thank you.

15

16 (BRIEF PAUSE)

17

18 MR. RICHARD BARGERY: It's Richard
19 Bargery, Dominion Diamond. I'll let Dr. Re -- Rettie
20 respond on -- on the studies. I'm -- I'm not sure
21 when you say there's numerous studies, Peter, I think
22 there are conflicting studies. And I'll let Dr.
23 Rettie speak to that point, because I think we've
24 answered and we've provided information on that in the
25 past in -- in a response to an IR, I believe.

1 But your specific question of -- of
2 whether we'd shut off power when the roads are shut
3 down, operationally that's just not a practical
4 consideration. So I -- I guess the -- the short
5 answer to your question is no, we would -- we wouldn't
6 do that. But I'll let Dr. Rettie speak to the -- to
7 the issue of -- of any literature or research that's
8 been done on -- on power lines.

9 DR. JIM RETTIE: Jim Rettie, Golder
10 Associates. There are studies that have suggested
11 that there are some effects from -- from ultra-violet
12 light on caribou, or reindeer in this case, passage
13 across power lines. They -- the results of those
14 studies and results of other studies on linear
15 corridors diverge in their -- in their assessment of
16 the importance of those effects.

17 With the mitigation plan that's
18 presently in place for this project, the Caribou Road
19 Mitigation Plan, there will be opportunities to
20 monitor what the effects are on caribou movement at
21 the point at which traffic is halted for whatever --
22 at whatever point, whatever triggers result in that.
23 And that will allow for some adaptive management in
24 the future.

25 MR. PETER UNGER: Thank you. Peter

1 Unger, Lutsel K'e Dene First Nation. But again, this
2 monitoring will only kick in when the caribou are
3 within 200 metres of the road, if I'm not mistaken.
4 And -- sorry.

5 Yeah, my -- my question is: I mean,
6 given the precarious situation of the Bathurst herd,
7 does it not make more sense to be precautionary and
8 listen maybe to the studies that say there's a larger
9 impact rather than saying that there are other studies
10 that -- that -- you know, if there's some confusion,
11 should we not be more precautionary rather than going
12 ahead? Thank you.

13

14 (BRIEF PAUSE)

15

16 MR. RICHARD BARGER: Just -- sorry,
17 Richard Bargery, Dominion Diamond. Just one (1) point
18 of clarification in terms of the monitoring of -- of
19 caribou. It -- it's not based on 200 metres, it's --
20 it's based on, you know, when we see caribou, then we
21 -- then we monitor caribou in and around the site, so
22 -- so just a point of clarification, Peter.

23 And that -- that may have come out of
24 the discussion that we had around the CRMP and -- and
25 things, but -- but our Environment Department are

1 very, very, very diligent when wildlife are around. I
2 can -- I can tell you because I get quite a few
3 wildlife notices every day on my computer.

4 But I'll pass it to Elliot Holland to -
5 - to respond to the rest of your question.

6 MR. ELLIOT HOLLAND: Elliot Holland,
7 Dominion Diamond. I think the other thing we need to
8 take into consideration when we talk about bird
9 powerlines is the practical operational effect. Long
10 -- I mean, long distances of underground cable in an
11 arctic environment where we have critical dewatering
12 and -- and other operational infrastructure that --
13 that relies on that power we're not comfortable with.

14 The risk of -- of prolonged disruption
15 that could take some to -- to locate and -- and repair
16 presents a safety risk to us that -- that we don't --
17 we don't want to take. And in the absence of a real
18 scientific consensus around the impacts, the -- the
19 cost benefit isn't there for us with that particular
20 mitigation.

21 You know, having said that, there --
22 there has been plenty of other precautionary steps
23 that we've taken in -- in other aspects where -- where
24 there is a tradeoff that -- that we feel comfortable
25 with. And so that's -- that's why the -- the project

1 is based on -- on overhead powerlines. Thank you.

2 MR. PETER UNGER: Peter Unger, Lutsel
3 K'e Dene First Nation. I mean, I think we could get a
4 little bit more creative here. I don't think the only
5 alternatives to doing something about the powerlines
6 are burying them or do nothing at all.

7 Could the Company commit to exploring
8 this, looking at some way of mitigating UV emissions
9 from powerlines, shielding the powerlines? Maybe
10 there's different casings you can put on the
11 powerlines. Is there something you could do, or even
12 just at least a little research into it that's beyond
13 just having your wildlife technicians driving around
14 and watching the caribou?

15 Thank you.

16 MR. ELLIOT HOLLAND: Elliot Holland,
17 Dominion Diamond. Peter, we -- we can certainly
18 commit to -- to having that -- that discussion over
19 the next couple of weeks in the forum we talked about.
20 You know, and beyond that, I think, you know, that --
21 that sounds like it could be a -- could be a longer
22 discussion that -- that we need to have.

23 We're certainly always open to -- to
24 engagement on a whole range of topics, particularly
25 related to -- to additional caribou mitigation.

1 MR. PETER UNGER: Thank you. Roger
2 Catholique's going to ask a question now.

3 MR. ROGER CATHOLIQUE: Roger
4 Catholique. Can you hear me? Roger Catholique, Dene
5 -- Lutsel K'e Dene First Nation. Can you turn to
6 slide 12, please?

7 One (1) of your responses says the
8 Bathurst herd increased in the presence of active
9 mines in the 1980s.

10 Am I correct?

11 MR. ELLIOT HOLLAND: Elliot Holland,
12 Dominion Diamond. Yes, that's what the slide says.

13 MR. ROGER CATHOLIQUE: Roger
14 Catholique, Dene First Nation. My question is: Which
15 -- which mines in the 1980s were active? And where
16 were the Bathurst caribou herd in that range?

17

18 (BRIEF PAUSE)

19

20 MR. RICHARD BARGERY: Richard Bargery,
21 Dominion Diamond. So, Roger, you're looking for a
22 list of all the mines that were open in the -- in the
23 1980s and -- and sort of where -- where they would be
24 located with respect to the Bathurst caribou range.

25 Is that -- is that an accurate

1 description of the question?

2 MR. PETER UNGER: Peter Unger, Lutsel
3 K'e Dene First Nation. I think what Roger's looking
4 for is a list of mines that were active within the
5 Bathurst caribou range -- so maybe not all active
6 mines in the 1980s -- and where they were relative to
7 it.

8 So basically, his question to me
9 earlier was that this mine seems to be fairly central
10 within the Bathurst caribou range. And he was
11 interested in knowing where these mines in the 1980s
12 were, and whether they were quite as central in the
13 Bathurst caribou range, whether the impacts would be
14 similar. Thank you.

15 MR. RICHARD BARGERY: Richard
16 Bargery, Dominion Diamond. I think we can provide
17 that in the next -- sometime today or -- or tomorrow
18 morning, the full -- the full list.

19 The one that comes to mind is -- is the
20 Lupin mine right now, but -- but we can find the --
21 the list and sort of where they're located within the
22 -- the range for Roger so he has that -- has that
23 information.

24 MR. PETER UNGER: Thank you. My next
25 question: So the collapse of the caribou remains

1 unexplained, right? Nobody really knows.

2 Lutsel K'e Dene First Nation is fairly
3 convinced that the mine -- not just Ekati, but mines
4 in general -- play a role, but this isn't clear. And
5 the zone of influence technical task group has not
6 answered this question yet.

7 Lutsel K'e Dene First Nation maintains
8 that, given the precarious state of the Bathurst herd,
9 the -- the technical challenges that you mention on
10 slide 16 -- I guess we should go to slide 16 -- you
11 know, owing to technical challenges and constraints,
12 that it -- it's kind of everyone's responsibility to
13 overcome these technical challenges and constraints.
14 And intensive research should continue until we know
15 exactly why the Bathurst caribou herd has collapsed so
16 dramatically.

17 So we're requesting that Dominion
18 commit to further research above and beyond the zone
19 of influence technical task group until some kind of
20 more definitive -- definitive explanation can be given
21 for why the Bathurst caribou have collapsed so
22 dramatically. Thank you.

23

24 (BRIEF PAUSE)

25

1 MR. RICHARD BARGERY: Richard Bargery,
2 Dominion Diamond. We think obviously that that work
3 is -- is something that needs to occur at the
4 territorial level, and that's why we participate in
5 the zone of influence technical working group.

6 We do do some things that -- that feed
7 the work of that group. We've -- and we do do some
8 research that -- that will help contribute to this
9 discussion. I'll maybe ask Harry O'Keefe to speak to
10 one (1) specific piece of work or one (1) specific
11 agreement that we've entered into recently that --
12 that will help -- perhaps help provide more
13 information to help that discussion.

14 MR. HARRY O'KEEFE: Harry O'Keefe,
15 Dominion Diamond. We've recently operationally at the
16 Ekati site entered into a collaborative research
17 agreement with Natural Resources Canada. The -- the
18 goal of this agreement is to do, Peter, very much what
19 you're talking about: tease -- tease out the -- the
20 drivers for -- for zone of influence around our site.

21 Specifically, Natural Resources Canada
22 and their remote sensing group is looking at dust
23 deposition, noise and light pollution from the site,
24 and -- and how they may affect caribou around site.
25 Thank you.

1 MR. RICHARD BARGERY: Richard Bargery,
2 Dominion Diamond. Just -- I just want to reiterate.
3 I mean, we do do work. We -- and that work, you know,
4 is provided and -- and helps support some of the --
5 the larger collaborative work that occurs, but that's
6 the proper forum for -- for that discussion as opposed
7 to Dominion doing something, you know, simply on its
8 own.

9 It needs to be that larger zone of
10 influence working -- technical working group that --
11 that works on these issues. That's what -- that's
12 what we think is appropriate and that's the
13 appropriate forum for that research to occur.

14 MR. PETER UNGER: Thank you. Peter
15 Unger, Lutsel K'e Dene First Nation. Dominion Diamond
16 has also asserted that, you know, this fluctuation and
17 population could -- could be part of a natural cycle.

18 What kind of traditional knowledge did
19 Dominion use to determine that this is a natural
20 population fluctuation? Thank you.

21

22 (BRIEF PAUSE)

23

24 MR. RICHARD BARGERY: Richard Bargery,
25 Dominion Diamond. So before I turn it over, I think

1 we're looking for -- we provided some -- some detailed
2 responses of this, I think, in -- in response to some
3 IRs. I'm not sure.

4 We're not quite sure if it was from
5 Lutsel K'e or from -- or from another party, but as
6 you know, Peter, as you know, we do extensive
7 engagement in a variety of ways. And -- and that
8 discussion includes -- or that engagement includes
9 discussions of -- of caribou populations and the
10 cyclical nature of the -- that population.

11 You know, we -- we do -- we've done
12 workshops. We've done site visits with every
13 community on a regular basis. We do popu -- caribou
14 population surveys with communities. We do quarterly
15 engagement with communities in which our leadership
16 are out talking either in a public way with
17 communities or with the leadership.

18 So we're -- we're quite often engaging
19 on the ground with both community residents and with -
20 - with leadership. I'm going to ask -- first I'm
21 going to ask Bob Overvold if he wants to -- to maybe
22 add to my answer, because he -- he leads a lot of this
23 work on behalf of -- of Dominion and is intimately
24 involved in those discussions.

25 So, Bob, do you want to add first?

1 MR. BOB OVERVOLD: Thank you. Bob
2 Overvold, Dominion Diamond, Madam Chair. I'll just
3 add to it, prior to this meeting I was reviewing a lot
4 of the community meetings we've had, some of the
5 technical meetings we've had. And one (1) in
6 particular in Kugluktuk where a number of Elders spoke
7 about caribou and the fact that the herd -- the
8 Bathurst herd is declining. And while they speculated
9 that the mine may have some influence, they clearly
10 were of the view that most of the causes were natural
11 due to weather, due to climate change, that type of
12 thing.

13 So we also heard some of that same
14 theme from some of the other workshops we had with all
15 of our IBA groups. In particular it was a lot of the
16 Elders who spoke to it. I recall an Elder in Lutsel
17 K'e when, you know, member after member said the
18 decline is, in their view, due directly to mines in
19 the area, he -- he speculated he wasn't sure if that
20 was the only reason.

21 He talked about other -- other natural
22 causes that could have an impact on the -- the decline
23 of the herd. So that was the type of traditional
24 knowledge that we -- information that we looked for.
25 And it was varied. There was no consensus on a single

1 reason as to why the -- the decline in caribou was
2 occurring. Thank you.

3 MR. RICHARD BARGERY: Peter, just
4 before -- sorry, Richard Bargery, Dominion Diamond,
5 just -- I -- I had promised that I'd give you the --
6 sort of the -- where we had the technical response as
7 well, where we've drawn traditional knowledge
8 information from it. If you look at MVEIRB IR-203,
9 that -- rather than sort of me reading it out, that's
10 sort of the reference that -- that you may want to
11 look at.

12 MR. PETER UNGER: Thank you. Peter
13 Unger, Lutsel K'e Dene First Nation. I will take a
14 look at that. And per -- perhaps I phrased my
15 question poorly.

16 The traditional knowledge holders in
17 Lutsel K'e assert that this is not normal. You know,
18 this is not a normal part of a population cycle
19 fluctuation. And I've been given the impression that
20 Dominion is positive that the Bathurst herd does go
21 through such fluctuations, and this could be a natural
22 fluc -- population fluctuation.

23 My question is: Do you have any
24 traditional knowledge holders that have asserted to
25 you that this normal? That this has happened before,

1 and -- and it is just part of the natural cycle.
2 Because that's -- that's not the impression I get in
3 Lutsel K'e, and I am curious if you did, and who --
4 who they are. Thank you.

5 MR. BOB OVERVOLD: It's Bob Overvold.
6 I don't know if I want to put names on the record.
7 But I did get it from at least two (2) Elders in
8 Lutsel K'e.

9 MR. PETER UNGER: Thank you. Peter
10 Unger, Lutsel K'e. Can we go to slide 15 briefly? So
11 the last point:

12 "No offset mitigation is likely to
13 yield changes that can be
14 confidently and powerfully measured
15 as different from natural variation
16 and energetic survival and
17 productivity."

18 It seems like a pretty bold statement
19 to me saying, No offset mitigation ever at all.

20 What do you base that statement on?
21 Thank you.

22 DR. JIM RETTIE: Jim Rettie, Golder
23 Associates. The effects of the project are
24 anticipated to be a change in productivity of 0.3
25 percent, and a change in available habitat of 0.1

1 percent. And offsetting specifically refers to the
2 repla -- conducting activities that would replace
3 those -- those losses. And consequently, the ability
4 to determine that the offsetting had been successful,
5 in terms of its effect on the population would be
6 required to be measured at that level of precision.

7 When you have a population whose rate
8 of productivity can change quite drastically, as well
9 as its -- as well as the population abundance can
10 change quite -- quite drastically, trying to detect
11 something at a fraction of 1 percent and definitively
12 be able to tie it to a cause and effect relationship
13 with an offsetting activity is not practical.

14 MR. PETER UNGER: Peter Unger, Lutsel
15 K'e Dene First Nation. So is it Dominion Diamond's
16 assertion that because they don't think they can
17 measure it there's no point in offsetting, and it's
18 not a beneficial thing to do?

19 MR. ELLIOT HOLLAND: Elliot
20 Holland, Dominion Diamond. No, Peter, that -- that's
21 not the conclusion we want you to draw. Just because
22 we don't -- we can't measure it, it doesn't mean it's
23 -- taking measure aren't worth doing. As -- as I said
24 in my opening remarks, we're open to discussions about
25 compensatory mitigation.

1 I think the -- the point we're -- we're
2 trying to make here is, you know, given the size of
3 the project impacts being in the -- you know,
4 depending on what metric you look at a .1 or a .3
5 percent impact, when we talk about offsetting. The --
6 that -- that brings to mind, you know, what -- what we
7 can do on something like -- like fish where we're --
8 you know, we're removing a hundred percent of the
9 habitat from a particular area, and we know exactly
10 what that's going to do, and we know exactly how that
11 can be -- can be offset and -- and compensated for.

12 Given that we're talking about, you
13 know, .1 and .3 percent type changes, these are going
14 to be more qualitative discussions in -- in nature.
15 And -- and so the -- that's why we -- we would -- we
16 need to take that into account. Thank you.

17 MR. PETER UNGER: Thank you. Peter
18 Unger, Lutsel K'e Dene First Nation. Without getting
19 into my presentation this afternoon, a large part of
20 it's going to be the fact that any reduction in the
21 Bathurst caribou herd is likely to prolong the hunting
22 ban, and therefore directly impacts the livelihoods of
23 the community of Lutsel K'e, who have traditionally
24 subsisted on the Bathurst herd. I haven't seen
25 Dominion really address offsetting for traditional

1 livelihoods and the impacts to traditional
2 livelihoods.

3 Is this something Dominion plans to do?

4 Thank you.

5 MR. ELLIOT HOLLAND: Elliot
6 Holland, for Dominion. Peter, we're -- we're
7 certainly prepared to have the discussion about
8 compensatory mitigation, and -- and look at ideas.

9 MR. PETER UNGER: Thank you. My last
10 question. I'm not trying to be mean, I promise. If
11 offsetting's not a solution, then is it Dominion's
12 position that caribou impacts are inevitable and the
13 only way to prevent any reduction in caribou
14 population would be to not proceed with the project?

15 MR. ELLIOT HOLLAND: Peter, can -- can
16 you restate that?

17 MR. PETER UNGER: Yeah. So if we --
18 basically, is it Dominion's position that the only way
19 to prevent any reduction at all, to bring it down to
20 zero impact, is by not proceeding with the project?

21

22 (BRIEF PAUSE)

23

24 MR. RICHARD BARGERY: Richard Bargery,
25 Dominion Diamond. So just to be clear, we've modelled

1 this conservatively. We've found a very, very small
2 effect on the basis of that very conservative
3 modelling. That modelling was done without any
4 mitigation.

5 Since that time, we've proposed
6 extensive mitigations for both the Caribou Road
7 Mitigation Plan, the -- the construction of the road,
8 the construction of road as a -- as a caribou
9 crossing. We've further committed to a discussion
10 about compensatory mitigation over and above what
11 we've -- we've already provided for both in the DAR
12 and subsequently through the WEMP and -- and Caribou
13 Roads Mitigation Plan.

14 So, you know, from -- from our
15 perspective, we think we -- we've done this in a -- in
16 a very, very responsible and appropriate manner. And
17 we -- and we obviously think the project should go
18 ahead on that basis.

19 MR. PETER UNGER: Peter Unger, Lutsel
20 K'e Dene First Nation. I'd like to thank the
21 Developer for their presentation and for putting up
22 with me. And I have no further questions. Thank you.

23 THE CHAIRPERSON: Questions from
24 Tlicho Government?

25 MR. SJOERD VAN DER WIELEN: Thank you,

1 Madam Chair. Sjoerd Van Der Wielen, for Tlichio
2 Government. We have a couple questions, and I would
3 like to start with the slide number 3. If we can go
4 to that one.

5 So I see here the statement being made
6 that TK was used to inform the assessment through.
7 And then you mentioned several things, and one (1) of
8 them is the -- where do I see it, the -- the roads.
9 And I -- I would like Dominion to elaborate which TK
10 studies were used to -- to decide the -- the selection
11 of the Jay road's route.

12

13 (BRIEF PAUSE)

14

15 MR. BOB OVERVOLD: Bob Overvold,
16 Dominion, Madam Chair. There may have been studies
17 they referred to, but I'm not aware of them, and
18 others can answer that. The traditional knowledge
19 information we got was mainly through our engagement
20 process, particularly on the roads. We met with every
21 one of our IBA communities, had discussions with a
22 variety of community members, including Elders,
23 harvesters, leaders, et cetera.

24 And then, I don't have the exact
25 figures in front of me, but the majority of the

1 information we got during those sessions indi -- asked
2 us to go through the narrowest part in the esker, the
3 lowest part in the esker to avoid, you know, areas
4 that flocks use and other -- other animals use.

5 So there was -- seemed to be a
6 consensus from almost every group that we dealt with
7 on where to build the road, the shortest area, the
8 lowest area, and -- and an area away from the Misery
9 camp, in particular.

10 MR. RICHARD BARGERY: Just -- just to
11 add to Bob -- it's Richard Bargery, Dominion Diamond.
12 Just to add to Bob's -- Bob's comments, so what we've
13 under -- what we've done is on-site visits with each
14 community, with members of each community, in which we
15 did both aerial reconnaissance and on-the-land
16 reconnaissance with groups on the esker with our
17 design engineer, with our TK folks, recorded that, had
18 that discussion.

19 And -- and as Bob said, you know, those
20 are the kinds of things that people wanted to see:
21 the narrows cut through the esker, the shortest road,
22 the road constructed with caribou crossings where
23 possible. And so that was what informed our -- our
24 work on the route.

25 So hopefully that -- those two (2)

1 answers help -- help explain that part of the slide.

2 MR. SJOERD VAN DER WIELEN: Okay. So
3 maybe we have a different -- different opinion of what
4 --

5 THE CHAIRPERSON: Please identify
6 yourself.

7 MR. SJOERD VAN DER WIELEN: Oh, sorry.
8 It's Sjoerd Van Der Wielen, Tlicho Government. Maybe
9 we have a different of opinion of what exactly
10 traditional knowledge is. What I'm hearing is the
11 community input in the deciding of the roads.

12 And even if there are Elders at these
13 community meetings, it -- that might not be completely
14 -- be defined as a real traditional use study, so --
15 or traditional knowledge input. It -- it requires a
16 little bit more than a community -- community input or
17 a community workshop.

18 Well, maybe -- that was just a
19 statement. That's not a question. I can go to my
20 next question unless Dominion wants to react on this.

21

22 (BRIEF PAUSE)

23

24 MR. BOB OVERVOLD: Bob Overvold,
25 Dominion. Madam Chair, I guess we disagree. I'm not

1 sure of the type of technical TK studies you'd like us
2 to do, but at all of those meetings, we had real
3 holders of traditional knowledge who gave us their --
4 their best advice when we -- we -- when we -- we
5 talked about some of the technical factors that were
6 involved in building a road.

7 So if -- that's the best we did. If it
8 was not enough, we're open to hearing other ways of
9 trying to get more traditional knowledge input. Thank
10 you.

11 MR. SJOERD VAN DER WIELEN: Thank you.
12 So my next question -- Sjo -- Sjoerd Van Der Wielen,
13 Tlicho Government. Thank you for the look.

14 Dominion stated that the -- the Jay has
15 no adverse cumulative impact on the Bathurst herds,
16 and you based this on population number and other
17 factors.

18 However, our TK has proven that mines
19 do create effects on caribou migration routes, as we
20 saw on the previous maps, and -- and behaviour. So we
21 believe that their Jay will add to the cumulative
22 impacts.

23 MR. ELLIOT HOLLAND: Elliot Holland,
24 Dominion Diamond. Sjoerd, I -- I think this is a -- a
25 quite similar discussion to -- to the one that we've

1 been having with the -- the last couple of
2 questioners.

3 To -- to clarify, we -- we agree that
4 there will be an impact. I think where we -- where we
5 disagree is -- is on the question of -- of
6 significance of that impact. You know, given that
7 we're talking about -- you know, depending on the --
8 the metric you look at, 0.1 to, you know, 0.3 percent
9 type of -- type of impacts.

10 So we -- we certainly don't dispute
11 that the project will have an impact and, as you say,
12 tra -- traditional knowledge confirms this. I think
13 what we would say is it's question number 1 of -- of
14 magnitude, of significance, and then whether the --
15 the mitigations that -- that we proposed and -- and
16 the additional compensatory mitigations that we --
17 that we'd like to discuss are -- are sufficient to --
18 to offset that.

19 And -- and as I've said before, you
20 know, we know it's not an -- an easy decision for --
21 for the Board to make, given the situation we're --
22 we're in. But that's -- that's been our assessment,
23 and -- and we certainly stand by it.

24 MR. SJOERD VAN DER WIELEN: Sjoerd Van
25 Der Wielen, Tlicho Governments. Thank you. Yes,

1 you're right.

2 The discussion is how much is too much?

3 And I would like to make the statement that -- that if
4 -- if you consider .3 percent negligible, if you put
5 that to a herd of twenty thousand (20,000) -- correct
6 me if I'm wrong, math is not my strongest -- but that
7 will be sixty (60) caribou. Is that per year or --
8 and -- or in total? But it turns out that that's
9 approximately what -- well, that will be sixty (60)
10 more for the Tlicho Government over a no-harvest per
11 year, so.

12 THE CHAIRPERSON: If I could just
13 intervene, please? And I would ask that the parties
14 asking questions could stick to asking questions. And
15 comments and statements, if they could be just -- in
16 light of time, if that could be just put aside for
17 now? Thank you.

18 MR. RICHARD BARGERY: Richard Bargery,
19 Dominion Diamonds. So I -- I'm not sure you can sort
20 of just -- that -- I mean, the .3 percent, again, is
21 -- is based on conservative modelling, you know,
22 without the mitigations in place, so. Yeah, I -- I
23 mean, we've made this point a number of times, so we
24 think we -- we've designed this in a very, very
25 responsible way, and we're -- you know, we continue to

1 be open to that discussion -- that mitigation
2 discussion.

3 So I'm -- I'm going to leave it at
4 that, Madam Chair, in -- in the -- you know, in
5 recognition of the clock.

6 MR. SJOERD VAN DER WIELEN: Thank you,
7 Madam Chair. I will stick to the questions. Sjoerd
8 Van Der Wielen, Tlicho Government. My next, well,
9 request will be that the research agreement between
10 the Natural Resources Canada and Dominion could be
11 made public on the Board's website.

12

13 (BRIEF PAUSE)

14

15 MR. HARRY O'KEEFE: Madam Chair, Harry
16 O'Keefe, Dominion Diamond. To -- to kind of
17 additionally address that and clarify it, NRCan, or
18 Natural Resources Canada, is -- is doing this research
19 independently. Our -- our agreement pertains to
20 allowing them to do the research at our site.

21 So they're funded by CIMP and -- and we
22 provide some in-kind support. We -- we can look. And
23 I can absolutely request that -- that we get the --
24 the submission to CIMP as to what they plan to do and
25 -- and make that public, but it is also available in

1 the public domain.

2 MR. SJOERD VAN DER WIELEN: Sjoerd Van
3 Der Wielen, Tlicho Government. Thank you very much.
4 That will be great. I don't have any further
5 questions, but Joseph Judas next to me does. And he's
6 using -- he will speak in his own language, so I
7 request everybody to use their headsets.

8

9 (INTERPRETED FROM FIRST NATIONS LANGUAGE INTO ENGLISH)
10

11 MR. JOSEPH JUDAS: Thank you, Madam
12 Chair. We're talking about this new expansion of the
13 mine. And that's one (1) of the reasons we're asking
14 each other questions. But I am concerned about one
15 (1) -- one (1) issue. Thi -- that is an area where --
16 it's a hunting ground where people hunt.

17 And our people have hunted in the past
18 for many years, and that was to survive. And when we
19 talk to each other, we have to ask each other -- we
20 have to ask each other information. And that's one
21 (1) of the reasons we're asking: What is the
22 situation with the caribou.

23 My name is Joseph Judas. I am from
24 Wekweti community. I am on the edge of the -- on the
25 borderline of the tree line. And the caribou -- when

1 the caribou comes back to our community, it used to be
2 exciting time for us, but it's not like that anymore.

3 But in the last two (2), three (3) days
4 before I came, I went out with the -- some young
5 people, and maybe around twenty (20) people came with
6 us, but it's a very long lake, that's Snare Lake, and
7 we haven't seen anything. And it seems like since the
8 mine has been established, it's very difficult for the
9 animals to come down to our area.

10 So when we -- I'm very concerned about
11 the people in my community, because we are on the edge
12 of the barren land. So -- so we are wondering how --
13 how are we going to survive the winter? That is our
14 concern. That is our concern. And I'm -- I'm quite
15 worried about it. I know that all the mine
16 developers, they want to expand the mine. And that is
17 an area where the -- the -- it was a caribou road
18 where the animals used to come down to our area. And
19 now it has changed. And it -- it -- they don't do --
20 the caribou doesn't come down very often any more.
21 And the Elders have mentioned that.

22 For myself, I know that the -- what --
23 the people that used to have meat in the freezers now
24 don't have any more meat, or they have little left to
25 -- in their freezers. And for fur-bearing animals,

1 Contwoyto Lake, that's where -- as far as people used
2 to go for -- to go trapping. But now people don't
3 even do that anymore -- anymore. People don't do any
4 -- the -- make money off fur-bearing animals anymore
5 either as much.

6 It seems like you want to make all
7 these changes, but that's going to affect the caribou.
8 We can't change the -- the way the caribou roam this
9 earth. There's nothing we can do about it. The --
10 they're -- they take care of themselves. So when
11 you're talking about animals like caribou, how -- I'm
12 kind of thinking, How are they going to increase the
13 population of the caribou ever again? That is very
14 difficult.

15 And I know that in one (1) day, twenty-
16 four (24) hours, there's -- the -- the mine is operate
17 -- operates for more -- twenty-four (24) hours a day.
18 And -- and it runs twenty-four (24) hours a day. So
19 I'm just won -- the car -- that affects the caribou
20 that will -- that travel in that area.

21 But in order to expand the project,
22 you're going to have to have that road into that --
23 that area. I've listened to the -- the changes you're
24 going to make for the expansion. I know that all the
25 information that is not available on the paper for us.

1 I know that -- I have always mentioned that -- that
2 the gravel should not be near -- the -- the gravel
3 should not be near the water, because it's not good
4 not only for the wat -- for the fish, but also for the
5 wildlife. Like, other wildlife such as caribou.

6 And also I know that a lot of people
7 that ask questions here are very -- they're -- they're
8 right and they're worried. So I just wanted to know
9 when you are going to the communities, so that you can
10 have a discussion about the changes that you are going
11 to make on the Jay Project. But I'm more concerned
12 about when you're going to come out to discuss -- have
13 more discussion with the communities about the
14 expansion and the changes.

15

16 (INTERPRETATION CONCLUDED)

17

18 MR. BOB OVERVOLD: Bob Overvold,
19 Dominion Diamond, Madam Chair. Joseph, thanks for
20 your comments and your questions. We appreciate it.

21 Your exact question is: When are we
22 going to come to your communities and other, you know,
23 Tlicho communities, as well as our other IB -- IBA
24 groups? I think, as you know, we've stated in the
25 past that we try to go out quarterly, every -- every

1 three (3) months. And we've been doing that right
2 from the get-go, back in -- starting in the spring of
3 2013, when Dominion became the -- the owners of the
4 Ekati mine.

5 Often in those meetings, we -- we talk
6 about the caribou issue. We talked about roads. We
7 get a lot of advice. Often, the -- the advice comes
8 from your members who actually work at the mine.
9 There's close to two hundred (200) Tlicho members who
10 work at our mine, so they see on a day-to-day basis
11 what measures were taken to try to mitigate against
12 negative impacts.

13 So we get a lot of advice, and we
14 appreciate it. I was going to raise this earlier. I
15 didn't get a chance. I'll -- I'll raise it now.
16 We've also informed your community as well as others
17 that because of your inability to harvest from the
18 Bathurst herd, we're -- we -- along with the GNWT,
19 while they're the lead, we support in providing for
20 our community hunts from other herds that are
21 sustainable as we did this spring for -- for the
22 Tlicho.

23 So yeah, we're -- we're -- we'll be out
24 again, obviously before Christmas. We don't go unless
25 we get a -- a date from the community as when it's

1 best to come in and have these discussions, but right
2 now our plan is to go out again this fall to every
3 community and have discussions on -- on caribou and
4 what could be done.

5 So we do that because we get a lot of
6 good advice. Thank you.

7 MR. SJOERD VAN DER WIELEN: Thank you.
8 Sjoerd Van --

9 MR. BRENDAN BELL: Sorry, Madam Chair,
10 if I just could, just as a -- as a -- as an additional
11 answer, Brendan Bell, Dominion. Joseph, thank you --
12 thank you very much for that question. You know, I
13 think Bob has -- has indicated that -- that we will
14 continue to engage with communities. We -- we take
15 this -- this responsibility very, very seriously. We
16 think it -- it has been very productive to date.

17 I -- I would point to -- to our
18 acknowledgment that there was a concern about the
19 proposed project initially with Jay and Cardinal that
20 continually community members and Elders said to us
21 that -- that the impact wasn't worth it. And -- and
22 we acknowledged that what we're trying to strike here
23 is a balance. And -- and as you've described, you
24 know, the traditional way of life, which generally is
25 -- is under threat from -- from many factors and --

1 and the need to balance that with -- with jobs for --
2 for our young people in our communities, it's not an
3 easy discussion.

4 There -- there aren't any easy obvious
5 conclusions that -- that we can always consistently
6 draw. It's about -- it's about continuing to discuss
7 and engage with communities, solicit their -- their
8 feedback on -- on the challenges that we have and on
9 finding that -- that right balance.

10 But I -- but I -- I hope that -- that
11 you can see we're sincere about that discussion and
12 that -- that engagement. We do acknowledge that the
13 caribou, you know, are -- are not -- as -- as we've
14 said, are -- are not in -- in the numbers that -- that
15 any of us would -- would like. We're hopeful that the
16 herd strength will come back. That is why we want to
17 continue to -- to meet and engage with the communities
18 in -- in finding solutions.

19 You know, whether or not there are
20 natural cyclical impacts and issues here at play, or
21 whether this is because of climate change and
22 predation, or whether this is development, I mean, we
23 can spend an awful lot of -- a lot of time trying to -
24 - to parse that and come up with the exact
25 attribution. I would just say that -- that setting

1 all that aside, we are prepared as a company to be a
2 part of finding a solution with you.

3 And -- and I think Bobby (phonetic) has
4 -- has indicated that -- that, you know, it's -- it's
5 -- it -- it is our -- our willingness to -- to work
6 with you that I -- I think will make a difference. We
7 hope -- we hope that -- that communities recognize and
8 -- and believe that that is sincere and we'll continue
9 to make -- to make those efforts.

10 Thank you, Madam Chair.

11 MR. SJOERD VAN DER WIELEN: Sjoerd Van
12 Der Wielen, Tlicho Government. Thank you, Madam
13 Chair, for the time, and we have no further questions.

14 THE CHAIRPERSON: Questions from
15 Environment Canada...?

16 MR. J.F. DUFOUR: J.F. Dufour, with
17 Environment Canada. Thank you, Madam Chair.

18 In response to EC's Information
19 Requests and Intervention, the proponent Dominion has
20 committed to the development of a diving bird
21 mitigation strategy to prevent waterbird by-catch.
22 Although EC is satisfied with that commitment, we're
23 seeking a bit of clarification.

24 Our interpretation is that Dominion is
25 proposing to include this document in the final Fish-

1 out Plan, which is authorized under DFO's mandate. Is
2 our interpretation correct and would the Wildlife and
3 Wildlife Habitat Protection Plan not be a better
4 regulatory tool to place this document in? Thank you.

5

6 (BRIEF PAUSE)

7

8 MS. CLAUDINE LEE: Claudine Lee,
9 Dominion Diamond. The plan would be developed along
10 with the fish-out, although the fish-out doesn't have
11 a -- doesn't require that. And the reporting would be
12 done in the Wildlife Effects Monitoring Program that
13 happens on an annual basis. And the plan would be
14 developed in -- in -- with engagement with Environment
15 Canada at that time.

16

17 (BRIEF PAUSE)

18

19 MS. SARAH-LACEY MCMILLAN: It's Sarah-
20 Lacey McMillan, with Environment Canada.

21 We just are worried about a compliance
22 issue with the DFO authorization, that if it is in,
23 you know, working in conjunction of the fish-out plan
24 and putting it together then is very beneficial. But
25 where it is housed might be an issue, given DFO's

1 authorizations.

2

3

(BRIEF PAUSE)

4

5

MS. CLAUDINE LEE: Claudine Lee,
6 Dominion Diamond. Because it's not a requirement of
7 the DFO fish-out, it would be -- it would be a part of
8 that, but it would be a part of the development of
9 that plan.

10

As we said in our responses, we are
11 committed to engaging with Environment Canada and
12 developing this plan. We can definitely continue that
13 engagement and determine where the best place would
14 be.

15

We understand that a reporting of it
16 would also be important, and we see that that
17 reporting would be in the WEMP. So we can definitely
18 engage on that, as we have said in our responses, with
19 Environment Canada about the development of it during
20 the development of the fish-out and where that could
21 be housed.

22

MR. J.F. DUFOUR: J.F. Dufour, with
23 Environment Canada. Thank you very much for that
24 answer.

25

J.F. Dufour, Environment Canada. No

1 further questions. Thank you.

2 THE CHAIRPERSON: Questions from
3 Fisheries and Oceans Canada?

4 MS. JULIE DAHL: Julie Dahl, Fisheries
5 and Oceans Canada. No questions.

6 THE CHAIRPERSON: Questions from the
7 North Slave Metis Alliance?

8 MR. SHIN SHIGA: Thank you, Madam
9 Chair. Shin Shiga, North Slave Metis Alliance. I'd
10 like to thank Dominion for committing to the
11 compensatory mitigation meeting or something.

12 Because it's such an important part of
13 our technical report, I wanted to get a little more
14 clarification on what that meeting might look like and
15 what the -- the end goal of that meeting would be.

16 So could you explain a little more
17 about the meeting, please?

18 MR. RICHARD BARGERY: Richard Bargery,
19 Dominion Diamond. What we've said, Shin, is that we
20 are prepared to meet with the parties that are
21 interested in meeting to talk about the
22 recommendations on compensatory mitigation to solicit,
23 I guess, a better understanding from our perspective
24 and ideas on what that would look like to bring back
25 to the Board on the 9th a summary of -- of those

1 discussions that could -- as -- as the -- as IEMA
2 pointed out, could be agreed to by everyone.

3 And -- and also from our perspective,
4 to put forward a -- a plan or a document that -- that
5 advises of what actions we would be prepared to take
6 to meet those recommendations in the technical
7 reports. Thank you.

8 MR. SHIN SHIGA: Shin Shiga, NSMA.
9 Thank you. That's all my questions.

10 THE CHAIRPERSON: Questions from
11 Deninu Kue First Nation?

12 MR. MARC D'ENTREMONT: Thank you.
13 It's Marc D'Entremont, for the DKFN.

14 We did have a couple questions with
15 regards to slide 15 in the compensatory mitigation
16 stuff, but they've already been asked and -- and the
17 points have already been discussed with other parties
18 in Dominion Diamond, so we're not going to belabour
19 that point. I think we'll just leave it at that.

20 And based on the direction provided by
21 the Board, we'll kind of raise this issue again in our
22 closing arguments. And I'll just close by saying I
23 think we'll likely make our -- an additional
24 recommendation that this be included as a measure in -
25 - in the Board's final decision, so thank you.

1 THE CHAIRPERSON: Questions from
2 Diavik Diamond Mines?

3 MR. GORD MACDONALD: Gord MacDonald,
4 with Diavik. Thank you, Dominion, for the commitments
5 on the future engagement, on monitoring and mitigation
6 plans.

7 I do have one (1) question that relates
8 to a clarification in our technical report and our
9 presentations where we were asking for a
10 recommendation for engagement with parties to the
11 environmental agreement.

12 We were not specific in that. That it
13 was we were referencing Diavik's environmental
14 agreement, not Ekati's. So the commitment we were
15 looking for was to engage with the parties to Diavik's
16 environmental agreement. And we just wondered if that
17 clarification changes DDEC's response.

18

19 (BRIEF PAUSE)

20

21 MR. RICHARD BARGERY: Richard Bargery,
22 Dominion Diamond. I think there's probably a
23 significant -- or number of overlaps between parties
24 between the agreements, but I don't think it changes
25 our -- our commitment, Gord.

1 MR. GORD MACDONALD: Gord MacDonald,
2 with Diavik. Thanks very much. And I will correct
3 that on the record this afternoon in our presentation.
4 Sorry, Gord MacDonald, with Diavik. That's all the
5 questions. Thank you.

6 THE CHAIRPERSON: Questions from Fort
7 Resolution Metis Council?

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: Questions from
12 Transport Canada?

13

14 (BRIEF PAUSE)

15

16 THE CHAIRPERSON: Questions from
17 Transport Canada?

18

19 (BRIEF PAUSE)

20

21 THE CHAIRPERSON: Questions from
22 Review Board staff and counsel?

23 MS. ANNE GUNN: Anne Gunn, for the
24 Board. Madam chair, I just have two (2) or three (3)
25 brief questions. My first question is: There is

1 still uncertainties about the road traffic and the
2 effects of it, and that's despite all Dominion's
3 efforts to increase the amount of information that was
4 available on traffic frequency.

5 The 2014 Camera Report did actually
6 suggest that traffic frequency in August 2013 was as
7 high as four (4) trucks a minute. There's uncertainty
8 about that as to how long the trucks are within the --
9 can be heard by the caribou or within their site, so
10 there are some uncertainties there.

11 The -- as Jay Pit is developed it will
12 become a single feed to the processing plant. And
13 there's been no discussion about how that will
14 constrain Dominion's ability to mitigate traffic
15 through stockpiling and road closure.

16 In the WEMP, there's only one (1)
17 mention of convoying, and it's -- the word is 'may',
18 there may be convoying. So I think, given those
19 uncertainties, can Dominion provide more information
20 on thresholds for caribou numbers and their proximity?
21 And under which situations would Dominion use
22 threshold -- would use convoys rather than road
23 closures with a proviso that convoys may actually
24 reduce the amount of dust as well as the caribou
25 exposure to the traffic?

1 MR. ELLIOT HOLLAND: Thank you, Anne.
2 Elliot Holland, for Dominion. With respect to -- to
3 your comment around the -- the stockpiling, it's --
4 it's Dominion's intention that we maintain -- given
5 that, you know, Jay at -- at times will be the -- the
6 sold force -- source of -- of ore to the mill, so it's
7 our intention to maintain stockpiles both at the -- at
8 the process plant itself and at the -- the
9 intersection of the -- of the -- the Jay Road and the
10 Lynx Road, as well as at the Jay Pit.

11 And we've given -- you know, we've
12 given some detail about the location and -- and size
13 of those stockpiles. You know, it's prudent for us
14 economically, and it's -- and it gives us more ability
15 to -- to close the road when we do have -- have
16 caribou migrations.

17 With respect to -- to your question
18 around the traffic monitoring and -- and convoying, I
19 think that's probably best laid out in a -- in an
20 undertaking rather than -- rather than describing it
21 here so we can -- we can present it with -- with a
22 little bit more detail.

23

24 (BRIEF PAUSE)

25

1 MR. JOHN DONIHEE: John Donihee, for
2 the Board, Madam Chair. So we'll take that then --
3 I'd just get Dr. Gunn to set out specifics so we have
4 the undertaking clear between us, but it will be
5 Number 8.

6 I wonder if you could just, Dr. Gunn,
7 indicate what -- what you understand has been
8 committed to.

9 DR. ANNE GUNN: Anne Gunn, for the
10 Board. The specifics would be the thresholds in
11 caribou number and proximity that would trigger
12 convoying rather than road closure, be they short or
13 long.

14

15 --- UNDERTAKING NO. 8: Dominion to provide
16 specifics regarding
17 thresholds in caribou
18 number and proximity that
19 would trigger convoying
20 rather than short or long
21 term road closures. This
22 information will also
23 include specifics
24 regarding land trains

25

1 MR. BRENDAN BELL: Madam Chair,
2 Brendan Bell, Dominion. Thank you for the question.
3 We will -- we will produce that and -- and bring that
4 back to you.

5 I -- I just want to also state, though,
6 that -- that we had a long discussion at the outset,
7 at the conceptual stage of this project, which gave
8 rise to our -- our research and investigation into
9 road trains which are a natural form of -- of convoy.

10 We have trialed a -- a road train at
11 the site this year which is effectively just as it
12 sounds, a cab of a truck with -- with buckets behind
13 it to haul ore. The reason we're -- we're very
14 interested in this is that it -- it cuts down on the
15 number of actual vehicle moves, reduces dust, and
16 allows us with fewer vehicles to -- to get the same
17 ore to the plant.

18 So we -- we are doing a number of
19 things just in terms of general operating principles
20 around trying to reduce traffic and build natural
21 convoys. But we -- we will certainly bring -- bring
22 the information back that -- that we've committed to
23 here today. Thank you.

24 DR. ANNE GUNN: Anne Gunn, for the
25 Board. When you provide the information, can you be

1 quite specific about what you mean by a road train,
2 like just -- and how many trucks would be reduced as a
3 consequence? Thanks.

4 MR. ELLIOT HOLLAND: Elliot Holland,
5 for Dominion. Yes.

6 DR. ANNE GUNN: Madam Chair, I have a
7 second question. A lot of attention has been focused
8 on the Jay Road and the esker crossing. And certainly
9 Dominion has gone to -- in efforts to include the
10 knowledge of Elders how to plan that road.

11 But if in the worst case the caribou
12 are deflected from the esker crossing, will Dominion
13 implement a contingency plan? And if so, what -- what
14 would be the form or what would this contingency plan
15 entail?

16

17 (BRIEF PAUSE)

18

19 MR. RICHARD BARGERY: Richard Bargery,
20 Dominion Diamond. I think we -- we'd probably look
21 for a little bit more clarity in -- in what's being
22 asked for.

23 A contingency plan, do you mean if
24 they're deflected from the Jay road and they're
25 crossing the Misery road, and just a little bit more

1 clarity would -- would be helpful for us to -- to try
2 to -- to try to respond.

3 DR. ANNE GUNN: Anne Gunn, for the
4 Board. One (1) -- one (1) scenario would be that if
5 there were caribou stalled -- staging on the esker,
6 and remaining there for an unusual amount of time, but
7 not prepared to go down the esker and cross the road.
8 That sort of situation.

9 That's the su -- what would be the
10 contingency for that?

11

12 (BRIEF PAUSE)

13

14 MR. HARRY O'KEEFE: Harry O'Keefe, for
15 Dominion. I think this discussion was, you know --
16 it's -- and it's an important one (1), was extensively
17 brought up during our -- our eng -- engagement or
18 consultation on -- on the Caribou Road Plan. And, you
19 know, as we laid out in the plan, you can't -- you
20 can't write down in words every situation that -- that
21 caribou are going to face you with. It's -- it's too
22 unpredictable. You can -- you can have a best laid
23 plan, but you really need to address everything on a
24 case by case basis.

25 And so in that case-by-case basis, the

1 first and -- and strongest contingency is -- that we
2 have is that if caribou are on the road or judged to
3 be wanting to cross the road, the road will be closed
4 for as long as that takes. And the question was posed
5 before, What if your stockpiles run out? It's -- I
6 mean, the simple answer is it's too bad for our
7 stockpiles. Caribou are given priority. That's our
8 statement. That's our strongest wildlife mitigation
9 at site. So if they're on the road, or -- or would
10 like to use the road in any way, it's their road to
11 use until they're done with it.

12 MR. RICHARD BARGERY: So Richard
13 Bargery, Dominion Diamond. I -- I guess, I mean, your
14 -- the question, Anne, was -- is what other
15 contingencies would be -- would be considered or would
16 -- would Dominion consider other contingencies, I
17 think.

18 But from -- from our perspective, you
19 know, as we said during the engagement on the --
20 Harry, you know, we'd -- we'd shut down the road until
21 there was caribou movement through the area, or the
22 caribou moved away, if -- if they decided to -- to
23 stay on -- on the esker.

24 We've had -- you know, we've had pretty
25 extensive experience with caribou moving through Ekati

1 obviously over the past eighteen (18) years, so. I'm
2 not that answers your -- I'm not sure that really
3 answers your question, but -- but hopefully that's a
4 start obviously.

5

6 (BRIEF PAUSE)

7

8 DR. ANNE GUNN: Anne Gunn, for the
9 Board. Madam Chair, this is my last question. In --
10 in the 31st of July WEMP that was -- Dominion put on
11 the public registry, Dominion stated on page 210 that:

12 "No further additions are required
13 to incorporate additional actions
14 for adaptive management."

15 In view of some of the concerns that
16 you've heard already during this session, and in view
17 of the further decline of the Bathurst herd, would
18 Dominion commit to a period of public review and
19 revision of the WEMP, similar to what's been proposed
20 for the Air Quality Monitoring Plan?

21

22 (BRIEF PAUSE)

23

24 MR. RICHARD BARGER: Richard Barger,
25 Dominion Diamond. Just one (1) second.

1 (BRIEF PAUSE)

2

3 MR. RICHARD BARGERY: Richard Bargery,
4 Dominion Diamond. Sorry, I was just trying to clarify
5 the date. So -- Anne, what you're looking for is a
6 public engagement on the WEMP as it's developed. On,
7 I think it's July 24th, we -- we published a -- or we
8 posted an engagement plan that included engagement on
9 both the WEMP and -- and the air quality emissions
10 management and mitigation plan. I can never -- that
11 one right, sorry.

12 So we -- we have made that commitment.
13 Plus there would also be the opportunity, you know,
14 through the permitting phase as well for -- for
15 engagements, so we're open to more engagement, yes, on
16 the WEMP. Does that -- does that answer your
17 question?

18 DR. ANNE GUNN: Anne Gunn, for the
19 Board. If -- if I understand you correctly you were
20 saying there will be more engagement and possibly a
21 revision of it, so yes, that would answer my question.

22 MR. ALAN EHRLICH: It's Alan Ehrlich,
23 for the Review Board. The party's technical reports
24 have stated that without the Jay Project existing
25 cumulative effects on caribou are likely significant

1 already. And we've heard questioning this morning
2 that supports that -- that position they took in the
3 technical reports.

4 Dominion has said that it will make a
5 small but incremental measurable addition, but it is
6 not significant because it's so small. If I've
7 understood what I've heard from you this morning.

8 Can you please explain to the Review
9 Board Dominion's conclusion that if you start with a
10 cumulative effect that is significant and you add to
11 it, the resulting total cumulative impact is not
12 significant?

13

14 (BRIEF PAUSE)

15

16 MR. BRENDAN BELL: Brendan Bell,
17 Dominion. Madam Chair, clearly impacts on caribou
18 over the last number of years have been significant.
19 I don't think anybody in the room disputes that. We
20 believe this -- this incremental development though
21 can be done in a way that mitigates additional impacts
22 and it won't cause a significant additional impact.

23 Have impacts on caribou to date from
24 development and climate change, from predation, from
25 additional hunting been significant? Yes, we believe

1 they have been.

2 MR. ALAN EHRLICH: Thank you. And,
3 Madam Chair, there's one (1) more question from Review
4 Board staff member Ruari Carthew.

5 MR. ELLIOT HOLLAND: Apologies. We --
6 that was kind of one (1) part of a two (2) part answer
7 if you don't mind.

8 DR. JIM RETTIE: Jim Rettie, Golder
9 Associates. Madam Chair, based on the -- the most
10 recent June survey data Dominion Diamond understands
11 that the continued decline of the Bathurst caribou
12 herd is considered ecologically and culturally
13 significant.

14 It's also acknowledged that the
15 resilience of the herd is lower at a smaller
16 population size. And it's for that reason that in the
17 DAR and subsequent analysis and response to adequacy
18 review and Information Requests assess the effects of
19 caribou -- assess the effects of the projects to
20 caribou during all phases of the population cycle.

21 The objectives of the assessment and of
22 the subsequent mitigation plan are to protect caribou
23 and to maintain caribou migration through the Lac de
24 Gras area so that the Jay Project will have even fewer
25 effects on the resilience of the Bathurst herd. And

1 the lines of evidence provided during the
2 environmental assessment process indicate that the Jay
3 Project will have no significant effect on caribou.

4 So the .03 -- 0.3 percent change in
5 demography, 0.1 percent change in available habitat,
6 at a conservative level, likely less than that before
7 mitigation, and there will be applied mitigation.

8 MR. RUARI CARTHEW: Thank you. Ruari
9 Carthew, with the Review Board. Dominion recently
10 mentioned the proposition of having a traditional
11 livelihood offset whereby they sponsor community
12 harvests on sustainable herds.

13 I'm -- I want to ask Dominion, the
14 herds that they would propose for that harvest, if
15 they encroach on territories of communities,
16 Aboriginal groups that are not represented here, if
17 they would commit to engaging with those groups on
18 that likely effect or possible impact on those groups?

19 MR. ELLIOT HOLLAND: Elliot Holland,
20 Dominion Diamond. First I want to clarify.

21 Where -- where Dominion has -- has
22 sponsored community hunts in the past, it hasn't been
23 us determining what -- what herds are hunted or -- or
24 how that's done. We -- we only have done that in the
25 past funding -- on a funding basis for -- for hunts

1 which -- which government is leading. And -- and we
2 rely on -- on government to -- to give us direction in
3 that regard.

4 MR. RUARI CARTHEW: Ruari Carthew,
5 Review Board. So just to clarify. Should the -- the
6 sponsoring of a harvest occur, the GNWT would
7 orchestrate that, and be the main organizer?

8 MR. ELLIOT HOLLAND: Elliot Holland,
9 for Dominion. That's -- that's the way it's worked
10 every time we've done it in the past.

11 MR. RUARI CARTHEW: Thank you. I
12 think there are no more questions from the Review
13 Board. Ruari Carthew. Or staff, sorry, or counsel.

14 THE CHAIRPERSON: Questions from the
15 Review Board?

16 MS. YVONNE DOOLITTLE: Yes. Good
17 morning. Yvonne Doolittle, Review Board. Just
18 looking at your slide 12 there, it says:

19 "Caribou can be self-sustaining and
20 ecologically effective at low
21 population sizes."

22 Is it is -- in your assessment then
23 that, with the population count as recent that it came
24 in, that this is still something that you are going to
25 -- that -- that -- it's a statement that you've put in

1 your slide, so I'm assuming that you agree with that
2 and that the state and size of the -- the population
3 right now is something that is self-sustaining and
4 ecologically effective, and maybe add to it culturally
5 -- still -- still would maintain some cultural
6 significance, be able to sustain that, as well? Thank
7 you.

8 DR. JIM RETTIE: Jim Rettie, Golder
9 Associates. I'm going to answer the second part of
10 your question first, which is with regard to cultural
11 significance. We're not able to answer what -- what
12 the ecological effects are and the significance is to
13 -- to the communities affected.

14 In terms of the first portion of your
15 question, as to whether or not we agree with the
16 statement that population, if we look at the -- at the
17 rough estimates from the last survey of approximately
18 sixteen (16) to twenty-two thousand (22,000) animals,
19 is it possible for that to be self-sustaining and
20 ecologically effective, yes, we believe it is.

21 MR. RICHARD BARGER: It's Richard
22 Barger, Dominion Diamond. Just on -- on the -- the
23 second question on cultural significance, just to
24 clarify it -- or to add to what Jim said. It's really
25 -- that's really a question for the communities to --

1 to answer, not for Dominion, I think, on cultural
2 significance, and that was the -- the point.

3

4 (BRIEF PAUSE)

5

6 THE CHAIRPERSON: Questions from
7 Review Board? Kirby...?

8 MR. KIRBY MARSHALL: Thank you, Madam
9 Chair. Kirby Marshall, Review Board. Earlier, there
10 was discussion with respect to -- when the LKDFN were
11 asking questions. You're working with Natural
12 Resources Canada with respect to the zone of influence
13 and finding drivers, et cetera. Just a bit of
14 clarification.

15 Is the GNWT part of that process? I
16 know they'll be up later, but you should know that
17 answer.

18

19 (BRIEF PAUSE)

20

21 MR. RICHARD BARGERY: Richard Bargery,
22 Dominion Diamond. I'm sorry, just seeking
23 clarification. There is an NRCan research project.
24 And -- and from what -- from what our -- our team has
25 told me, don't think the GNWT's directly involved.

1 They may have been consulted, but -- but I -- to the
2 best of my knowledge, no, I guess.

3 MR. KIRBY MARSHALL: Fair enough.
4 Thanks for the clarification. Kirby Marshall, Review
5 Board. No more questions, Madam Chair.

6

7 (BRIEF PAUSE)

8

9 MR. JAMES WAH-SHEE: James Wah-Shee,
10 Review Board. Regarding the issue of caribou, we've
11 heard a number of concerns related to the demise of
12 the caribou herd. And what contributes to the overall
13 decline is at this point is not very clear. I haven't
14 heard any substantial evidence from the GNWT as well,
15 as to what is causing the decline. Whether it's a
16 natural cause, or factors that may contribute to the
17 overall decline of the caribou.

18 I guess my -- my question basically is
19 this: I know that -- I'm quite aware that the
20 Dominion Di -- Diamonds is working closely with the
21 Aboriginal people, and through the community
22 engagement. I guess my -- my question here is the --
23 does the Dominion Diamond -- do they have a working
24 group with all the Aboriginal groups, aside from
25 community engagement? I think community engagement is

1 very useful in terms of consultation and having proper
2 information, so that the people in the communities are
3 informed.

4 So I guess my question is: Do -- do
5 you have a -- a -- an established caribou tasked
6 working group between Dominion Diamonds and the
7 various Aboriginal groups, which perhaps should
8 include the Government of the Northwest Territories,
9 since the Government of the Northwest Territories
10 essentially is responsible for the management of
11 wildlife in the Northwest Territories. So I'd like to
12 have that clarification.

13 Maybe this question is -- perhaps is
14 more appropriately -- should be directed to the
15 Government of the Northwest Territories. But I wonder
16 if -- if Dominion Diamonds could inform me about this
17 working -- ongoing working group. As you -- as we all
18 know, this is an -- an ongoing concern, Madam Chair.

19 MR. BRENDAN BELL: Madam Chair,
20 Brendan Bell, Dominion. I -- I will pass it over to -
21 - to Bob Overvold. But first, just a little bit of
22 context.

23 We, of course, interact and engage with
24 communities frequently. We also have -- have
25 requested from the Aboriginal governments and the

1 Aboriginal groups that they -- they provide us their
2 preferred vehicle in terms of -- of engagement and --
3 and it varies. But -- but for Tlicho it's -- it's
4 been the Kwe Beh working group.

5 So -- so caribou topics are dis -- as -
6 - are discussed both in communities and at these
7 official -- the engagement discussions and sessions.
8 But I would say, you know, we -- we have proposed that
9 -- that we need a -- a broader working group of --
10 we've talked about yesterday the -- the attempts at --
11 that -- that we will continue to -- to create an -- an
12 Elders working group to -- to solicit traditional
13 knowledge across a broad range of -- of topics.

14 But specifically, with respect to
15 caribou, the -- the government created -- was seeking
16 to create a caribou working group given the -- you
17 know, the -- the stress or the demises, as the Board
18 member has put it. And we agree on -- on the -- the
19 herds in -- in the Northwest Territories, specifically
20 the Bathurst.

21 We petitioned the minister to -- to be
22 allowed to be a part of that working group with
23 communities and -- and government. We were provided
24 the ability to participate as -- as -- at that working
25 group level. And Bob Overvold attended several

1 meetings to represent the Company.

2 Obviously, we're -- we're much more
3 than just interested parties in this. We made the
4 case that we all have a vested interest in -- in
5 solving this and working together to solve it.

6 So, look, it's something that we're
7 interested in playing a larger role in. And those
8 discussions would ultimately -- the -- the proper
9 vehicle is that, that will be for communities and --
10 and government to determine. We -- we can't be
11 prescriptive, but whatever the -- the opportunity
12 provided, we will -- we will engage.

13 But -- but, Bob, do you want to add in
14 -- in terms of the caribou working group discussions?

15 MR. BOB OVERVOLD: Bob Overvold,
16 Dominion Diamond, Madam Chairperson.

17 During our first couple of years of
18 engagement starting in 2013, there was a lot of advice
19 given to us about caribou and about wildlife, about
20 how we should do mitigation against negative impacts.

21 And earlier today, in a request --
22 question from Peter, I made the statement that there
23 was an Elder in Lutsel K'e who got up in one (1) of
24 our public meetings and talked about he would like to
25 hear the views of other -- other Elders when it came

1 to the decline of caribou.

2 And based on that, when we debriefed on
3 -- on that comment which we also heard in -- in other
4 communities, we offered to set up an Elders council
5 from -- from each -- that would have representation
6 from each of our IBA groups. And we wrote to the
7 communities to that effect.

8 And I think as Brendan said yesterday
9 at the beginning, we perhaps didn't articulate the
10 purpose and objective of that meeting as well as we
11 should. And some communities thought what we were
12 suggesting that we would get TK advice only from an
13 Elders group and not from -- from the communities
14 directly. And that was never our intention.

15 Nevertheless, there wasn't much uptake
16 on that until very recently when we were in Lutsel
17 K'e. And at that public meeting, it was again
18 discussed. And at the end of the meeting, the sub-
19 chief summed up by suggesting and saying that the
20 community would support the -- the creation of a
21 regional Elders council to look at and discuss
22 different traditional knowledge information that comes
23 from each of the communities.

24 So we intend to follow up with -- with
25 the Tlicho and with the others to see if there -- they

1 may be interested in taking part in us setting this
2 up.

3 As you know, there's also a GNWT
4 caribou working group. And while we have not been
5 directly involved in it, the -- the NWT Aboriginal
6 communities and representatives from the communities
7 sit on it.

8 Nevertheless, they do have a -- a
9 technical sub-committee of that working group, and we
10 take part at that level. Thank you.

11 MR. JAMES WAH-SHEE: Madam Chair,
12 James Wah-Shee. I think, you know, generally
13 speaking, you know, the concern regarding caribou is
14 not a -- a recent concern. It's -- it's been a
15 concern for quite a few years.

16 But I guess the -- I'm happy to -- for
17 that clarification because the concern regarding
18 caribou is going to be a continuing concern. And I
19 think the -- the way to perhaps address this would be
20 a -- a continuing dialogue between the resource
21 developers, the Aboriginal groups, and also, I think
22 the -- the Government of the Northwest Territories
23 also has to -- has a -- an important role regarding
24 this, because obviously the parties and the Developers
25 as well as the GNWT have differences of opinions as to

1 what factors are -- are affecting the -- the caribou.

2 And so -- so the ongoing dialogue, I
3 think, is very important. And thank you very much for
4 the clarification. And I have no further question,
5 Madam.

6 THE CHAIRPERSON: Okay. Thank --
7 thank you for that. We thank you for your
8 presentation and thank everyone for their questions.

9 We would like to take a break now for
10 lunch and reconvene back here at one o'clock. Let's
11 try -- let's try for 1:15. It's already twenty (20) -
12 - twenty-five (25) after. 1:15.

13

14 --- Upon recessing at 12:24 p.m.

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

16

17 THE CHAIRPERSON: Our first
18 presentation this afternoon will be from the
19 Independent Environmental Monitoring Agency.

20

21 PRESENTATION BY IEMA:

22 MR. BILL ROSS: Thank you very much,
23 Madam Chair. The -- the presentation will deal with
24 cumulative effects -- sorry, Bill Ross, Monitoring
25 Agency.

1 The presentation will deal with
2 cumulative effects, and then the other two (2) items.
3 I will cover the cumulative effects material and I will
4 hand it off to Kim Poole to deal with the other
5 measures.

6 The key issue here is whether there is -
7 - whether the cumulative effects on the Bathurst herd
8 from the Jay Project and other developments are
9 significant, and whether the development has considered
10 all measures to reduce those cumulative impacts.

11 The Developer has concluded that these -
12 - the project should have no significant adverse
13 effect. The pro -- the cumulative effects of the
14 project will not be significant on self-sustaining and
15 ecologically effective barren-ground caribou
16 populations. Our criteria are different from that, and
17 we'll come to them later on.

18 The Developer bases its conclusions on
19 the analysis that -- that we have all looked at,
20 modelled results and the like. We base our findings on
21 what's happening out on the land to the Bathurst herd.

22 Let me jump to the agency's conclusions.
23 The -- the agency bases its findings on developer's
24 modelling regarding cumulative effects of developments
25 and other literature regarding cumulative effects of

1 developments on the land. The other references are all
2 included in our submission or on the record for earlier
3 reasons.

4 And we suggest that the cumulative
5 effect indicators suggest that clearly the existing
6 mine developments have had, and continue to have, an
7 adverse effect on the Bathurst herd. Dominion Diamond
8 also concludes that the proposed Jay expansion itself
9 will have an -- an adverse effect on the Bathurst herd.
10 Yeah, let me leave it at that.

11 Now, I want to be clear that what we
12 conclude is that the developments in the Bathurst herd
13 range today have had -- have cumulaty (sic) added up to
14 a natural -- have cumulatively added to a natural
15 decline in the herd which has led to a population crash
16 that is significant.

17 I -- I want to pause on this because it
18 is a very important point. And I will elaborate
19 further, of course. But the existing developments, by
20 that, I mean the existing Ekati mine, the Diavik mine,
21 the winter road, Snap Lake, Lupin, and probably other
22 things that I have forgotten, but that's a good enough
23 list, have cumulatively contributed to the population
24 decline, and that this is a significant adverse
25 cumulative effect, indeed, to repeat.

1 That's today. I'm not talking about
2 Jay. I'm not talking about other future actions. I'm
3 saying today there is an existing significant adverse
4 cumulative effect. "Impact", I guess, is what you call
5 it.

6 The -- this slide here suggests that,
7 based on Dominion Diamond's analysis, it concludes that
8 the adverse -- is the effects -- the impact of Jay on
9 the Bathurst caribou would be negative and small, and
10 we agree.

11 Some other day, we could argue about
12 exactly how small, but it really doesn't matter as long
13 as it's negative. And I -- I want to come back to
14 that. The idea is if you have an existing significant
15 adverse cumulative effect today and you add some more
16 adverse effect to it, then you'll make it worse, not
17 better, and it will be a significant adverse cumulative
18 effect of the Jay Project. Cumulative, because it
19 includes the effects of all of the other developments
20 in the Bathurst herd range.

21 Let me next go on to why we conclude --
22 why the agency concludes that the cumulative effect
23 will be significant. We have three (3) reasons. The
24 first is, if you like, the magnitude of the effect on
25 the population. Ninety-five (95) percent decline is,

1 how shall I put it, pretty big.

2 Secondly, there -- in response to the
3 large collapse, there are people examining whether
4 barren ground caribou should be listed as a species at
5 risk. I say that as opposed to the Bathurst herd,
6 because that's how the -- the feds deal with species at
7 risk. They deal with the species rather than the herd.

8 And lastly and most importantly for the
9 agency, we conclude that -- that this effect is a
10 significant adverse effect, more precisely a
11 significant adverse cumulative effect, because the
12 Bathurst herd is an important source of country food
13 for Aboriginal peoples. The low population, as we have
14 heard, or as we actually well know, is -- is having an
15 adverse effect on their ability to obtain and harvest
16 the caribou.

17 Next, the residual loose end is the
18 relative comparison of the natural decline of the
19 Bathurst herd and the adverse contributions to that
20 decline that are caused by the existing developments.
21 We agree that it is beyond our ability to pre -- to --
22 to allocate the relative importance between natural
23 process and the -- the adverse effects of the
24 developments.

25 We -- we do note that the collapse from

1 -- I use round numbers, because it's simpler in my
2 head, from four hundred and fifty thousand (450,000)
3 animals in the mid-1980s to twenty thousand (20,000)
4 animals today is a large decline. Suppose that -- so
5 one -- one would ask: What would be the population of
6 the Bathurst herd if there were no developments up
7 there, because the difference between twenty thousand
8 (20,000) and that number should be the cumulative
9 effect.

10 It would be nice to know, but that's
11 beyond our ability to predict. I can't help but
12 observe that a -- a 5 percent effect -- 5 percent of
13 four hundred thousand (400,000) animals would be
14 another twenty thousand (20,000) animals, and that
15 would be, like, a big difference in how one would
16 assess the current population.

17 Five (5) percent is an arbitrary and
18 capricious number that I picked out of the air, but
19 it's small. And I think the important principle is we
20 have a significant adverse cumulative effect today.

21 Now, in the absence of certain --
22 scientific certainty, we have a precautionary principle
23 that deals with that. And so while we are no wiser
24 than Dominion Diamond and its consultants or the many
25 other experts in this room about the relative

1 contributions, when -- in the absence of scientific
2 certainty, the precautionary principle takes over and
3 we need to deal with measures to protect the herd.

4 So the first recommendation we -- we
5 make is to the Review Board, and that is that the
6 Review Board find the Jay Project would cause a
7 significant adverse cumulative effect to the Bathurst
8 caribou herd.

9 Now, in some respects, we could stop
10 now, but we think we have the obligation, as I
11 indicated in my opening remarks yesterday, to identify
12 what we think would be measures that would be needed to
13 avoid having this significant adverse cumulative effect
14 take place.

15 And so we have a list of things, of
16 measures that we thought might be helpful to reduce not
17 the cumulative effect, but the effect of the Jay
18 expansion in particular.

19 The -- the way of managing cumulative
20 effects is you deal as much as you can with the project
21 under review, the Jay Project, and I'll come to the
22 next slide, which deals with other projects. But --
23 and this one, we don't much care whether those are the
24 perfect details.

25 We do note that the esker crossing has

1 been discussed extensively, and we aren't convinced
2 we've got the perfect solution, and so suggest that
3 perhaps the Review Board should contemplate getting
4 some independent advice or having independent advice be
5 offered before the final design is -- is completed.
6 But that's a minor point.

7 Of more import is that cumulative
8 effects require cumulative solutions. I am obliged to
9 cite my sources. My good friend, the late Roger
10 Creasey was the author of that brilliant insight.
11 Cumulative effects require cumulative solutions.

12 And if the cumulative effects are caused
13 by a variety of developments, one should try to reduce
14 the effects of those developments on the Bathurst herd.
15 And these might be called offsetting measures, or
16 compensatory measures, or cumulative effects
17 mitigation, or whatever you like.

18 And what we suggested is there are a
19 number of possibilities. We have been trying to get
20 Dominion Diamond to accept that it ought to do
21 something about the Bathurst herd, it -- in
22 collaboration with what I call his friends, the
23 operators of the other developments.

24 And these include -- sorry, these --
25 yeah, these include Diavik and Snap Lake and Lupin --

1 I'm not sure there's an operator there, but whoever --
2 winter road, and not -- not entirely capriciously, the
3 existing Ekati Mine.

4 The good news is, while Dominion Diamond
5 has no authority over the other of its friends, or very
6 limited authority, it has a good deal of authority to
7 deal with the operator of the existing Ekati Mine. And
8 it could take some measures there that would reduce the
9 adverse effect, the cumulative adverse effect.

10 And we suggest zone of influence stop.
11 And at this point, I -- there are half a dozen other
12 such measures, but I've run out of my time. So I'm
13 going to turn it over to Kim to talk about the other
14 part of the presentation.

15 MR. KIM POOLE: Thank you, Bill. Kim
16 Poole, with the Monitoring Agency.

17 The first main topic I want to discuss
18 here is about the zone of influence. That was actually
19 gone over in detail this morning, but I just want to
20 highlight a couple things.

21 The Developer originally concluded that
22 there was no variation in the zone of influence -- zone of
23 influence calculated annually over the 2003 to 2008
24 period. And they did not initially support that the
25 data, the aerial survey data from 2009 and 2012 would

1 be of any use in determining -- in -- in clarifying the
2 results of the DAR, or the assessment or looking at
3 trends in the zone of influence over time.

4 We had suggested in previous submissions
5 and requests earlier this summer that it would be
6 useful, especially in light of the things that I
7 pointed out this morning with the increasing --
8 although perhaps not trend an -- trend analyzed or
9 statistically analyzed trend, but an apparent trend, at
10 any rate, in the strength or the magnitude of the zone
11 of influence increasing over time.

12 And this -- oops, sorry. It's wrong
13 one. And this stability or relative stability in the
14 distance of the zone of influence and the increase in
15 the apparent magnitude, at least from our
16 interpretation, has occurred despite the mitigation
17 that was undertaken at the Ekati mine from 2003 to
18 2008, and in spite of adaptive management that has been
19 ongoing.

20 We had suggested that these two (2)
21 years would help reduce the uncertainty in the zone of
22 influence value used in the DAR, clarify trends over
23 time, and reduce the uncertainty regarding the
24 potential impacts of the Jay Project on caribou.

25 So as noted in the last couple weeks,

1 Dominion Diamond has agreed that this analysis should
2 be undertaken with the new annual 'R' code analysis.
3 Unfortunately, it's not available for this hearing. My
4 understanding is that ENR, through the Zone of
5 Influence Technical Task Group, will be funding this --
6 this endeavour. And I -- and I assume that the results
7 will be reported through the task group, or -- and as
8 well as in the 2015 Wildlife Effects Monitoring Program
9 Report.

10 The Monitoring Agency suggests that
11 aerial surveys currently is the only proven method to
12 measure zone of influence. And we are suggesting a
13 measure that aerial surveys should be undertaken that
14 will measure the effectiveness of the mitigation
15 measures for caribou for the Ekati mine and Jay
16 Project. And to -- to track trends in the zone of
17 influence over time. As I mentioned earlier, this
18 could be done at a higher elevation, or a higher
19 altitude to reduce the potential disturbance to
20 caribou.

21 My second point that I want to go
22 through here is dealing with compensatory mitigation.
23 Again, we discussed this earlier this morning. And the
24 Dominion Diamond had made a statement at the beginning
25 saying that I guess as of yesterday, since we've been

1 pushing this for a while, as of yesterday, they are on
2 side with trying to come up with ways to address
3 compensatory mitigation and to develop a compensatory
4 mitigation plan. So I'm not really sure if there's
5 more that I need to go through for that, because we had
6 already addressed that. So that's essentially the end
7 of our -- our presentation. Thank you.

8

9 QUESTION PERIOD:

10 THE CHAIRPERSON: Thank you.
11 Questions, Government of the Northwest Territories?

12 MS. ANDREA PATENAUDE: Andrea
13 Patenaude, Government of the Northwest Territories.

14 So since IEMA was the ones that seemed
15 to originally have come up with the idea of developing
16 a compensatory mitigation plan and offsetting, while
17 we're definitely in support of looking for ways to
18 explore mitigations, we wondering -- we were just
19 wondering if you have a better idea as to what the
20 scope and content you would be -- you were thinking of
21 when you were proposing this. We think that that's
22 probably pretty key for under -- our understanding of -
23 - of how that process could be helpful. Thank you.

24 MR. BILL ROSS: Thank you, Andrea. It
25 will -- Bill Ross, Monitoring Agency. It will come as

1 no surprise, Madam Chair, that we were ready for this
2 question to appear, and we thought it might not appear
3 immediately, but here it is.

4 I -- I normally try to be very succinct
5 in responding because I know of the time pressures that
6 you and we are under, but this -- this may be a
7 sufficiently important point that I'm going to take a
8 little bit longer, if you wouldn't mind.

9 The -- what -- what we tried to do in
10 our submission is to outline some possible measures.
11 And what I'll do now is I have written down about half
12 a dozen of them, along with some principles that need
13 to be applied in choosing them.

14 The first one (1) is what I called a
15 dust research. Now, I want to be absolutely clear that
16 research is not mitigation. You can research all you
17 like, but you won't help the caribou.

18 On the other hand, if what you're
19 researching is a way of reducing the effect on caribou
20 and if one is committed to applying it, then that
21 helps. If Dominion Diamond were, for example, to
22 explore -- sorry, I need -- I need to acknowledge my
23 source.

24 Back in the late 1990s, the Monitoring
25 Agency heard from Aboriginal peoples that dust may be a

1 mechanism leading to adverse effects on caribou. We
2 thought that might make some sense. We talked to
3 others about it and we found general acceptance that
4 this may well indeed be a measure.

5 So the rationale for dust research is
6 that, if one explores how dust influences the zone of
7 influence and -- and if it were determined that dust is
8 a substantive contributor to a zone of influence, then
9 by adopting mitigation measures to the Jay Project one
10 would have, not cumulative effects mitigation, but
11 project mitigation.

12 So the research is a tool to get the --
13 sorry, is a means of getting the tool which could be
14 applied to the Jay Project that would be project
15 mitigation. If one then circulates the findings to
16 others, that's just research dissemination. But if the
17 others commit to adopting the measures, that can become
18 cumulative effects mitigation measures. And so that's
19 the logic behind a research tool used to mitigate.
20 Yeah.

21 Secondly, let me pick an easy one, road
22 crossings. There are now -- and I know the road
23 crossings at Ekati, I'm not familiar with them at other
24 sites. But I know that the roads at Ekati are -- are a
25 mix of smooth and easy caribou crossings and some large

1 rocks that would make it very difficult for caribou to
2 cross roads and make it perhaps very easy for wolves to
3 chase caribou into the dangerous rocks and to take the
4 -- take the caribou.

5 We don't think this is a very big issue,
6 but adjusting the roads to make it -- make them more
7 caribou friendly is an offset, a compen -- a way of
8 reducing the cumulative effects of Ekati, and perhaps
9 other places, as well.

10 More important for the roads, according
11 to my expert colleague to my right here, Kim Poole, is
12 that the sensory disturbance of the roads is -- is a
13 more important indicator. And notice I'm -- if -- if
14 we discovered ways of reducing sensory disturbance on
15 roads, then certainly that should be applied to the Jay
16 Project. But it could also be applied to the Ekati
17 Mine. It could be applied to other locations. I don't
18 know them as well, and so I will use Ekati as an
19 example.

20 The CRMP, the Caribou and Roads
21 Mitigation Plan I think is what it's called, has been
22 adjusted a couple of times. We are of the view that it
23 is possible to make even a third adjustment to make the
24 measures more caribou-friendly to even further reduce
25 the effect on the Bathurst herd.

1 And so that would be another cumulative
2 effect mitigation measure that could be adopted and --
3 and of course it may be applicable in other places and
4 we would certainly encourage them to be applied there.
5 Linked to that a few times the -- in the hearing has --
6 there have been references to the zone of influence
7 working group. And there are -- with the participation
8 in that working group we understand to be operators of
9 several of these mines.

10 If there are lessons to be learned from
11 that group and if they could be applied, again, the
12 important thing is you don't get any mitigation until
13 you apply the -- the results that work, then that would
14 be beneficial.

15 Another example would be Sable. Sable
16 is a potentially future development. It -- it could
17 have -- it -- it also would have adverse effects, we
18 would suspect, on a Bathurst caribou herd. And so by
19 tweaking the timing of -- of when Sable and when Jay
20 were to proceed there could be some mutual benefits. I
21 think we alluded to that in our submission.

22 We also alluded -- I'm on number 5 if it
23 helps. I'm getting very close to the end. Number 5 is
24 faster reclamation, a more progressive reclamation to
25 get places like the Long Lake Containment Facility

1 reclaimed to be caribou-friendly more quickly.

2 And that -- I mean, there's also waste
3 rock piles and ramps and so on that could als --
4 equally be done that would make the existing Ekati mine
5 -- again, I don't mean to say that's the only place
6 where these measures could be adopted, but that's the
7 one (1) I know best. So the waste rock piles, the Long
8 Lake Containment Facility ramps, get them reclaimed as
9 quickly as possible to restore good caribou habitat
10 that would reduce the effect of the existing mine and
11 therefore lower the cumulative effect.

12 I've already said that. Okay. That's
13 the last of -- of my measures, but there is -- there
14 are two (2) other features to point out, one (1) of
15 which I've already alluded to. These measures should
16 be adopted collaboratively and with sharing of lessons
17 in the hope that they would be adopted at other sites.

18 And lastly, and perhaps most importantly
19 is how much. Not how much it costs, but how much --
20 how many of these measures do you need to adopt. And
21 the principle here is that there is a presumably small
22 adverse effect of Jay. And if you were to minimize
23 that and then adopt cumulative effects, mitigation
24 measures at the other developments that in total
25 amounted to more than the adverse affect created by Jay

1 then the valued component, the Bathurst herd, would be
2 better off after than before.

3 And so the amount of offset measures or
4 compensatory mit -- mitigation measures, whatever you
5 want to call them, cumulative effects mitigation
6 measures that you adopt must be at least as great and
7 hopefully a -- at least a bit greater than the adverse
8 effects of Jay.

9 Under those conditions it would be
10 proper for you to find that this would not create a
11 significant adverse cumulative effect, the Jay Project
12 would not, because that valued component, the Bathurst
13 herd, would be better off after than before.

14 Now, who gets to decide that? The
15 Monitoring Agency can't decide it. We have -- we've --
16 we're fortunate in having a lot of expertise in Kim
17 Poole, but there's a lot of expertise in this room.
18 And there is a competent regulator to deal with
19 wildlife in the Northwest Territories. That's GNWT
20 which I'm sure, not coincidentally, posed this
21 question.

22 It might be appropriate for the Review
23 Board -- I won't tell you how to do your job, but it
24 might be appropriate for the Review Board to ask ENR at
25 some point to ensure that the compensatory mitigation,

1 the cumulative effects mitigation measures are, in
2 total, greater than the adverse effects of Jay.

3 Under those conditions, you would, with
4 a clear conscience, be able to reach a conclusion of no
5 significant adverse cumulative effect.

6 Forgive the long response, Madam Chair,
7 but that's -- this is perhaps most important.

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: No further questions,
12 Government --

13 MS. ANDREA PATENAUDE: No further
14 questions.

15 THE CHAIRPERSON: Questions from the
16 Yellowknives Dene First Nation?

17 MR. ALEX POWER: Alex Power,
18 Yellowknives Dene First -- First Nation. We have no
19 questions.

20 THE CHAIRPERSON: Questions, Lutsel K'e
21 Dene First Nation?

22 MR. PETER UNGER: Peter Unger, Lutsel
23 K'e Dene First Nation. I'm curious to know the
24 Independent Environmental Monitoring Agency's opinion
25 of the magnitude of cumulative impacts on the Bathurst

1 herd from active mines in the 1980s versus the
2 magnitude of cumulative impacts on the Bathurst herd
3 from current mining developments, if -- if the Agency
4 has one. Thank you.

5

6 (BRIEF PAUSE)

7

8 MR. BILL ROSS: Bill Ross, Agency.

9 This may sound like an evasive response. That's
10 because it is. We -- we were created in 1997, so while
11 we actually have some decent corporate memory right --
12 left of me and right of me of those years, our mandate
13 has been explicitly on Ekati.

14 It -- it would be clear to us that the
15 mines of the -- before Ekati were -- would have
16 substantially less impact than the mines today have.
17 But beyond that, it would require expertise we just
18 don't have.

19 MR. PETER UNGER: Peter Unger, Lutsel
20 K'e Dene First Nation. LKDFN would like to thank IEMA
21 for their presentation, and we have no further
22 questions. Thank you.

23 THE CHAIRPERSON: Questions, Tlicho
24 Government?

25 MR. SJOERD VAN DER WIELEN: Sjoerd Van

1 Der Wielen, Tlicho Government. We have no questions.

2 THE CHAIRPERSON: Questions,

3 Environment Canada?

4 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey

5 McMillan, with Environment Canada. No questions.

6 THE CHAIRPERSON: Questions, Fisheries

7 and Oceans Canada?

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: Questions, North

12 Slave Metis Alliance?

13 MR. SHIN SHIGA: Shin Shiga, North

14 Slave Metis Alliance. We have no questions.

15 THE CHAIRPERSON: Questions, Deninu Kue

16 First Nation?

17 MR. MARK D'ENTREMONT: Mark

18 d'Entremont, of the DKFN. We have no questions.

19 THE CHAIRPERSON: Questions, Diavik

20 Diamond Mines?

21 MR. GORD MACDONALD: Gord MacDonald,

22 with Diavik. No questions.

23 THE CHAIRPERSON: Questions, Fort

24 Resolution Metis Council?

25

1 (BRIEF PAUSE)

2

3 THE CHAIRPERSON: Questions, Transport
4 Canada?

5 MR. CHRISTOPHER AGUIRE: Chris Aguire,
6 for Transport Canada. We have no questions.

7 THE CHAIRPERSON: Questions, Dominion
8 Diamond Ekati Corporation?

9 MR. RICHARD BARGERY: Richard Bargery,
10 Dominion Diamond. I'd like to thank IEMA for the
11 presentation. We have no questions.

12 THE CHAIRPERSON: Questions from Review
13 Board staff and counsel?

14 MR. MARK CLIFFE-PHILLIPS: Thank you,
15 Madam Chair. This is Mark Cliffe-Phillips with the
16 Review Board. Before I pass on the questioning to our
17 technical advisor, Dr. Anne Gunn, I just have to
18 clarify in question to IEMA.

19 When you're talking about mitigation for
20 cumulative effects of -- of the project itself -- just
21 to clarify, when you're discussing compensatory
22 mitigation to offset the cumulative effects including
23 Jay, the other projects that you refer to include
24 Ekati's main project, as well as Sable? Okay.

25 So you -- you're differentiating between

1 the two (2), but offset -- or compensatory mitigation
2 at -- at those projects would be included in your -- in
3 your conclusions?

4 MR. BILL ROSS: Almost. Bill Ross,
5 agency. Almost. There's a slight difference between
6 the two (2), in that the existing Ekati mine is here
7 today. And so it clearly contributes to the si --
8 existing significant adverse cumulative effect I
9 described at the beginning. Whereas, Sable is not yet
10 here today, so it doesn't contribute to that. But it -
11 - it does contribute to the cumulative effects of -- of
12 -- that -- that you folks are dealing with. So there -
13 - there's a subtlety, but aside from that, yes.

14 MR. MARK CLIFFE-PHILLIPS: Thank you.
15 Thanks for the clarification.

16 DR. ANNE GUNN: Anne Gunn, for the
17 Review -- Review Board. Madam Chair, I just have a
18 couple of questions. The first question arises from
19 IEMA's technical report.

20 The zone of influence is the largest
21 signal of a residual effect, despite the ongoing
22 mitigation and monitoring. In -- IEMA, in your
23 technical report, you requested for additional analyses
24 on a trend in the strength of the zone of influence,
25 despite the mitigation. And you also suggested

1 research which might take as long as -- you gave a
2 figure of five (5) years.

3 So my questions to you are: Does IEMA
4 believe that contingency, so enhanced and short-term
5 mitigation, is required for the zone -- to reduce the
6 zone of influence until the research is finished? And
7 do you have proposed mitigation suggestions if the
8 analyses that you've requested show an increase, a
9 trend towards an increase in the strength of the
10 effect? Thank you.

11

12 (BRIEF PAUSE)

13

14 MR. KIM POOLE: Kim Poole, for the
15 Monitoring Agency. The research into the mechanism of
16 the zone of influence is of importance. But given that
17 the zone of influence is likely a -- a combination of a
18 number of sensory, and behaviour, and memory, and who
19 knows what else that's affecting the caribou and their
20 distribution in relation to the mine; if anything can
21 be done to reduce the zone of influence, regardless of
22 whether you think it's a causal mechanism or not, we
23 are in support of that.

24 There's been a lot of speculation that
25 dust management would be important. When I read

1 through the technical reports from many of the -- of
2 the communities there were statements in there from
3 Elders suggesting that the caribou are tasting or
4 sensing something different in the vegetation that
5 could be dust related. So that is one (1) thing that
6 could be done in the short-term, as other longer term
7 things are going on.

8 As I mentioned earlier this morning,
9 too, the -- the sensory disturbance in relation to the
10 numbers of vehicles traversing the Jay, and ultimately
11 the Misery road, is also something that needs to be
12 addressed with innovative techniques and mitigations to
13 make, a) the road less of a -- a permeal -- of -- of a
14 -- of a barrier, and secondly, to try and reduce
15 sensory disturbance to caribou when they are in the
16 facility.

17 And we -- we talked about convoying. We
18 talked about these different train, trucks, whatever
19 they are. Those are things that could also be
20 addressed in the -- in the shorter term.

21 Did I cover your questions, Anne?

22 DR. ANNE GUNN: Anne Gunn, for the
23 Board. I guess thank you for trying, but, no, it
24 wasn't really a useful answer, because we're looking
25 for more specifics. What you gave was a repetition of

1 generalities, with all due respect.

2 So I wonder if IEMA would like more time
3 perhaps to come back at the end of the day or tomorrow
4 with some more specific suggestions. And again, what
5 I'm looking for is specific suggestions that -- that
6 would reduce the magnitude, the strength of this
7 residual effect, or -- and that could accommodate five
8 (5) years of enhanced or accelerated mitigation while
9 you're waiting for the results of any research, if
10 indeed it is undertaken.

11

12 (BRIEF PAUSE)

13

14 DR. ANNE GUNN: Madam Chair, may I --
15 may I add something?

16 THE CHAIRPERSON: Certainly.

17 DR. ANNE GUNN: Anne Gunn, for the
18 Board. There is also -- perhaps it might help you that
19 there is a suggestion of a mitigation workshop that the
20 -- might be able to give you some ideas or might be a
21 time to -- to be able to -- to develop some more
22 specifics, if -- if you're having difficulty.

23 MR. BILL ROSS: Let me -- Bill Ross,
24 agency. I'm -- I -- I'm a little bit confused, but let
25 me try to tell you what I thought you just said. And

1 if I missed the boat, you can straighten me out, and if
2 I've got it, then we're in business.

3 What you just said is, We might want to
4 make an undertaking to provide some more concrete
5 advice after we meet with Dominion Diamond and its
6 colleagues about these measures. Is that the
7 mitigation workshop you were referring to, or is there
8 another one that I missed out on?

9 MR. MARK CLIFFE-PHILLIPS: Maybe just
10 to -- to clarify. I think -- I think in terms of the -
11 - the suggestion towards providing advice on particular
12 mitigation in the interim before we know the outcomes
13 of any proposed research, that could be further
14 discussed at the mitigation workshop if -- if you're
15 unable to respond right now.

16 Sorry, this is Mark Cliffe-Phillips,
17 with the Review Board.

18 MR. BILL ROSS: Bill Ross, agency. You
19 used the term 'mitigation workshops'. Dominion
20 Diamond, I think, has used the term 'compensatory
21 mitigation'. Are we talking about the same thing?

22 MR. MARK CLIFFE-PHILLIPS: Correct.

23 MR. BILL ROSS: Okay. And what you're
24 seeking is some more in -- more concrete suggestions
25 that might be useful topics at that workshop, at that

1 meeting, whatever it's called, and that might help the
2 Board, as well. No? Okay. Help.

3 DR. ANNE GUNN: Anne Gunn, for the
4 Review Board. What I'm looking for is the more
5 concrete suggestions.

6 You could bring them forward as soon as
7 possible, or one (1) option that might produce some of
8 them would be at the mitigation, which include
9 compensation, having the -- the preferable one would be
10 to bring them forward as commitments or unde -- I mean,
11 as undertakings.

12

13 (BRIEF PAUSE)

14

15 MR. BILL ROSS: I -- I -- Bill Ross,
16 agency. In response to the query from ENR, we provided
17 a suite of measures that we thought would work. They
18 were at a high level. You're clearly looking for
19 something more specific, and I'm not sure I know what.

20 And so I -- I'm willing to undertake to
21 do this, but I'm not sure what I'm undertaking to do.
22 So I -- I -- or -- or -- therefore, I'm not so sure I
23 should be undertaking. Okay. I -- I think I need some
24 more guidance, Anne.

25

1 (BRIEF PAUSE)

2

3 MR. MARK CLIFFE-PHILLIPS: So just as a
4 -- a clarification -- this is Mark Cliffe-Phillips with
5 the Review Board.

6 I think there's -- what Anne is asking
7 for is -- is mitigation and maybe not be considered
8 compensatory mitigation in the interim to deal with
9 concerns of the interim period before any potential
10 research may be undertaken.

11 But I still believe that -- that we
12 could work your response within the same time frame as
13 -- as the -- the workshop or the undertaking deadline
14 if you -- you don't have an answer right now on
15 specific mitigations.

16 MR. BILL ROSS: Bill Ross, agency. We
17 don't have a response right now. I'm sensing that what
18 you're looking for is -- let me be arbitrary and
19 capricious, something by next Tuesday or Wednesday and
20 -- or are you looking for something by this evening?

21 And it -- so -- so I -- I -- it -- the
22 timing may influence how we would respond. I'm trying
23 to get a sense of what you're looking for.

24 MR. MARK CLIFFE-PHILLIPS: Mark Cliffe-
25 Phillips, with the Review Board. To make this simple,

1 let's just -- if you're willing to take this as an
2 undertaking and use the undertaking deadline as -- as a
3 time frame.

4

5 (BRIEF PAUSE)

6

7 MR. BILL ROSS: Bill Ross, agency.
8 We'll do our best to get something in the next several
9 days. We'll -- sometime next week. And we will bring
10 the ideas to the workshop, meeting, whatever it is.
11 They may be helpful there.

12 But more importantly, we will undertake
13 to provide some more concrete ideas to the Review Board
14 in the next six (6) days -- seven (7) days.

15 DR. ANNE GUNN: Thank you. Madam --
16 Anne Gunn. Madam Chair, I have one (1) more question,
17 which I hope will get a quick reply.

18

19 (BRIEF PAUSE)

20

21 DR. ANNE GUNN: In -- in...

22 MR. JOHN DONIHEE: Madam Chair, that'll
23 be Undertaking number 9. This is John Donihee.

24

25 --- UNDERTAKING NO. 9: IEMA to provide concrete

1 ideas about mitigation
2 within the next seven (7)
3 days
4

5 DR. ANNE GUNN: Anne Gunn, for the
6 Board. In IEMA's technical report, you noted that
7 reclamation will occur towards the end of the Jay
8 Project life. So -- and that delay and the continued
9 decline of the Bathurst herd led you to recommend
10 compensatory mitigation offsetting plan.

11 Please can you give us a bit of a
12 description, explain what you mean by "compensatory
13 offsetting mitigation," what it is, and a few examples?
14 Thank you.

15

16 (BRIEF PAUSE)

17

18 MR. BILL ROSS: Bill Ross, Monitoring
19 Agency. On page 11 of our technical report, we
20 provided a reclamation cost estimate scheme that
21 Dominion Diamond had used for some purpose or other.

22 And what it indicates is that, excluding
23 Jay, there would be a big rush of closure activities in
24 the years 2022 through 2024, whereas including Jay,
25 almost all of those measures would be functionally

1 delayed for ten (10) -- ten (10) or eleven (11) years.

2 So the simple measure that jumped to our
3 mind is committing to close those items of the existing
4 Ekati mine. Especially those that would contribute
5 adverse effects onto caribou in the same sort of a time
6 frame would take ten (10) years of impact to the herd
7 away and would be proper measures. That -- that was
8 the intent.

9 DR. ANNE GUNN: Anne Gunn, for the
10 Board. Thank you.

11 MR. KEVIN O'REILLY: Thanks. Kevin
12 O'Reilly, with the agency. Just a couple of other
13 small points. That table in our technical report came
14 from a -- a report that Dominion filed, I guess, with
15 the New York stock -- American stock exchange folks.
16 But is -- was also filed on the public registry for
17 this proceeding.

18 We don't know exactly what activities
19 they intend to undertake in terms of the reclamation
20 estimate. But clearly, the bulk of the expenditures
21 around reclamation seem to have been moved down in the
22 schedule by ten (10) or eleven (11) years.

23 So what we suggested is, if there's a --
24 a better effort at reclamation -- and I think we heard
25 the Company say that they in -- they would like to try

1 to reclaim that -- the Long Lake Containment Facility
2 sooner than later, that would all be good for the
3 caribou. And let's -- let's -- the Company should be
4 reclaiming areas they don't need any more, faster.

5 I think a couple of other things that we
6 -- we did say in -- in our technical report about
7 offsetting is that -- and Bill spoke to this -- the
8 Company does control activities within its claims
9 block.

10 And we heard that they wish to proceed
11 sooner than later now with Sable. Maybe there's ways
12 to look at the timing of some of the other activities
13 on their claims block in terms of offsetting the
14 impacts from Jay as well. And that's something that
15 the -- the Company has some control over.

16 So there's a couple of ideas, at least,
17 about offsetting that are completely within the control
18 of DDEC. Thanks.

19 DR. ANNE GUNN: Anne Gunn, for the
20 Board. Thanks.

21

22 (BRIEF PAUSE)

23

24 THE CHAIRPERSON: Questions from Board
25 members? Kirby...?

1 MR. KIRBY MARSHALL: Thank you, Madam
2 Chair. Kirby Marshall, Review Board.

3 Bill, I've got something in my head
4 here, and it's rattling around and I need -- need you
5 to help me get it out of there. It has to do your
6 slide 7, the second statement. So I'm just going to
7 re-read that a bit. So:

8 "If you make an existing significant
9 adverse impact better, slightly
10 better, it's still a significant
11 adverse effect."

12 So at the margins, going from four
13 hundred and fifty thousand (450,000) to twenty thousand
14 (20,000) significant adverse. But if it went up to
15 twenty-two thousand (22,000). So I'm sure my -- my
16 logic is absolutely wrong, but speak to that please.

17 MR. BILL ROSS: Thank -- thank you. I
18 just -- Bill Ross, agency. By the time I catch on to
19 this the hearing will be done. The -- it's important
20 to note that what you read is a twist on what we wrote.
21 And the -- the -- there -- there is a subtlety here
22 that is important. And the subtlety is -- I -- there
23 are two (2) different answers that I can give you. One
24 (1) of which is the cumulative effects jargon, theory.
25 And the other of which is common sense.

1 Let me do -- do them in that order.
2 Cumulative effects assessment guidance suggests that if
3 a project effect is zero or positive, then a cumulative
4 effects assessment is not necessary for that valued
5 component. That's kind of technical and whatever. The
6 common sense item is if a proponent comes forward and
7 has arranged for a positive effect on a valued
8 component, then you want -- that ought properly -- in a
9 regulatory sense, not in an impact assessment sense,
10 but in a regulatory sense to be an indication that the
11 project is in the public interest. And so you don't
12 punish projects of that sort.

13 So in this case it is quite likely that
14 if you make Jay, plus its other measures, to be a -- to
15 have a positive effect on the Bathurst herd, it is
16 entirely possible that the residual cumulative effect
17 on the Bathurst herd could be still negative. If you
18 were heroic, you could even make it positive. Make it
19 a -- a positive effect and make the significant adverse
20 effect go away. But frankly that's unlikely.

21 Our goal is only to make life better for
22 the Bathurst caribou, not to make it really good. We
23 would love to make it really good, but we don't think
24 that's an obligation that should be imposed on any --
25 any proponent. The intent is to make things better for

1 that valued component for the Bathurst herd. Okay?

2 MR. KIRBY MARSHALL: Kirby Marshall,
3 Review Board. Thank you very much. I think the -- the
4 cum -- obviously the cumulative effects is very
5 important, and it's a significant part of what we're
6 playing -- having to deal with here. So wrapping our
7 heads around it and being able to understand it is
8 critical for us, to make a -- to make an informed
9 decision for everyone. I appreciate your common sense
10 response. Thank you.

11 MR. BILL ROSS: I --I -- Mr. Marshall,
12 I -- I forgot to -- Bill Ross, Monitoring Agency.
13 Thank you.

14 There is one (1) other thing I need to
15 say, and that is while the project effect of Jay on the
16 Bathurst caribou is an interesting concept, the only
17 effect that the Bathurst caribou -- I personify them --
18 the only effect that the Bathurst caribou care about is
19 the cumulative effect. Because that's what drives
20 their population, and their lives, and their, you know,
21 continued existence. And so that's why, as you put it
22 correctly, cumulative effect here is very important.
23 Thank you very much.

24

25 (BRIEF PAUSE)

1 THE CHAIRPERSON: Okay, with no further
2 questions, I'd like to thank IEMA for their
3 presentation. Next, if we could have the Government of
4 the Northwest Territories.

5

6 PRESENTATION BY GNWT:

7 MS. ANDREA PATENAUDE: Thank you, Madam
8 Chair. My name is Andrea Patenaude and I'm an
9 environmental assessment and habitat biologist with
10 Environment and Natural Resources with the Government
11 of the Northwest Territories. I am here today to
12 provide ENR's perspective on wildlife aspects of
13 Dominion Diamond's Jay Project. And I'm joined by
14 several other wildlife division and ENR staff.

15 On my far left is Bruno Croft, who is in
16 the re -- North Slave region. He's the manager of
17 research and monitoring there, yes? Yes. We've got
18 Jan Adamczewski, who is the ungulate biologist. To my
19 right is Lynda Yonge, director of wildlife. And we
20 have Karin Clark, who is our cumulative effects
21 biologist. And Kate Witherly is with the CAM. And at
22 the end is Mike Reddy, who's with legal -- with
23 justice.

24 So I won't spend -- oh, where's my
25 little clicker? Here we go. So I won't spend too much

1 time on it, but, of course, the GNWT does, as we've
2 said a number of times today, have a mandate to manage
3 wildlife and wildlife habitat, which is something that
4 we do in cooperation with Aboriginal governments and
5 other co-management partners.

6 And while we work from many angles to do
7 this, when it comes to development, the Wildlife
8 Division's role is to ensure that the impacts of the
9 project being proposed on wildlife and wildlife habitat
10 -- habitat are minimized and mitigated.

11 GNWT is a regulator responsible for
12 enforcement of the Wildlife Act, so we look to see that
13 projects are in compliance with wildlife legislation.
14 And we also provide expert advice to proponents, the
15 Review -- Review Board, and internally within GNWT to
16 support informed decision making.

17 So with respect to the Jay Project,
18 Wildlife Division has been involved in all phases of
19 the CA process to date.

20 THE CHAIRPERSON: Excuse me. Can I
21 just interrupt and ask you to slow down?

22 MS. ANDREA PATENAUDE: Yes.

23 THE CHAIRPERSON: The translators are
24 trying to keep up.

25 MS. ANDREA PATENAUDE: Okay.

1 THE CHAIRPERSON: Thank you.

2 MS. ANDREA PATENAUE: With regards to
3 impacts to valued components covered in Chapter 13 of
4 the Developer's assessment report, we focused our
5 review on grizzly bear, wolverine, grey wolf, raptors,
6 and species at risk under territorial management.

7 And while we did provide some
8 corrections, refinements, and general concerns related
9 to the assessment, we generally support DDEC's approach
10 to addressing impacts on these species and its
11 conclusions that significant adverse effects to these
12 species are unlikely.

13 At the technical session in April, GNWT
14 asked Dominion to provide a Wildlife Management and
15 Monitoring Plan with content that would be consistent
16 with the draft guidelines that GNWT has provided for
17 the development of wildlife and Wildlife Habitat
18 Protection Plans, or WHPPs and Wildlife Effects
19 Monitoring Programs, or WEMPs.

20 It was intended that this would, first
21 of all, help to assess the impacts of the project and
22 it would also help to -- or the intent was that it
23 would fulfill the requirements under the new Wildlife
24 Act that came out in November of 2014, to fulfill the
25 requirements of a Wildlife Monitoring and -- or

1 Management and Monitoring Plan under that -- under
2 Section 30 -- or 95.

3 At this point there's not a lot in that
4 plan that detracts from our conclusions related to
5 these species. As caribou is a key line of inquiry it
6 has been the main focus of GNWT's review. GNWT
7 generally supports the approach taken by Dominion
8 Diamond to evaluate the impacts to caribou. And
9 ultimately GNWT felt that Dominion's analysis was
10 appropriate to fulfill the requirements of the terms of
11 reference and made use of the best available
12 information and tools at the time of writing.

13 Based on the results of the modelling,
14 which suggest a projected zero point-one-five (0.15)
15 decline in fecundity and a zero point-three (0.3)
16 decline in calf survival attributable to the Jay
17 Project alone, and we understand this to be before the
18 application of mitigation measures, GNWT cannot dispute
19 that the predicted project specific incremental -- or
20 contribution of Jay is small.

21 It is a project expansion in an already
22 highly disturbed area that is known to be avoided by
23 caribou. A conservation argument could be made that
24 for minimizing impacts you are better to concentrate
25 your activity in a previous disturbed area.

1 Therefore, we suggest that the impact of
2 the Jay Project alone from an ecological perspective is
3 probably not significant. However, GNWT is cognizant
4 that the key issue in this cumulative -- in this
5 assessment is cumulative impacts to the Bathurst herd,
6 a herd which is obviously in trouble right now.

7 On the left slide of the slide we see a
8 diagram that shows how the population has declined
9 since the mid-1980s to 2012. This graph has yet to be
10 adapted to include the results of this summer's calving
11 ground photo survey, but the estimate of breeding cows
12 is about half of what it was in 2012. And we are now
13 estimating that the population is somewhere between
14 sixteen thousand (16,000) and twenty-two thousand
15 (22,000) animals. And these numbers have yet to be
16 finalized.

17 Other indicators such as pregnancy rates
18 and calf recruitment are low and this is consistent
19 with a declining natural trend. This herd is in a
20 vulnerable state. And the extent to which it can
21 sustain additional stress is still unclear. The
22 diagram on the right side of the slide represents
23 existing human and fire disturbance on the annual range
24 of the herd. And right now we figure we're sitting at
25 about 25 percent disturbance.

1 Now, Golder's modelling suggested that
2 the effects of the reas -- the reasonable foreseeable
3 future scenario did include a 2 percent decline in
4 pregnancy and a three point nine (3.9) decline in calf
5 survival. We do suggest that there's literature to
6 support the idea that differences on that scale do
7 cumulatively add up and so we cannot dismiss the
8 potential for the ecological significance of these
9 kinds of numbers.

10 In terms of determining the significance
11 of the predicted cumulative impacts one (1) difficulty
12 in this assessment has been the lack of societally
13 agreed upon thresholds of acceptable change. And this
14 is something that we are hoping to get at through the
15 Bathurst range planning process. But in the meantime,
16 we feel that there is a strong need to be conservative
17 about this, as other parties do.

18 And this idea, in addition to the
19 vulnerability of the herd and the high value placed on
20 the herd, suggests that the predicted cumulative
21 impacts on the herd must be treated as significant.

22 So GNWT obviously shares the concern by
23 -- raised by other party, and this isn't -- but we also
24 recognize that this is an issue that goes beyond the
25 potential impacts of the Jay Project alone.

1 The GNWT believes that effective
2 management of wide-ranging, trans-boundary wildlife
3 species such as caribou needs to occur at multiple
4 scales with mitigation and management actions being
5 implemented at both the local project level and the
6 regional level.

7 ENR has been working very hard with co-
8 management partners towards developing an approach to
9 dealing with cumulative effects on the Bathurst herd.

10 In April, GNWT did submit to the
11 registry its Cumulative Effects Assessment, Monitoring,
12 and Management Framework for the Bathurst herd.

13 And we have submitted a number of
14 Information Request responses that outline the kinds of
15 things we are trying to do to address the situation,
16 and how this framework also speaks to how GNWT's
17 initiatives, such as the Bathurst Range Planning
18 Process and the Cumulative Effects Monitoring Program
19 for Wildlife in the Slave geological province fit
20 together with other existing processes to get at
21 cumulative effects.

22 So GNWT is taking a lead role in
23 coordinating collaborative cumulative effects
24 programming, and we feel that this is a shared
25 responsibility among governments, co-management

1 partners, and land users, and others who use the herd.

2 So ENR has generally advised that there
3 are two (2) ways that developers can address the
4 cumulative effects related to their individual
5 projects.

6 First, each individual developer can
7 implement robust mitigation and monitoring plans within
8 a context of adaptive management to minimize the
9 adverse impacts of its project to the extent possible.

10 It is for this reason that ENR requested
11 Dominion Diamond to produce updated plans in sufficient
12 detail for reviewers to be comfortable that the actions
13 they are taking to avoid, minimize, and mitigate the
14 predicted impacts are robust, and that monitoring
15 programs are designed to address the predicted impacts
16 of the project.

17 The second way that developers can
18 addressed the -- address the cumulative effects
19 associated with their projects is to contribute to
20 collaborative processes and programs to understand and
21 manage cumulative effects.

22 And so, for example, one (1) of the
23 first steps in developing a cumulative effects program
24 is having a good understanding of how your population
25 of interest is doing. And this requires good baseline

1 monitoring.

2 Currently, ENR surveys the Bathurst herd
3 every three (3) years, as we did this year, to get an
4 idea of how the population is doing. This is no small
5 task, and it involves the use of collars and aerial
6 surveys and significant person power.

7 ENR also conducts other types of
8 monitoring to get at other demographic indicators.
9 This is the core of ENR's programming, and it helps to
10 make decisions on management of the herd.

11 However, to gain additional information
12 that can help us understand and manage cumulative
13 effects, we need to work together through partnerships
14 to develop regional-scale monitoring programs for other
15 factors that may be influencing the herd, as well as
16 ways of integrating and using this information.

17 So it is for these reasons that GNWT's
18 technical report focused its main recommendations to
19 Dominion on these two (2) aspects.

20 So first we were seeking Dominion's
21 commitment on the series of recommended revisions to
22 their WEMP, and second, we were seeking further
23 clarification on Dominion's commitment to regional
24 processes and programs that support the cumulative
25 effects framework that I spoke about earlier.

1 At the time of writing the technical
2 report, it was unclear to what extent Dominion was
3 going to incorporate the feedback it received on its
4 conceptual WEMP during the two (2) workshops it hosted.
5 So we focused on reiterating the recommendations that
6 we felt were most important to ensuring that the WEMP
7 would -- were most important. And Dominion did go over
8 a number of these this morning. Or all of them I
9 should say. And we note that the version that they
10 submitted on July 31st addressed a number of these
11 recommendations.

12 There are still some parts of the WEMP
13 that will still require some refinement or more detail.
14 And I do think that Undertaking Number 7 and Number 8
15 that were put forward today do address at least a
16 couple of what we felt were perhaps out -- outstanding
17 issues. But otherwise, we feel that there is enough
18 information in these plans to make determinations at
19 this point.

20 And finally, with regards to supporting
21 regional and cumulative effects programming and
22 processes, GNWT does recognize Dominion's participation
23 in a number of regional initiatives. They have a
24 regional grizzly bear monitoring program, in
25 collaboration with other mines. They do collaborate

1 with the GNWT and other mines in wolverine DNA
2 monitoring. They have participated in the zone of
3 influence technical task group. And they are members
4 on the Bathurst range planning steering committee.
5 They have also this year provided support, critical on
6 the ground support, for the surveys, the caribou
7 surveys. And -- and have contributed in the past on an
8 ad hoc basis to caribou monitoring.

9 In seeking this commitment to work with
10 us towards identifying mutually acceptable actions that
11 will support regional programming, we do hope to work
12 towards perhaps a more formalized approach. We also
13 note that this particular commitment we were seeking is
14 not at all incompatible with the recommendations made
15 by IEMA and other parties regarding this idea of
16 compensatory mitigation. So that -- we would also be
17 in support of exploring further ideas down that road.

18 So, in conclusion, I just want to
19 reiterate that GNWT does share the concern with other
20 parties about the state of the Bathurst herd. We do
21 feel it is very vulnerable right now, and we do believe
22 that cumulative effects are significant for this herd.
23 And this is something that we were working hard to
24 better understand and address.

25 However, having reviewed the analyses

1 conducted, and the mitigations proposed, GNWT is of the
2 opinion that the contribution of the Jay Project, a
3 project expansion in an already disturbed area, to
4 cumulative effects on the Bathurst herd is very small.
5 We will -- this does not mean that we do not expect
6 mitigation to be dealt with in a robust nature. We
7 will continue to work with Dominion Diamond and other
8 parties to ensure that the impacts of this project are
9 minimized should it go ahead. The end.

10

11 QUESTION PERIOD:

12 THE CHAIRPERSON: Thank you. Questions
13 to the presentation, Monitoring Agency?

14 MR. KIM POOLE: Kim Poole, with the
15 Monitoring Agency. Thank you, Madam Chair.

16 In the GNWT technical report it states
17 that GNWT supports DDEC's conclusions about impacts on
18 wildlife. I presume that extends to Dominion Diamond's
19 conclusion of no significant adverse cumulative effects
20 on caribou. However, in GNWT's technical report, and I
21 quote:

22 "While in the absence of these
23 thresholds, DDEC's approach is
24 generally sound, GNWT does not
25 believe that all of DDEC's

1 conclusions necessarily follow from
2 the analysis, particularly with
3 respect to cumulative effects."

4 There's another quote that I won't get
5 into. But I'm -- I'm -- I have to admit a bit of
6 confusion between -- over GNWT's response in their
7 technical report, and actually what you just stated in
8 your slide.

9 Does GNWT believe that -- that there is
10 a -- currently a significant cumulative adverse effect
11 on the Bathurst caribou? Or per -- and also perhaps
12 you could clarify those comments for me because they
13 seem to be at odds, those quotes?

14 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
15 with GNWT. I think the -- thanks for the question,
16 Kim. And I think our clarification would that we agree
17 with IEMA and other parties that cumulative effects of
18 development to date on the Bathurst range have exerted
19 a significant effect.

20 We think that the Dominion Diamond's
21 modelling suggests that that effect is not large, but
22 it is there. And we would agree it is significant.
23 And we also would agree that some of the foreseeable
24 future development scenarios modelled by Dominion
25 Diamonds would indicate further cumulative effects that

1 would be significant for the Bathurst herd.

2 The question is: Does Jay by itself --
3 what -- what does that amount to? And we generally
4 agree, I think, with everybody else, that those effects
5 are probably relatively small, although they're not all
6 together zero. I hope that clarifies things.

7 MR. KIM POOLE: Kim Poole, with the
8 Monitoring Agency. Thank you for that clarification,
9 Jan.

10 In light of that though, is GNWT
11 proposing any specific measures that Dominion Diamond
12 could address to try and reduce the -- the size of the
13 effect to zero or -- or make it positive?

14 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
15 with GNWT. I would say, in general, we're supportive
16 of the measures that IEMA has proposed and other
17 parties have supported. We see a lot of potential
18 there. We do have some questions remaining about the
19 offsets and just exactly what would that be. I mean,
20 how would that take shape on the landscape and how
21 would you actually make things better for caribou
22 there?

23 So we're certainly open to the idea. We
24 support the concept. We still have some questions
25 about how effective that is likely to be. Some of the

1 other measures from IEMA we also support, although I
2 think it's reasonable to say that some of them are more
3 research-focused than mitigation-focused.

4 MR. KIM POOLE: Kim Poole, for the
5 Monitoring Agency. Okay, thanks, Jan.

6 My final question, then I'm going to
7 hand it off to Bill here: Dominion Diamond has stated
8 in its conclusions, and these conclusions pertain --
9 surround the fact that there is -- that the negative
10 trend in herd growth is predicted to be similar with
11 and without the development related to cumulative
12 change in habitat quality and quantity and caribou en -
13 - behaviour and ener -- energetics.

14 They suggest that is consistent with
15 Adamczewski et al 2009, who indicated that:

16 "Effects from the previous and
17 existing mines are limited and
18 unlikely a major contributing factor
19 in the recent decline of the Bathurst
20 caribou herd."

21 Could GNWT clarify what data the
22 conclusions presented in Adamczewski et al 2009 were
23 based on and comment, in light of the further and more
24 recent declines in herd numbers and a zone of influence
25 with apparent increasing magnitude, whether their

1 conclusions still hold? Thank you.

2 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
3 with GNWT. I guess I -- I really must be getting
4 important if I'm getting quoted at this hearing. I
5 think what I'd like to do is just kind of put things a
6 little bit in perspective in terms of where we were in
7 2009.

8 At that time, the Bathurst herd had had
9 about six (6) consecutive years of really poor calf
10 recruitment, clear indication of a declining natural
11 trend. And we saw similar things going with the Cape
12 Bathurst herd, Bluenose west heard further to the west,
13 also rapid decline and at least some evidence of late
14 calving and poor calf recruitment.

15 So that suggested to us and certainly to
16 me that there was something going on on a natural level
17 that would, say, even with no harvest and no
18 development, most likely all three (3) of those herds
19 would have had a substantial decline.

20 We're also cognizant of other herds, and
21 unfortunately, I'm -- I'm the bearer of bad news about
22 the Bluenose-East herd, which is the western neighbour
23 to the Bathurst herd. And our survey this year, Bruno
24 Croft was the lead on Bathurst and Bluenose-East, both
25 in June.

1 Basically, that survey suggests that
2 Bluenose-East has dropped by almost half in a little
3 over two (2) years. So the rate of decline there is
4 actually worse than what we're seeing in the Bathurst
5 herd.

6 And we have very little reason to
7 believe that mining has played any significant role
8 with the Bluenose-East herd, and also no significant
9 role with the Cape Bathurst decline and the Bluenose-
10 West decline that I mentioned earlier.

11 So what I'm trying to say is that that
12 underlying natural cycle, the natural factors that
13 reduce calf recruitment, pregnancy rate, and so on,
14 that's all still there underlying what we see now.

15 I think the more recent evidence from
16 zone of influence monitoring would suggest that, if
17 there are going to be adverse effects from mining, from
18 disturbance, from human influence, they are likely to
19 be the most severe if the herd is already on a natural
20 declining trend. And they're likely to be least
21 significant or important to the herd if it's on an
22 inclining trend with good calf numbers.

23 So kind of a long-winded answer. What
24 I'm suggesting is that a large part of the decline in
25 the Bathurst herd was not driven by mining or human

1 influence, but certainly that human influence has
2 contributed, and probably that the human influences now
3 are stronger than they have been at any time in the
4 past.

5 MR. KIM POOLE: Kim Poole, for the
6 Monitoring Agency. Thank you, Jan. I greatly
7 appreciate your answer, and I'll hand it over to Bill.

8 MR. BILL ROSS: Bill Ross, agency.
9 It's my understanding that, in the Northwest
10 Territories, recently, there is a new Wildlife Act, and
11 that this new Wildlife Act empowers the Government of
12 the Northwest Territories, dare I say ENR, with a
13 number of regulatory tools, the details of which I
14 would expect you folks would be much more familiar with
15 than I am.

16 My question is: Do you have among those
17 regulatory tools, the bil -- the ability to require of
18 industrial operators in the area measures that would
19 protect species like caribou?

20 MS. LYNDA YONGE: Lynda Yonge, ENR.
21 Yes. Our new Wildlife Act does have a provision that
22 requires, in the case where the minister is satisfied
23 that a development or proposed development would have
24 significant impact on game or other prescribed animals,
25 important wildlife habitat, or contribute significantly

1 to cumulative effects, the minister can require a
2 wildlife management and monitoring plan.

3 And it needs to lay out what the
4 projected impacts would be and how those impacts will
5 be mitigated. So we do have that tool.

6 Separate from this process, under the
7 Wildlife Act, it would be an offence if a developer
8 required that plan to not put one forward, and once a
9 plan was in place, to not follow that plan.

10 MR. BILL ROSS: Bill Ross, Monitoring
11 Agency. I -- I'm pretty sure I heard in the response,
12 but I want to be certain, that this power exists for
13 such operations as, say, not entirely hypothetically,
14 the Ekati mine?

15 MS. LYNDA YONGE: That's correct. The
16 way the legislation is written, it says, The minis --
17 when the minister is satisfied that a development or a
18 proposed development. So, yes, that could be applied.
19 And as we pointed out in our presentation, the Wildlife
20 Management -- Wildlife and Wildlife Habitat Protection
21 Plans and Wildlife Effect Management Plans that we have
22 been developing with developers to this point would be
23 fulfilling that requirement.

24 THE CHAIRPERSON: Just a reminder to
25 state your name when you speak.

1 (BRIEF PAUSE)

2

3 MR. BILL ROSS: Bill Ross. I'm going
4 to pass it on to Kevin O'Reilly.

5 MR. KEVIN O'REILLY: Thanks, Kevin
6 O'Reilly, with the Monitoring Agency.

7 I guess I'm just wondering how the
8 Minister of ENR is going to exercise that authority in
9 the context of the Jay Project knowing that the same
10 Minister is also going to get the report of
11 environmental assessment from this Review Board.

12 Has -- how's that going to work in terms
13 of getting the report of Environmental Assessment and
14 this regulatory authority? I'm just curious to know
15 how that's all going to be coordinated or how it's
16 going to work?

17 MS. LYNDY YONGE: Lynda Yonge, ENR.
18 I'm not quite sure where the concern is here.

19 The requirement under the Wildlife Act
20 is a separate requirement, so it doesn't really matter
21 what the outcome of this process is. We obviously are
22 working hand-in-hand developing the WWHPPs and the
23 WEMPs through this process. It's not meant to be
24 duplicative. But I'm not quite sure where -- what --
25 what the question is about how that's going to work.

1 MR. KEVIN O'REILLY: Thanks, Kevin
2 O'Reilly, with the Monitoring Agency.

3 I guess we're just curious to know will
4 the Minister make a -- a decision on the report of
5 Environmental Assessment before he or she exercises his
6 or her authority under the Wildlife Act or -- I'm just
7 curious to know whether -- how that's going to -- is
8 there some timing, scheduling?

9 Has the department thought about this at
10 all or -- I guess we're curious to know. We -- we may
11 have something to think about or put in our closing
12 argument, but we're just curious to know if you folks
13 have thought about this. Thanks.

14 MS. LYNDY YONGE: Lynda Yonge, ENR. To
15 be honest, we haven't had that specific discussion.
16 We're working with the developer on their WWHPPs and
17 WEMPs now. We would hope that they would be close to
18 finalized before a decision -- the decision is made
19 here.

20 If we're not completely satisfied and
21 those aren't ready for approval in time for this
22 decision, that doesn't change the fact that they still
23 have to be approved to meet the regulatory requirement
24 under the Wildlife Act.

25 I'm not sure if that answers the

1 question, but...

2 MR. BILL ROSS: Bill Ross, Agency. No
3 further questions. Thank you.

4

5 (BRIEF PAUSE)

6

7 MS. LYNDA YONGE: Lynda Yonge, ENR.
8 I've just been asked to clarify that the report from
9 this process goes -- does go to the GNWT but it goes to
10 the Minister of Lands. The requirement for an approved
11 Wildlife Management and Monitoring Plan goes to the
12 Minister of ENR.

13

14 (BRIEF PAUSE)

15

16 MR. BILL ROSS: Bill Ross, still no --
17 no further questions.

18 THE CHAIRPERSON: Questions from the
19 Yellowknives Dene First Nation?

20 MR. ALEX POWER: Alex Power,
21 Yellowknives Dene First Nation. Thank you, Madam
22 Chair. I guess I'll start with going back a little
23 bit.

24 I'm curious why the GNWT didn't submit
25 the preliminary calving ground data when YKDFN had

1 contacted them to ask them if they would be submitting
2 this to the public record.

3

4 (BRIEF PAUSE)

5

6 MR. BRUNO CROFT: Thank you, Madam
7 Chair. Bruno Croft, ENR North Slave.

8 I can't quite remember exactly when you
9 submitted this request, Mr. Power, but it takes some
10 time to go through all the analysis and provide people
11 with -- with the proper numbers. And we had requests
12 coming from all angles. There's different steps going
13 through doing the analysis and providing folks on a
14 stepwise approach to where we at with the analysis.

15 Once you come back from the calving
16 ground photo surveys, then you have to go through the
17 photo interpretation. It's done by somebody else
18 contracted to do so. Usually it takes us way into late
19 August before we get that part done, and then it has to
20 go through a statistician, which, you know, he does the
21 statistical analysis and provide us with a preliminary
22 -- a preliminary number of a -- estimated number of
23 breeding cows on the calving grounds, which is what
24 that photo survey technique is about, first of all.

25 And then adding more information that we

1 have, like the calf -- the -- the -- sorry, the bull-
2 to-cow ratio. We come up with a total population
3 estimate. So it takes a bit of time to get these
4 things done. And in actual fact, we got those analyses
5 done probably a month ahead of time of schedule this
6 year, so -- which was pretty good. We've been pushing
7 our statistician fairly hard.

8 In the process of going through the
9 numbers, and the methods, and the survey techniques, we
10 wanted to triple check everything that we had done
11 during the calving ground survey, so we were solid.
12 And that's basically the reason why we waited until the
13 time to release the information, that we had everything
14 covered, and checked, and cross-referenced properly.

15 MR. ALEX POWER: Alex Power,
16 Yellowknives Dene First Nation. Well, as -- as with my
17 initial email regarding this, I'm actually referring to
18 the report that had already been sent out. We received
19 it July 9th, and it was titled, you know, Preliminary
20 Calving Ground Data, or something to that effect. It's
21 on -- I mean, it's on the public record, so that can
22 just be -- I mean, you can pull that down if you want
23 the exact title.

24 And so, you know, I was asking about a
25 pre-existing report that had been sent out to a -- a

1 list of people, including the chiefs, and eventually
2 made its way over to, you know, the Land and
3 Environment Department, which is, of course handling
4 the -- the Jay Project.

5 So, yeah, and, I mean, I -- I explained
6 as much in the email that I was referring to an already
7 existing report that had already gone out to, you know,
8 others. And I -- I just wanted to know why -- why that
9 wasn't submitted, and why I ended up having to submit
10 it. Thank you.

11 MR. BRUNO CROFT: Thank you, Madam
12 Chair. Bruno Croft, ENR North Slave.

13

14 (BRIEF PAUSE)

15

16 MR. BRUNO CROFT: Mr. Power, I think
17 you're making reference to the initial reconnaissance
18 survey numbers that we came up with shortly after we
19 completed the survey. And in this case, those are
20 reconnaissance numbers. They are not the analysis of
21 the photo survey itself, which I just described a bit
22 earlier.

23 So that was the first initial series of
24 information that we released to all as soon as we had
25 that done. And this is what you got. Those were

1 indicating that the numbers were sort of in line in
2 terms of reconnaissance numbers to where we were last
3 June, when we did also another reconnaissance survey.
4 But as we did all winter long last year, and again this
5 summer, we caution everyone to be careful with those
6 numbers and wait for the result, the good survey,
7 photographic survey that was completed in June of 2015.

8 We needed another month, month and a
9 half, to go through all those analyses. And that
10 resulted in the next series of information that we made
11 available to you and to all, which included the -- the
12 estimated number of breeding females on the calving
13 grounds which dropped by half from 2012 and, like
14 Andrea indicated earlier, a total population estimate
15 between sixteen (16) and twenty-two thousand (22,000)
16 animals. That's got to be what you're making reference
17 to, Mr. Power, right?

18 MR. ALEX POWER: Alex Power, YKDFN.
19 Yeah, this is what I'm making reference to. And, I
20 mean, it's what I made reference to by name, referring
21 to it, including what date we received it. So there --
22 I mean, there was no ambiguity about, you know, what I
23 was referring to at the time.

24 And I guess that leads in -- into my
25 next question. And -- and the follow-up letter that

1 came out because, you -- you know, in that email
2 exchange, I was told that -- or it was indicated that,
3 you know, the -- the preliminary -- or the follow-up
4 data would be available by the deadline, which, you
5 know, I took it upon myself to inform ENR was September
6 1st.

7 And, of course, the -- the next
8 information we -- we got from that came in after the --
9 the deadline and after the submission date. So -- so -
10 - and -- and it's very concerning for the YKDFN, the --
11 sort of the timelines and how -- how this goes about --
12 or how this -- how -- how this came about.

13 And, you know, to -- to someone looking
14 in from the outside, it -- it gives the appearance
15 that, you know, the ENR is being in -- obstructive and
16 -- and deliberately frustrating the process, which, you
17 know, I -- I don't know. I don't know what -- what
18 goes on. And I'm not going to -- you know, I'm not
19 going to accuse anybody --

20 THE CHAIRPERSON: Mr. Power, if I could
21 interrupt, please?

22 MR. ALEX POWER: Yeah.

23 THE CHAIRPERSON: I would ask if you
24 could keep your questions to the presentation.

25 MR. ALEX POWER: Sure.

1 THE CHAIRPERSON: Thank you.

2 MR. ALEX POWER: So how...

3

4 (BRIEF PAUSE)

5

6 MR. ALEX POWER: How can you reassure
7 the parties that, you know, you're -- that we can rely
8 on you for this data? Because we all rely on you for
9 this data in a timely fashion. No -- no par -- all the
10 parties rely on this data in order to make their --
11 their decisions, and then to -- to form their
12 approaches and their concerns in -- in light of sort of
13 what -- what's seen as -- by some as -- as obstructive
14 or just not addressing the questions when posed very
15 clearly.

16 MR. BRUNO CROFT: Thank you, Madam
17 Chair. Bruno Croft, ENR.

18 I can assure you that we've worked
19 really hard just to provide the information for this --
20 at this hearing here. Actually, I think we've beat a -
21 - a record in ter -- in terms of doing all the analysis
22 so quick and to make it available to all.

23 When we go through those analysis, we
24 always run into snags, small stuff, go back through the
25 data, What happened here, what happened there, and it

1 takes time. And then we have four (4) or five (5) key
2 biologists leading this survey, and -- and we have to
3 go through the questions and errors and solve it. It
4 takes a little bit of time to get there.

5 So I think we did pretty good in
6 providing everything ready for this hearing. And --
7 and what we've got now is not going to change. We're
8 hoping to get a -- a final report, hopefully by early
9 January, some -- somewhere in there. But the total
10 estimate in the number of breeding cows is not going to
11 change, and the total population size is not going to
12 change either.

13 So what you've got here is what you've
14 got to work with through those hearings and moving
15 forward for all of us. I wish we could have made
16 everything available earlier, but I'll tell you our
17 statistician is worn out right now. We keep pushing
18 requests to him. And hopefully -- hopefully we'll have
19 more information a -- a bit later on.

20

21 (BRIEF PAUSE)

22

23 MR. ALEX POWER: Alex Power,
24 Yellowknives Dene First Nation. Thank you for your
25 response. So in the -- in the most recent report, you

1 know, GNWT puts forth that even one (1) mortality is --
2 is significant, and I think -- I think everyone can
3 agree with that.

4 I don't think there's -- in the most
5 recent -- in the letter sent out by the GNWT, the GNWT
6 states that, you know, even one (1) mortality of
7 caribou is significant. And I think -- I don't think
8 there's any disagreement on that.

9 And so, given -- also there seems to be
10 this general agreement that the -- there will be an
11 adverse impact associated with the Jay Project.

12 Why does it -- why is the preponderance
13 of the -- the burden being placed on, you know, parties
14 such as the -- the Aboriginal groups in terms of not
15 being able to exercise their Aboriginal rights, not
16 being able to hunt even, you know, any caribou?

17 And of course they understand and, you
18 know, YKDFN understands the -- the importance of this.
19 And yet, you know, there doesn't seem to be any sort of
20 -- the same sort of measures don't seem to be applied
21 to the Proponent in terms of measures that should be
22 enacted.

23 Instead, it's, you know, the -- the -- I
24 mean, no one's hunting caribou. No one can even find
25 them.

1 MS. LYNDA YONGE: Lynda Yonge, ENR. I
2 would first just like to clarify what has happened with
3 respect to the harvest on the Bathurst herd and
4 decisions that were made.

5 Last year, in response to the
6 reconnaissance surveys, there was a great deal of
7 concern because we had seen a big declining,
8 indications of a big decline. And so we met with
9 political leaders of all the Aboriginal groups that
10 harvest Bathurst caribou.

11 And we had some discussions about what
12 could be done about that, and we went to the co-
13 management board, the Wek'eezhii Renewable Resources
14 Board, with a proposal about what could be done.

15 What was -- the decision that was made
16 was to implement on an interim basis a mobile
17 conservation, barren -- a mobile Bathurst core caribou
18 conservation zone. That was based on where the group
19 of collars were for the Bathurst herd that winter.

20 The reason we did that was to -- to
21 reduce the impact of a harvesting moratorium on the
22 Bathurst herd, on those users that traditionally use
23 that herd. So it was only within that small area where
24 there was no caribou harvesting. And within that small
25 area, there was a potential ceremonial harvest that was

1 also to be allowed. That was done on an interim basis.

2 Now, we do have the numbers from -- from
3 the survey. We have some good, solid numbers, as Bruno
4 Croft has pointed out. And we have sent those numbers
5 out to the Aboriginal governments and to our co-
6 management partners with some proposed management
7 actions, asking for input on those.

8 One (1) of the proposed management
9 actions is to continue on with the kinds of things we
10 did last year. There are a number of other management
11 actions there as well. We're asking for input on that
12 by September the 18th so that we can go to the co-
13 management board with a proposal.

14 So there hasn't been a decision made at
15 this point for harvesting, of whether there can be any
16 harvest on the Bathurst herd for this coming season.
17 We recognize that the co-management board will not be
18 able to make a recommendation, a full, proper
19 recommendation on harvest without having a public
20 hearing.

21 So we will likely be looking at interim
22 measures for this fall. But until we get input from
23 the groups, from the Aboriginal groups, we haven't made
24 a decision about what will be happening this fall with
25 the harvest.

1 DR. JAN ADAMCZEWSKI: Madam Chair, if I
2 could add a little bit to what Lynda mentioned. Jan
3 Adamczewski, with GNWT.

4 Just to provide a little bit of context
5 here, we did have this no-harvest zone last winter.
6 But to the east of that, in the range of the Beverly
7 and Ahiak caribou, there is currently no limitation on
8 Aboriginal harvest in the Northwest Territories.

9 To the west of the Bathurst range, last
10 winter there was a harvest limit agreed on with the
11 Wek'eezhii Renewable Resources Board and other boards
12 of eighteen hundred (1,800) caribou, with an allocation
13 for various Aboriginal groups that harvest or have
14 harvested that herd.

15 So that -- that first bit of
16 clarification that harvest is not closed on barren
17 ground caribou for Aboriginal people in the -- in the
18 North Slave region. It was closed last winter in the
19 one (1) main area used by the Bathurst herd.

20 The other thing that I think is
21 important for people to keep in mind is that the
22 conversation about what harvests should be from the
23 Bathurst herd, and now from the Bluenose East herd, is
24 a larger conversation. And even in 2009, when the
25 minister took emergency action initially to close all

1 Bathurst harvest, he can only do that -- he was only
2 able to do that on an interim basis. And the same
3 applied to the action that was taken last winter. That
4 mobile zone ended at the end of June.

5 So any actions that might be put in
6 place this winter then have to be subject to full
7 review by at least the Wek'eezhii Board. All
8 Aboriginal parties that hunt that that have an interest
9 in that caribou herd -- and based on what we saw in
10 2010, we have a five (5) day hearing, and then another
11 two (2) day hearing.

12 So all parties who have something to say
13 about what should happen with the management of that
14 herd, and especially the harvest, will have that
15 opportunity. And most likely, the Wek'eezhii Board
16 sometime in the new year will have a hearing on
17 management for the Bathurst herd and everybody will
18 have as much opportunity as they want to express how
19 they feel that harvest should be managed.

20 MR. ALEX POWER: Alex Power,
21 Yellowknives Dene First Nation.

22 How does the GNWT square the assertion
23 of, you know, no -- any loss of caribou is significant
24 at this point with its support of Dominion, who says
25 that there won't be a significant impact from the

1 project even though their -- their model, which, you
2 know, they state is conservative, but there's -- isn't
3 -- isn't a prediction of the future, it's a model, it's
4 -- it's a guess with numbers, predicts that a lower
5 birthrate which results, as Peter Unger refer --
6 referenced earlier, actually means less caribou?

7 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
8 with GNWT. It's not an easy question to answer. I
9 understand the -- we understand the concern.

10 I guess partly the way I look at these
11 things as a biologist, it's a matter of scale. So
12 2008/2009, when the Bathurst harvest was still
13 essentially unrestricted, we estimated something on the
14 order of four (4) to six thousand (4,000) caribou taken
15 in one (1) year, most of it in the winter.

16 That harvest from a herd of three
17 hundred and fifty thousand (350,000) is not that large;
18 from a herd of thirty-two thousand (32,000) it would be
19 huge. So a much smaller harvest, which is where we
20 ended up in 2010, that was then a conversation over
21 values, part of which was biological. And so part of
22 the story there was, you know, is there a smaller
23 harvest that can be taken that doesn't pose a huge risk
24 to the herd of further decline and that recognizes all
25 those other values, the cultural values, the

1 significance of caribou harvests to Aboriginal people.

2 So that conversation needs to happen.

3 This forum is one place where people can talk about it,
4 but there is a larger conversation that still needs to
5 happen with Aboriginal governments and boards.

6 The scale effect of the Jay development,
7 it seems like everybody's agreed that that is likely to
8 be a relatively small effect even compared to the
9 existing mines and the likely effects that they have
10 had. Whether that's significant, again, that is only a
11 partly biological question. That is a discussion that
12 this Board needs to have that includes all those other
13 values.

14 So I guess in the short answer, a small
15 harvest and a very limited effect of the Jay
16 development are relatively small scale effects at the
17 population level. But given the state of the herd,
18 both of them would need to be looked at very carefully,
19 it's just not always the same conversation.

20 MR. ALEX POWER: Alex Power,
21 Yellowknives Dene. So then would you agree, sort of by
22 extension of -- of your logic on -- on the -- the scale
23 of the effect and -- and the, you know, the harvesting,
24 you know, four thousand (4,000) animals from four
25 hundred thousand (400,000) is -- is clearly trivial

1 versus, you know, harvesting the same number from eight
2 thousand (8,000).

3 That then we have to also give greater
4 weight to the potential effect of mining operations,
5 given, you know, the new numbers and the likely
6 continued downward trend given this year's birth rate,
7 or calving rate, sorry. That, you know, that -- that
8 changes the scale of things, too, if you say, Okay,
9 well, this -- this small effect starts becoming bigger
10 because, well, you know, there's just less caribou.

11 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
12 with GNWT. We agree.

13 MR. ALEX POWER: Alex Power,
14 Yellowknives Dene First Nation. That's all the
15 questions we have. Thank you for answering our
16 questions.

17 THE CHAIRPERSON: Questions from Lutsel
18 K'e Dene First Nation?

19 MR. PETER UNGER: Peter Unger, Lutsel
20 K'e Dene First Nation. Thank you very much for the
21 presentation. The same question I asked to IEMA.

22 I'm interested in the GNWT's opinion
23 about the magnitude of cumulative impacts from active
24 mines in the 1980s on the Bathurst herd in comparison
25 to the magnitude of cumulative impacts to the Bathurst

1 herd from current mining developments. Thank you.

2 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
3 with GNWT. I'm going to pull a Bill Ross, here. And I
4 have to say that the beginning of my work with ENR with
5 the big barren ground herds is as of 2008. In the
6 1980s, I was a student, and so I can't say a huge
7 amount about that.

8 But I think we clarified in Andrea's
9 presentation and some of the comments I made earlier,
10 this is the time with a declining herd, a natural
11 downward trend, very low numbers, when the cumulative
12 effects of mining, roads, harvest, all those things at
13 the present time are a -- a much greater concern than
14 they would have been in the 1980s. And keep in mind,
15 1986, our estimate was four hundred and seventy
16 thousand (470,000) caribou, with good recruitment every
17 year. That herd could tolerate some insults that it's
18 much less tolerant of in the present day.

19 MR. PETER UNGER: Thank you. Peter
20 Unger, Lutsel K'e Dene First Nation.

21 Is this current estimate the lowest
22 population for the Bathurst herd yet recorded?

23 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
24 with GNWT. It depends on who you ask. If you ask the
25 biologists who do the surveys, this is the lowest

1 number since we started using the calving photo survey,
2 which was in the early 1980s. Previous to that, there
3 were visual surveys. But this is why the switch was
4 made to the photographic method, because it's pretty
5 difficult to count larger groups of caribou reliably
6 simply by looking out the window of the airplane. So
7 biologists made that switch in the early 1980s. And
8 this is certainly the lowest number since that time.

9 There is at least one (1) study I know
10 of that was done with the Tlicho Elders, and their
11 recollection and knowledge of greater and lesser
12 Bathurst numbers. There's a published paper by
13 Zalatan. Anne Gunn is an author on that. And Tlicho
14 Elders identified a high in the Bathurst herd in the
15 1940s, followed by a decline. Exactly how big the herd
16 was, we don't know, but fairly large, followed by a
17 decline. That's as far back as I'm able to go.

18 MR. PETER UNGER: Thank you. Peter
19 Unger, Lutsel K'e Dene First Nation. I know you can't
20 give exact numbers and -- and I'm not asking you to.
21 But, yeah, just to confirm that out of your records,
22 out of what you have recorded in terms of estimates,
23 this is the lowest one we've had yet, correct?

24 DR. JAN ADAMCZEWSKI: That's correct.
25 Jan Adamczewski, GNWT.

1 MR. PETER UNGER: Thank you. Peter
2 Unger, Lutsel K'e Dene First Nation. This is a bit of
3 a tough question, too.

4 So given that the GNWT imposed a hunting
5 ban on the Bathurst caribou last season with Minister
6 Miltenberger being quoted as saying the Bathurst herd
7 cannot support any harvest whatsoever in several
8 different publications.

9 And the low population numbers right
10 now, is it the GNWT's opinion that the Bathurst herd
11 could support any more impacts that would decrease the
12 population?

13 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
14 with GNWT. I would need a little bit of clarification
15 on that. I'm -- I'm just -- I'm a little unsure of the
16 context that you're asking.

17 MR. PETER UNGER: Peter Unger, Lutsel
18 K'e Dene First Nation. I guess I'm kind of going along
19 the line of questioning this morning. I'm trying to
20 reconcile the fact that the minister came out
21 repeatedly saying that the Bathurst herd is in a state
22 of emergency and cannot support any harvest whatsoever.

23 And you've just said that these are the
24 lowest estimates you have on record. So I would like
25 to hear your opinion whether they can support any other

1 further reductions in population.

2 By my logic, it seems that they would
3 not be able to. Otherwise, it wouldn't be at a zero
4 harvest last sea -- last season and we wouldn't have
5 had emergency measures.

6 So basically, I'm looking to see if you
7 agree then that population reductions from any other
8 source would be equally detrimental to the Bathurst
9 herd. Thank you.

10 MR. BRUNO CROFT: Madam Chair, Bruno
11 Croft, ENR North Slave. I'll -- I'll take a stab, and
12 I'm sure others might want to jump in there, but here's
13 how I look at it here from my seat.

14 In the past years on the Bathurst, we
15 haven't had any recruitment, and our calf survival rate
16 is below normal. And then we're seeing the same thing
17 with the Bluenose-East, and it's at a point that
18 something like probably conditions of the animals,
19 probably predation, maybe both.

20 And there's another variable that we do
21 track, which is pregnancy rate. And it has been below
22 normal in recent years. We're seeing the same thing
23 with the Bluenose-East, and I was also involved with
24 the Qamanirjuaq photographic survey last June and we
25 saw the same thing. Number of breeding cows is below

1 normal. It caught the Nunavut biologists by surprise.

2 I don't know the demographic on the
3 Baffin Island caribou herds there, but it looks like
4 numbers are low. And from talking to the eastern
5 biologists not too long ago, the George River herd is,
6 as we all know now, is not doing too good.

7 The numbers are probably lower than what
8 they were last year when they had a survey, and the
9 calf survival rate is not all that good. So everything
10 that we're seeing seems to be pointing at something on
11 the landscape going on, probably in the summertime,
12 maybe an accumulation of things.

13 And if you look at the weather indices
14 that have been analyzed in recent past, it seems to
15 point at something happening in the summertime. Like
16 in August, for example, when we seen the code index
17 increasing compared to other years in a statistical
18 significant manner, at a time where cows in particular
19 have to replenish nutrient reserve to become pregnant
20 and then continue the lactation, if that's not taking
21 place, then -- then it's not a good thing.

22 So everything we look at seems to be
23 pointing at environmental conditions, first and
24 foremost. So in that big equation, trying to
25 understand what is cumulative effect, adding everything

1 up together between natural and non-natural stressors,
2 not to overlook the fact that the mines may have an
3 impact, to me, it seems to be pointing at what's going
4 on in the environment. It's across the board. It's
5 everywhere.

6 So I think we need to focus on
7 understanding what's affecting everything here and
8 where it's -- where it's -- it's really happening. And
9 I think what's happening on -- on the envi -- by the
10 environmental condition is probably having a much
11 bigger effect than we think everything else has in that
12 whole equation at this time.

13 This is how I see things right now. And
14 maybe, Jan, you want to jump in.

15 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
16 with GNWT. Just to add a little bit to what Bruno was
17 saying.

18 First a clarification, the Minister did
19 invoke emergency measures in late 2009 when we first
20 documented a very large scale decline in the Bathurst
21 herd. But following land claims and the old Wildlife
22 Act that could only be in place until such a time as
23 the Wek'eezhii Renewable Resources Board had a hearing,
24 listened to what everybody had to say, and made their
25 recommendations about harvest.

1 This past winter we put in a proposal to
2 the Wek'eezhii Board. It was January, I think, by the
3 time it was done. And at that time they approved that
4 proposal on an interim basis for the Bathurst herd, but
5 that again expired at the end of June.

6 So what will be in place this winter
7 remains to be determined. Just a little bit more on --
8 I guess -- I -- I think the underlying question is how
9 far can a herd decline and there's no simply answer on
10 that. One (1) of our herds, the Cape Bathurst herd in
11 the Inuvik region, as of 2006 was estimated around two
12 thousand (2,000).

13 It appears to be stable. Since that
14 time all harvest there has been closed by
15 recommendation of the co-management board, the Wildlife
16 Management Advisory Council. There's a herd called the
17 40 Mile that historically was thought to be two (2) to
18 three hundred thousand (300,000) in Alaska in the 1970s
19 dropped as low as about seven thousand (7,000). Since
20 then it's had kind of a slow recovery to about fifty
21 thousand (50,000). So there is no simple answer as to,
22 you know, is there a point where the herd can't
23 recover.

24 We just -- we look at the size and the
25 trend and we see it as -- as very serious. But just

1 keep in mind there were no emergency measures last
2 winter.

3

4 (BRIEF PAUSE)

5

6 THE CHAIRPERSON: Questions, Lutsel
7 K'e?

8 MR. PETER UNGER: I do, sorry. I was
9 just looking -- looking at a reference really -- really
10 quickly if you can bear with me for five (5) more
11 seconds.

12

13 (BRIEF PAUSE)

14

15 MR. PETER UNGER: Okay. So this is a
16 CBC article on December 19th, 2014, Northwest
17 Territories stops issuing remaining Bathurst caribou
18 tags is the headline. And in there Minister
19 Miltenberger is quoted as saying that the Bathurst
20 caribou cannot support any harvest at all.

21 So that's what I was referring to. So
22 that's not the 2009 one (1). I'm talking about this
23 past December. So given that that was your Minister's
24 position, that's what I'm looking for. I'm not a
25 caribou expert, so I don't -- I don't understand a lot

1 of these things, I'm sorry. But that's what I'm trying
2 to reconcile in that this was the Minister's position
3 that they can't support any harvest.

4 And now you have confirmed that this is
5 the lowest estimate we have until this -- this time.
6 And Bruno just said that it's everything. So
7 'everything' to me sounds like cumulative effects,
8 please correct me if I'm wrong. To me that points to
9 no additional impact would be acceptable. And I was
10 looking for -- for your opinion on that.

11 Or if you could clarify that for me a
12 little bit, or break it down a little bit more simply,
13 because unfortunately I -- I don't have that level of
14 technical expertise. Thank you.

15 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
16 with GNWT. I don't know if I can break it down much --
17 much more simply.

18 If you go from a strict conservation
19 standpoint no harvest would be best. No development
20 would be best. But we have to bear in mind that the
21 discussion over what harvest should be from this herd
22 is not just about the numbers and the biology. It's
23 about all the other values, especially associated with
24 Aboriginal harvesting.

25 And I think the same applies to the

1 proposed Jay development. The effect will not be zero.
2 It's probably not going to be very big, but it won't be
3 zero. And I guess the discussion as to should that be
4 permitted to go ahead has to consider all those other
5 values, not simply the numbers and the biology.

6 MR. PETER UNGER: Peter Unger, Lutsel
7 K'e First Nation. We'd like to thank the GNWT for
8 their presentation. And we have no further questions.
9 Thank you.

10 THE CHAIRPERSON: Questions from Tlicho
11 Government?

12 MR. JOSEPH JUDAS: I'm going to say
13 this in my language.

14

15 (INTERPRETED FROM FIRST NATIONS LANGUAGE INTO ENGLISH)

16

17 MR. JOSEPH JUDAS: Thank you, Madam
18 Chairperson. I would like to talk to the Renewable
19 Resource people here. How this has all started, we all
20 remember what has happened, but I know that -- I like
21 the fact that there -- you're asking pish -- questions
22 with -- to each other, but we -- we live -- we need the
23 caribou to survive. We can't just -- we can't have
24 just one (1) person to work on it.

25 I know that there is a lot of work that

1 has happened on it, but there's a lot of talk about it.
2 I know that a lot of hunters do not like the situation
3 right now as it is, but it is the way it is now. But I
4 just want to make sure that there -- I don't want to
5 say that there's no -- absolutely no hunting at all,
6 but this is our livelihood. That is why it is on this
7 land. That -- that's what we know.

8 But it just seems like all of the
9 sudden, without even further discussion and -- with a
10 lot of other people, that this decision was made, to
11 have no hunting. But we, as the Tlicho citizen, we
12 have Wek'eezhii and we have wildlife officers that work
13 with -- wildlife officers right now in our region. But
14 it seems like they -- they don't even take their words
15 very seriously at all, the -- the Wek'eezhii Board and
16 the wildlife officers in our area, it seems.

17 So when I think about it, I know that
18 who's in -- who is going to be -- I know that some
19 people live on -- near the -- the highway and roads
20 where they can all -- always go to the stores in order
21 to buy themselves food, but we are not in that position
22 ourselves. We are far from the -- from the roads and
23 stores.

24 And I know that -- I attended one (1)
25 conference. I have mentioned this in -- I mentioned

1 all the things that is wrong or that is -- the problems
2 that we have in our communities concerning the -- our
3 food and the wildlife. But I know that the wildlife
4 people that work on the -- this issue were not very
5 happy.

6 But even in the Nunavut -- in the Inuit
7 communities are also in -- almost in the same position.
8 And I'm -- but it seems like they are saying that there
9 is more than they accounted for. Maybe that's in the
10 same -- or in the same situation, that there is more
11 than we are -- that we're saying, so that's what I'm
12 thinking.

13 So when you're -- when you're talking
14 about this issue, the hunters are very worried and
15 concerned about -- about it when -- especially when
16 people are talking about caribou. We have to support
17 one another in order to maybe -- support one another
18 and talk about it in order so that we can help
19 ourselves -- help each other with this -- this
20 situation.

21 I know -- I'm not -- I'm not asking a
22 question, but I am just telling you how I feel. I've
23 been listening to all the questions and the answers,
24 and I just wanted to share my concern about the -- the
25 situation we're in, so. The -- we -- I have a speaker

1 that's -- also wants to speak from Tlicho Government.

2

3 (INTERPRETATION CONCLUDED)

4

5 MR. SJOERD VAN DER WIELEN: What --
6 what was explained here was the importance of caribou
7 to Tlicho people, and then the misunderstanding or
8 confusion how a -- a Minister is willing -- or a
9 department is willing to shut down the compl -- the
10 complete harvest part, but accepts a -- a point three
11 (.3) decline.

12 I'm sorry. Sjoerd Van Der Wielen,
13 Tlicho Government. That was my first question.

14

15 (BRIEF PAUSE)

16

17 THE CHAIRPERSON: I didn't hear the
18 question in there. I'm sorry.

19 MR. SJOERD VAN DER WIELEN: Okay. The
20 confusion -- so maybe I'd rather ask for an
21 explanation, then, how a government department can shut
22 down a harvest due to concerns for the caribou numbers,
23 but accepts a project that might have negative results
24 in -- in caribou numbers.

25 Is that clear?

1 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
2 with GNWT. A nice, simple question, Sjoerd, and I
3 appreciate the comment.

4 I think where we're at, as Bruno
5 explained, with all the indicators that are not
6 positive for this herd or other herds, I think we have
7 to look very carefully at anything that could have a
8 negal -- negative influence on the herd. The harvest
9 is one (1) such influence. I mean, a dead caribou is a
10 dead caribou. So it's something that is within human
11 control.

12 And another human influence is what we
13 do on the landscape. And this is why we have a hearing
14 like this and the Board looks at everyone's
15 perspective. And we have to ask that question
16 seriously, collectively, Do we allow further
17 development in this situation? So we take both
18 questions seriously.

19

20 (BRIEF PAUSE)

21

22 MR. SJOERD VAN DER WIELEN: Masi cho,
23 Jan. Sjoerd Van Der Wielen, the Tlicho Government.

24 Which kind of brings me to my next
25 question, and it will also be my final question. We --

1 during the technical meetings that we had last fall in
2 2014, and -- and now, the GNWT often gets -- or, sorry,
3 the -- the question the Tlicho receives often from the
4 GNWT is: What is the lowest -- what is the threshold,
5 the lowest numbers in the herd size where the Tlicho
6 Government decides to -- to cease all hunting?

7 I would like to return the question to
8 the -- to the Government of the Northwest Territories:
9 What -- what are the lowest -- what population
10 thresholds does the GNWT have where they will cease to
11 allow further developments?

12 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
13 with GNWT. I would have to say I don't think we've
14 tried to figure out what that threshold is. But we do
15 have a process that my colleague Karin Clark here is --
16 is the lead on, which is a range planning process for
17 the Bathurst herd, which you're also part of, Sjoerd.

18 And the whole idea with that process is
19 to define acceptable levels of development on the
20 landscape in such a way that the herd's future and
21 Aboriginal ability to harvest is not compromised for
22 the long-term. So we don't have a final plan and final
23 answers, but we at least have something in place where
24 we're trying to put some numbers on that.

25 MR. SJOERD VAN DER WIELEN: Sjoerd Van

1 Der Wielen, the Tlicho Government. Thank you. No
2 further questions.

3 THE CHAIRPERSON: Questions,
4 Environment Canada?

5 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey
6 McMillan, with Environment Canada. No questions.

7 THE CHAIRPERSON: Questions, Fisheries
8 and Oceans Canada?

9

10 (BRIEF PAUSE)

11

12 THE CHAIRPERSON: Questions, North
13 Slave Metis Alliance?

14 MR. SHIN SHIGA: Shin Shiga, North
15 Slave Metis Alliance. We have no questions.

16 THE CHAIRPERSON: Questions, Deninu Kue
17 First Nation?

18 MR. MARC D'ENTREMONT: Marc
19 D'Entremont, for the DKFN. We do have a couple of
20 questions, but first of all, I'm just going to make
21 reference to the letter that the GNWT provided to the
22 Review Board last week about the survey results.

23 And I don't know if -- if you guys have
24 it in front of you, but if you look on the distribution
25 lists, I just want to point out that the Deninu Kue

1 First Nation is not included on that distribution list.

2 And I guess the question coming out of
3 this would be: Will you update that distribution list
4 so that future correspondence about the state of the
5 Bathurst herd, of which the DKFN is a user, receives
6 that information?

7 MS. LYNDA YONGE: Lynda Yonge, ENR.

8 Yes, we will do that. It was an oversight.

9 MR. MARC D'ENTREMONT: Marc
10 D'Entremont, for DKFN. Thank you very much.

11 Next question: So we've had some
12 questions and discussion about no harvest and things
13 like that and -- and the management actions that have
14 been happening over the last year and a bit. So we see
15 that as a -- a mitigative action that is put onto
16 Aboriginal users of the herd.

17 So a question would be, then: What does
18 GNWT see as some specific mitigation actions that
19 industry, including the Jay Project, could implement
20 that would benefit the herd?

21

22 (BRIEF PAUSE)

23

24 MS. ANDREA PATENAUDE: Andrea
25 Patenaude, GNWT. Well, we did outline in our final

1 technical report some improvements that we want to see
2 in the WEMP, or that we were asking for. This is
3 directly related to mitigation and monitoring.

4 I just want to also point out that we
5 are in a place -- compared to past reviews, DDEC had a
6 bit to draw on in terms of a history of mitigation.
7 And so we are at a place where we're looking at
8 improvement and mitigations, and when we're looking for
9 things that will take things a little further than
10 where they're at. And sometimes -- I mean, in terms of
11 -- our recommendations were partly based on that.

12 In terms of anything new, we do feel
13 that the recommendation for a compensatory mitigation
14 plan will provide folks with an opportunity to perhaps
15 get creative in terms of what mitigations can happen.
16 But at -- for the time being, too, also getting a
17 better understanding of the impact of some of the
18 mitigations through collaborative research.

19 I -- I was happy to hear IEMA outline
20 the idea of research that does eventually lead to
21 mitigation. We do support that. We support that
22 around the idea of dust mitigation.

23 We support that around the idea of --
24 let's see -- in terms of the road impacts and when they
25 can be -- you know, thresholds and action levels, we

1 talked about that in our -- in our report.

2 So we -- to say that -- we don't --
3 let's just say I don't have -- I don't think we have
4 any big, brand-new ideas yet. We're interested in
5 working with people, and we're interested in seeing
6 continual improvement in the spirit of adaptive
7 management for what the mine is doing currently.

8 MR. MARC D'ENTREMONT: Marc
9 D'Entremont, for the DKFN. Thanks for that answer. So
10 in your answer, I did hear the word "mitigation"
11 several times, and I did hear the word "monitoring."
12 And I just want to point out that monitoring is -- is
13 not a specific mitigation action.

14 You did mention dust mitigation as the
15 only concrete actual mitigation thing that could be
16 done. I'm sure you have more in your technical report.
17 But I'll take maybe dust mitigation as maybe that's the
18 -- the top measure that GNWT would like to see done.

19 Is that correct?

20

21 (BRIEF PAUSE)

22

23 MS. ANDREA PATENAUDE: So that's
24 correct. Oh, Andrea Patenaude, GNWT, sorry.

25 Yes, that's correct. I mean, I think we

1 all have the understanding that dust mitigation is
2 something that has been a problem at the mine for some
3 time. I think that there are -- my understanding is
4 there are some approaches to looking at alternative
5 methods of dust control.

6 I did visit the mine in May, and they
7 were looking at a new dust suppressant, so they are
8 looking into other methods. My understanding as well,
9 and I'm not -- I don't -- my understanding is that dust
10 is something that is -- hopefully will be -- or that is
11 incorporated into the Air Quality and Emissions
12 Monitoring Plan.

13 So right now, probably the biggest
14 direct link that we see for mitigating dust is in with
15 the road. And, for instance, when I mentioned that one
16 (1) of the things that we wanted to see and we did
17 mention in our report was the idea of the convoys and
18 that the undertaking -- I think if that was 8, would --
19 we wanted to see something like that in terms --
20 because we do feel that that would have a value for
21 dust mitigation.

22 Anything else? Okay. I'll leave it at
23 that for now.

24 MR. MARC D'ENTREMONT: Marc
25 D'Entremont, with DKFN. Great. Thank you for that

1 response. I think Patrick has a -- a question.

2 MR. PATRICK SIMON: Thank you, Madam
3 Chair. Patrick Simon, Deninu Kue First Nation. I just
4 wanted to get a sense of -- I -- I heard a lot about
5 the numbers and populations in caribou and safe zones
6 from harvest and by Aborigines.

7 I just want to get a sense of, is there
8 any other type of safe zones other than just for
9 Aboriginal harvesters other than parks and sanctuaries?

10

11 (BRIEF PAUSE)

12

13 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
14 with GNWT. I do apologize. I didn't -- I didn't quite
15 understand the question about zones. Can you please
16 clarify?

17 MR. PATRICK SIMON: Patrick Simon,
18 Deninu Kue First Nation. I guess what I meant was you
19 have areas in which we are -- we are not allowed to
20 harvest. And I want to know if there is such areas
21 that -- that are out there that -- that are considered
22 areas that maybe it's not best to have development
23 other than parks or sanctuaries.

24 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
25 with GNWT. I think the best I could do on this would

1 be to once again refer to the -- the Bathurst range
2 planning process, which is meant to cover all of the
3 herds' range, in Nunavut, in NWT, some of it pokes down
4 into Saskatchewan.

5 And our hope is that that process will
6 establish perhaps some of the areas of highest quality
7 and highest importance to caribou that might have
8 greater protection during the fire season and that
9 might be seen as a high priority in considering future
10 proposals for roads, mines, other development.

11 That's a work in progress. It'll take a
12 little while, but at least our effort there is to try
13 to extend that to the entire geograph -- geographic
14 range of the Bathurst herd.

15 MR. PATRICK SIMON: Thank you. Patrick
16 Simon, Deninu Kue First Nation.

17 I just wanted to get a sense -- I know
18 that it takes a -- I guess a certain amount of effects
19 by us to make you guys not allow us to harvest, and --
20 and it's pretty clear to us, because we -- we weren't
21 allowed to harvest, and I've heard a lot of people say
22 they -- this year, they had no caribou whatsoever.

23 And so I wanted to get a sense of -- of
24 exactly what it will take for you to really rethink
25 development in terms of -- in terms of it not only

1 becoming a -- an effect to caribou but also a threat to
2 caribou. I -- I'm -- I'm jus -- I'm just having
3 trouble finding a line in which -- in which you would
4 now say, as you said to Aboriginals, that we can't have
5 this no more.

6 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
7 with GNWT. I'm not sure I can give you a -- a really
8 solid answer on that.

9 I guess the first thing, I would point
10 out that resident and outfitter hunting of barren
11 ground caribou has been closed in the Northwest
12 Territories for a number of years now.

13 The Aboriginal harvest is always the
14 last to be considered for conservation or infringement
15 of -- of harvesting rights. Andrea and I have been to
16 Nunavut and we take part in environmental assessment
17 processes on the other side of the border. We at least
18 have been fairly clear at our level about saying
19 calving grounds, leave them alone. Pretty simple, from
20 a biologist's perspective.

21 And my hope is that the -- the range
22 planning process for the Bathurst can be extended to
23 other ranges and that we'll see a network of areas out
24 there on the landscape that have as their priority
25 caribou habitat. That's easy for me to say as a

1 biologist, because I think in those simple terms.

2 Putting that in place, putting it on the landscape is -
3 - is not so simple.

4 MR. PATRICK SIMON: Thank you. Patrick
5 Simon, Deninu Kue First Nation.

6 I -- I thought I heard you say that the
7 consideration to -- to not allow us to -- to hunt was -
8 - was at the very last and in -- at the very end,
9 you'll ask us not to hunt or you'll deny us the right
10 to hunt. I -- I'm just curious, because to -- to say
11 that, you -- you must have other considerations that
12 you -- you entertained.

13 And I -- I just want to know what types
14 of considerations or -- or activity you've done in
15 terms of development that -- that would cause us to now
16 be considered at the very end to not be able to
17 harvest?

18 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
19 with GNWT. I must admit I'm perhaps not quite
20 understanding where you're trying to go.

21 I would maybe remind people that there
22 are harvest restrictions in the ranges of a number of
23 our barren ground caribou herds. Cape Bathurst range
24 up towards Inuvik is closed, and that's by
25 recommendation of a co-management Board, the Wildlife

1 Management Advisory Council in the -- in the Inuvialuit
2 settlement region. Their recommendation implemented by
3 ENR.

4 There is a total allowable harvest for
5 the Bluenose-West herd. That is by recommendation and
6 agreement of three (3) co-management boards and
7 regulations implemented by ENR. Harvest management for
8 the Bathurst herd, the limitation to three hundred
9 (300) was from Tlicho Government and ENR, a joint
10 proposal, and by agreement with the Yellowknives Dene
11 and with the approval of the Wek'eezhii Renewable
12 Resources Board, all in 2010.

13 So decisions about restricting
14 Aboriginal harvests are not made in isolation by ENR.
15 And the co-management boards, and the Aboriginal
16 governments have had a major say in how that harvest is
17 managed.

18 MR. PATRICK SIMON: Thank you. Patrick
19 Simon, Deninu K'ue First Nation. I think that I wanted
20 to get a sense -- and -- and thank you for that answer.

21 But I wanted to get a sense -- I know
22 you do all that other stuff, but I wanted to -- to get
23 a sense of the consideration that -- that -- or the
24 steps you took before you denied me the right to hunt
25 caribou in that area.

1 When it came to development, what --
2 what considerations within dev -- development did you
3 looked at and said, Well, okay, we've considered that.
4 That's okay. Now we want to consider the Aboriginal
5 hunter, so now we'll ban them from hunting. And -- and
6 -- because you told me that just now. You told me that
7 I -- I was the last to be considered to be denied, or
8 to have this mitigative measure, which is -- is a
9 pretty strong in my books when you deny a caribou-eater
10 the right to eat caribou.

11 THE CHAIRPERSON: The Chair would like
12 to intervene, and I would ask at this time that
13 questions that are going to be made to the presenters,
14 if they could be please related to the scope of the
15 project that we are talking about. Thank you.

16 MR. PATRICK SIMON: Thank you. Patrick
17 Simon, Deninu K'ue First Nation. I have no further
18 questions.

19 THE CHAIRPERSON: Questions, Diavik
20 Diamond Mines?

21 MR. GORD MACDONALD: Gord MacDonald,
22 with Diavik. And Diavik has submitted its concerns
23 with regard to the continued deflection of caribou
24 caused by the Jay Project, delaying the use of a
25 reclaimed Diavik mine site in the future. And we'll

1 present this concern later this afternoon.

2 But our question for the GNWT is: Will
3 the GNWT be able to sign off on the relinquishment of
4 Diavik's closure security if caribou movement continues
5 to deflect around the Diavik site, as a result of
6 ongoing operation of the Jay Project?

7 MS. KATE WITHERLY: Hi, it's Kate
8 Witherly, with the Government of the Northwest
9 Territories.

10 I guess at this point we can't make any
11 specific commitments about when or how we'll relinquish
12 security. All I can say is that we'll consider all rel
13 -- relevant information when we're looking at Diavik's
14 closure. And we'll consider all -- all potential
15 impacts to -- to their ability to meet their closure
16 objectives at that time.

17 MR. GORD MACDONALD: Gord MacDonald,
18 with Diavik. Thank you for that.

19 Will the -- will the GNWT work with DDEC
20 to ensure that the information that the GNWT needs to
21 evaluate -- to evaluate that relinquishment that it's
22 collected, and -- and available for the GNWT?

23 MS. KATE WITHERLY: Hi, Kate Witherly
24 again. I guess, in short, yes. So there's been
25 acknowledgment, I think, by you and by Dominion that

1 given the proximity of the two (2) projects there may
2 be effects on each other. So, yes, when the time comes
3 we'll look at all relevant information, and make a
4 determination.

5 MR. GORD MACDONALD: Gord MacDonald,
6 with Diav -- with Diavik. Thank you.

7 THE CHAIRPERSON: Questions, Fort
8 Resolution Metis Council?

9

10 (BRIEF PAUSE)

11

12 THE CHAIRPERSON: Questions, Transport
13 Canada?

14 MR. CHRISTOPHER AGUIRE: Chris Aguire,
15 with Transport Canada. We have no questions.

16 THE CHAIRPERSON: Questions, Dominion
17 Diamond Ekati Corporation?

18 MR. RICHARD BARGERY: Richard Bargery,
19 Dominion Diamond. No questions.

20 THE CHAIRPERSON: Questions, Review
21 Board and staff and counsel?

22 DR. ANNE GUNN: Anne Gunn, for the
23 Board. Madam Chair, I have a couple of quick
24 questions.

25 My first question -- my first question

1 for the Government of the Northwest Territories is
2 that: Given the 50 percent decline in breeding females
3 since 2012 for apparently unknown reasons, and given
4 the projected 3 percent decline in calf survival from
5 the cumulative effects of Jay, does GNWT believe that
6 this can be mitigated?

7 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
8 with GNWT. I think we've been impressed with some of
9 the mitigation that's been proposed and the potential
10 there. We think those measures can help reduce that
11 effect.

12 But we also have to be a little bit
13 realistic and say, I mean, the mine isn't going to just
14 disappear altogether. So we would suggest that some of
15 these mitigations can help reduce the effect, but maybe
16 not make it zero altogether.

17 DR. ANNE GUNN: Anne Gunn, for the
18 Board. Supplementary to that answer, Madam Chair, is:
19 GNWT's technical report refers to the 2014 Land Use and
20 Sustainability Framework, which commits GNWT to balance
21 land management decisions, and decisions relating to
22 land use, including trades -- trade-offs and
23 compromises.

24 So further to that 3 percent in calf
25 survival, does GNWT have any comment on the compromises

1 or trade-offs that would offset that 3 percent loss to
2 the herd?

3

4 (BRIEF PAUSE)

5

6 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
7 with GNWT. I don't have an immediate answer on that.
8 We may be able to have a bit of discussion and try to
9 get back to you at a later date.

10 I think one (1) of the things that we
11 have to bear in mind, that 3 percent effect comes out
12 of a modelling effort. Lots of assumptions go into
13 those models, and something I struggle with as a
14 biologist who is involved with the surveys and the
15 monitoring, there is variance around our population
16 estimates. There is variance around our calf-to-cow
17 ratios.

18 So there's always that question of, how
19 readily could we detect those rather small-scale
20 effects? Beyond that, the best I could do is -- is
21 suggest we'll try to get back to you with a more solid
22 answer.

23 THE CHAIRPERSON: To the question, did
24 Dominion have something to add to the question?

25 MR. RICHARD BARGERY: Thank you, Madam

1 Chair. Just -- I just want to be clear that, in our
2 conservative modelling, it's -- it's .3 percent
3 reduction in -- in production and .3 percent in calf
4 survival rates, not 3 percent. So just for the record.

5 DR. ANNE GUNN: Anne Gunn, for the
6 Board. My reference was to cumulative effects, not the
7 incremental ones. I thank Jan for the clarification.
8 I think we would accept an undertaking to get more
9 information. And I'm aware of the perils of modelling
10 and the variability in the data. Sometimes it leads to
11 underestimates, sometimes, of course, it could be a lot
12 higher.

13 Madam Chair, I have one (1) follow-up
14 question.

15 THE CHAIRPERSON: Counsel...?

16 MR. JOHN DONIHEE: Yes, Madam Chair.
17 That will be Undertaking number 10.

18

19 --- UNDERTAKING NO. 10: GNWT to indicate, further
20 to the 3 percent in calf
21 survival, if they have any
22 comment on the compromises
23 or trade-offs that would
24 offset that 3 percent loss
25 to the herd

1 DR. ANNE GUNN: Anne Gunn, for the
2 Board. Given the importance of determining the
3 quantitative thresholds for -- for the caribou ranges,
4 will -- and given the fact that cumulative effects may
5 be significant, will GNWT accelerate proposing interim
6 thresholds in the range plan, say, within six (6)
7 months?

8 MS. KARIN CLARK: Karin Clark, GNWT.
9 Thank you for that question, Anne.

10 It's not something that we've considered
11 as a -- as a group. The development of the range plan
12 is a collaborative process, and these processes take
13 time. Right now, we're on a three (3) year time frame.
14 We've received funding through Polar Knowledge Canada,
15 three (3) years of funding.

16 And, yeah, as I said, it's not anything
17 that we've considered at this point in time.

18 DR. ANNE GUNN: Anne Gunn, for the
19 Board. Thank you for the answer.

20 MR. JOHN DONIHEE: Thank you, Madam
21 Chair. It's John Donihee. I just have one (1) area
22 that I'd like to try and get a little bit of clarity
23 on.

24 Do you want to go back to slide number
25 9, please? You make reference to Section 95. And

1 there were some questions and answers given in relation
2 to Section 95 of the Wildlife Act.

3 I'm just uncertain, given the exchange
4 that took place earlier, whether in fact ENR is saying
5 that Section 95 does apply here or whether in fact
6 you're saying it does not, and that, you know, the
7 WWHPP and the WEMP combined are -- are going to have to
8 be dealt with by the Board should it determine there
9 are significant impacts through -- through measures.

10 I -- I do realize there are two (2)
11 different sort of statutory mechanisms out there that
12 might be called into play here. And I'm hoping you can
13 tell us whether, in GNWT's view, Section 95 of the
14 Wildlife Act is actually applicable in the
15 circumstances that we're dealing with?

16 MS. LYNDY YONGE: Lynda Yonge, ENR.
17 We're actually saying that we believe Section 95 does
18 apply and that we're working with the proponent to make
19 sure that their WWHPP and WEMP satisfy the needs for a
20 wildlife management monitoring plan under the act.

21 MR. JOHN DONIHEE: Thank you very much,
22 Madam Chair. That's -- that's my only question.

23 THE CHAIRPERSON: Questions from Board
24 members?

25 MS. YVONNE DOOLITTLE: Yvonne

1 Doolittle, Review Board. I just wanted to discuss --
2 or ask you to explain.

3 It seemed in your technical report you
4 didn't say that there was a significance of the impact
5 on -- from Jay on the caribou; however, all the parties
6 all have demonstrated that they believe that there is,
7 either cumulative or not.

8 Why are -- why are your views different,
9 especially considering some of the recent imposed
10 harvest bands, and also in previous hearings? I don't
11 know if we're allowed to include that, but in 2010
12 there was a threshold of significance or great impact
13 at that period of time, and that was the Gahcho Kue for
14 the same Bathurst herd. Thank you.

15

16 (BRIEF PAUSE)

17

18 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
19 with GNWT. My apologies if -- if we haven't been clear
20 or consistent in the past. But I think we're fairly
21 consistent with other parties today in saying that
22 cumulative effects of development, all the mines, all
23 those effects have been significant for the Bathurst
24 herd to date.

25 So that cumulative effects scenario,

1 yes, there is -- there has been an effect. We also, I
2 think, are in agreement with IEMA and other parties
3 that reasonably future developments could have a
4 significant effect. The question mark is around Jay
5 and whether that relatively small scale effect is
6 considered significant. And that, I think, to some
7 extent, is a matter of definitions.

8 For someone like myself, who works with
9 populations, it's pretty marginal. But I think we're
10 also pretty clear that, even if it's small, it's not
11 zero. So I hope that clarifies our perspective.

12 MS. YVONNE DOOLITTLE: Yes, Yvonne, for
13 -- Doolittle, for the Review Board. So -- and my -- my
14 comment to the threshold was that the -- just the -- I
15 guess the numbers in the herd.

16 So does -- back then it was considered
17 the numbers in the herd backing those counts were
18 higher. That they -- that was -- that was a threshold
19 there. And I know that the conversation here today,
20 people were asking what is the threshold number. And
21 it's lower. The count has come in a lot lower for this
22 past recent aerial survey. And so that was just my
23 comments to theirs, just for clarification. Thank you.

24 THE CHAIRPERSON: Questions, Review
25 Board members? John...?

1 MR. JOHN CURRAN: Thank you, Madam
2 Chair. John Curran, with the Review Board.

3 Yes, Jan, you had made reference to a --
4 a report based on traditional knowledge from the Tlicho
5 Elders. And you had talked about a -- a -- an all time
6 high in the 1940s within that report, and then a
7 decline. I think it's obvious that we would have
8 declined.

9 Could you just fill in the blank a
10 little bit, and characterize the level of that decline?
11 Was it an -- an historic decline, or just that it went
12 down from the 1940s?

13 DR. JAN ADAMCZEWSKI: With the Board's
14 permission, I would like to ask Anne Gunn to speak
15 about the details of that study. She is an author on
16 the paper, and she helped set up that project. If Anne
17 would be so kind as to provide a -- a more detailed
18 answer than I could give.

19 THE CHAIRPERSON: One (1) moment -- one
20 (1) moment please.

21 MR. JOHN DONIHEE: Madam Chair, I'd --
22 I'd like to be sure that our friends at Dominion aren't
23 troubled by this turn of events. We didn't bring Dr.
24 Gunn here to give evidence, and it -- it may help
25 things if she answers the question, but I'd really like

1 to be sure that Dominion isn't troubled by -- by that
2 outcome.

3

4 (BRIEF PAUSE)

5

6 DR. ANNE GUNN: Anne Gunn, for the
7 Board. There were actually two (2) parts to this. Oh.

8

9 (BRIEF PAUSE)

10

11 MR. RICHARD BARGERY: Richard Bargery,
12 Dominion Diamond. Sorry, we weren't quite expecting
13 this turn of events, so obviously Dr. Gunn's role is to
14 -- to be a -- a -- an advisor to the Board, and -- and
15 not a witness.

16 But in this case, if she can, you know,
17 provide some information that -- that's -- that's help
18 -- that's helpful. But certainly we wouldn't expect
19 this to be a -- a regular occurrence. And thank you.

20 DR. ANNE GUNN: Thank you, Dominion.
21 Thank you, Madam Chair. Very briefly, there were --
22 there were two (2) aspects to this.

23 There was the Tlicho traditional
24 information, and it -- we have here people who can
25 speak to that. The inf -- the part that -- that I did

1 was looking at hoof scars scuffed on spruce roots, and
2 you can -- because you can age the trees, you can
3 measure the frequency of the scars back in time. And
4 it showed a period of low numbers in the '40s and the
5 '70s. We halted the study in 2000, and at that time
6 the frequency of the roots as an index to caribou
7 abundance was the lowest that we had recorded going
8 back to the two (2) -- to 1900s.

9

10 (BRIEF PAUSE)

11

12 THE CHAIRPERSON: Questions from Board
13 members? Bertha...?

14 MS. BERTHA NORWEGIAN: Thank you, Madam
15 Chair. Where's my reading glasses? Sorry about that.
16 I'm kind of concerned I suppose would be the good word
17 about calve -- or cows that are losing their calves.

18 Is the food that they eat a contributing
19 factor to how many cows we're losing?

20 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
21 with GNWT. I don't think we have a complete picture on
22 what's happening with pregnancy rate. We have annual
23 calf-to-cow ratios which are measured in late winter,
24 and they tell us how many calves of the previous year
25 made it through that -- most of that first year.

1 Obviously, if those numbers are low,
2 that's a bad sign. If they're high, then that's great.
3 We do have some evidence to indicate, including this
4 past winter, that we likely had a low pregnancy rate.
5 So that -- the most -- the simplest explanation for
6 that would be possibly the summer range condition last
7 year. Everybody knows it was very hot and dry. The
8 drought index was very high.

9 It's reasonable to suppose that feeding
10 conditions for the animals, for the caribou were poor
11 in that summer. We don't have a pregnancy rate for
12 every year, but we have at least some evidence to
13 suggest that it's -- it's a range level effect. Bruno
14 mentioned that, I think, a little bit earlier. I hope
15 that answers your question.

16 MS. BERTHA NORWEGIAN: Thank you very
17 much. No more question from me.

18 THE CHAIRPERSON: Questions, Board
19 members? Kirby...?

20 MR. KIRBY MARSHALL: Thank you, Madam
21 Chair. Kirby Marshall, Board Member. I am, as usual
22 going to be brief, because I have to go get a coffee,
23 as you know, so.

24 So I brought this up yesterday with
25 Dominion with respect to dust fall. And -- and it came

1 up again. Andrea mentioned something with respect to
2 various mitigation measures and that dust mitigation
3 might be one (1) of the more prevalent measures that
4 could be used.

5 And yet dust fall, or dust control is
6 not in the current air quality plan. Other emissions
7 are. And from what I understood yesterday, it's not
8 even on the roadmap. And so could you speak more with
9 respect to the Air Quality Plan? I know we're outside
10 a car -- we're in caribou, here, but we're into dust
11 control now, and where that might be on the roadmap
12 with respect to becoming part of the ambient air
13 quality plan, program, regulatory framework?

14

15 (BRIEF PAUSE)

16

17 MS. KATE WITHERLY: Hi. It's Kate
18 Witherly, with the GNWT. So, yeah, yesterday we
19 provided a response on the air quality framework. The
20 response was that dust is not being considered as a
21 part of that larger framework. So I can -- if you'd
22 like more information on that, we could undertake to
23 provide additional information, but that's all we can
24 say for -- about it today.

25 MR. KIRBY MARSHALL: A follow-up.

1 Kirby Marshall, Review Board.

2 Yes, I would like more information,
3 especially given the -- the comments today with respect
4 to -- if we're looking at offsetting compensatory
5 different plans for -- and what might Dominion or other
6 developers do with respect to various mitigations that
7 the GNWT says that dust mitigation is probably the most
8 prevalent, or the most important, or the key, and
9 certainly one (1) of the key ones that -- that can be
10 done.

11 And -- or at least that's what I took
12 out of that. So if I'm under misinformation or -- you
13 can please correct me, Andrea. Thank you.

14 MS. ANDREA PATENAUDE: Andrea
15 Patenaude, GNWT. So I was going to let Kate answer for
16 the bit about the framework, the GNWT framework.

17 But I think when I was giving that
18 answer earlier and talking about it, what -- and it's -
19 - it's kind of an overlap area, we do suspect, of
20 course, that dust plays a role -- we support, plays a
21 role in what we see with the zone of influence and that
22 effect, and so we do support re -- the collaborative
23 research idea.

24 In terms of actual -- kind of we --
25 monitoring of that would fall probably under Dominion's

1 Air Quality Emissions Plan. And my understanding is
2 that there are certain action levels, things like
3 action levels that per -- and -- and mitigations
4 related to those action levels specific to dust
5 mitigation are absent in the most recent plan.

6 And we support the Measure 14
7 recommendation put forth by IEMA about ensuring that
8 future iterations of their plan include more specific
9 and detailed information about how they're approaching
10 their dust monitoring and mitigation and that perhaps
11 this should also be re -- if not, the direct link in.
12 This would be an example of another plan that you would
13 want information about in your WEMP -- in their WEMP,
14 not yours.

15 MR. KIRBY MARSHALL: Thank you for that
16 clarification. I'll leave that line there for now.
17 Kirby Marshall, Review Board.

18 With respect to aerial surveys, so
19 caribou counts are -- seem to be absolutely critical to
20 a lot of discussions that we're having today, or the
21 lack of caribou counts or the accuracy of caribou
22 counts, all those things.

23 So aerial surveys are currently done
24 every three (3) years, correct, and when was the last
25 one?

1 MR. BRUNO CROFT: Madam Chair, Bruno
2 Croft, ENR North Slave. Every three (3) years, in the
3 case of the Bathurst, we conduct a photographic survey
4 on calving ground. But we do go every year and conduct
5 a reconnaissance survey on -- on an annual basis.

6 So the last photographic survey was done
7 just a few months ago, in June of 2015. And that's how
8 we came up with the numbers that have been shared
9 today.

10 MR. KIRBY MARSHALL: Thank you. I
11 appreciate that clarification. I -- I thought I wasn't
12 quite clear on that, but thank you. Kirby Marshall,
13 Review Board. Final question with respect to -- and I
14 think it's -- it's a very important issue for us. It
15 has to do with cumulative effects, significant adverse
16 cumulative effects.

17 And Dr. Gunn sort of -- she asked a
18 question, and there was an answer. And a lot of this
19 stuff is -- gets fairly technical for us lay people up
20 here, so. So I'm just going to ask my question. I'm
21 sure I'm -- I'm covering some duplicate ground here, so
22 forgive me.

23 But -- so do you believe -- does the
24 GNWT -- does the GNWT believe that it's possible for
25 Dominion to mitigate the cumulative significant adverse

1 effects of the Jay Project such that those effects will
2 no longer be considered significant?

3 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
4 with GNWT. I'm going to sort of throw this back to the
5 Board because at the heart of this is simply the
6 question of how do you define a significant effect.

7 For someone like myself, who works sort
8 of at the population level, and, you know, we look at
9 calf to cow ratios and herd trend and so on, all
10 indications are from the Developer's modelling that the
11 likely effects at the population scale from Jay will be
12 very small.

13 We would suggest that some of those
14 effects can be mitigated and reduced, but, you know, a
15 little bit of common sense. You -- you can't make a
16 mine just disappear all together.

17 MR. KIRBY MARSHALL: Followup, Madam
18 Chair. Kirby Marshall, Review Board. Your slide 7,
19 the nice motherhood statement there with respect to
20 mitigating cumulative effects, the one on the left. So
21 GNWT has responsibility for management of caribou in
22 the Northwest Territories.

23 So we've heard a lot of discussion today
24 with respect to cumulative significant adverse effects.
25 And then when you top off -- when you put the Jay

1 Project on top of that -- that -- it still, even though
2 it's marginal, it's at the margin. It's a very small
3 change. Everyone agrees that's the case. That we're
4 hearing that it's still cumulative significant adverse
5 effects we need to mitigate.

6 So I look at that, and so from the GNWT
7 perspective, what do you -- what will you take as
8 robust mitigations for monitoring and minimizing
9 impacts of their operation to the extent possible, such
10 that the effects of the -- the cumulative effects of
11 the Jay Project are no longer considered significant?
12 And I understand that we're the ones that have to make
13 the determination of what significance is.

14 But given the discussion about what
15 cumulative significant adverse effects have been this
16 afternoon, so can Dominion mitigate, using all
17 mitigations possible, such that those effects are no
18 longer significant? That's what I'm asking here. And
19 if your answer is the same, I'll leave it at that.
20 Thank you.

21

22 (BRIEF PAUSE)

23

24 MS. LYNDY YONGE: Lynda Yonge, from
25 ENR. The purpose of the Wildlife Habitat -- Wildlife

1 and Wildlife Habitat Protection Plan, and Wildlife
2 Effects Monitoring Plan are precisely number 1, to
3 implement mitigation and monitoring to minimize
4 impacts. And through this process, we have requested
5 that those plans be revised, and we'll continue to work
6 with the Proponent to do that. And we feel that
7 through that process, we are addressing number 1 to the
8 effect -- to the extent possible.

9 MR. KIRBY MARSHALL: Kirby Marshall,
10 Review Board. Thank you very much, GNWT. Appreciate
11 your presentation and answering questions. And no
12 further questions.

13 THE CHAIRPERSON: Questions, Board
14 members? James.

15 MR. JAMES WAH-SHEE: Thank you, Madam
16 Chairman -- Chair. James Wah-Shee, Board. You do
17 aerial surveys. And the question I have is: There are
18 other herds other than the Bathurst. I understand
19 there is a Bluenose herd.

20 Now, my question is: When you do aerial
21 surveys, am I correct to assume that the Bathurst herd
22 essentially reside in a -- in a certain geographic
23 area? Or is it possible that -- that the Bathurst
24 Inlet and the Bluenose herd may mingle with each other?
25 Is that possible?

1 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
2 with GNWT. And I'm -- I'm sure Bruno can maybe add a
3 little bit to what I'll say.

4 We have satellite or GPS collars on each
5 of the herds that we monitor; that includes Beverly,
6 Ahiak caribou in the Queen Maud Gulf, which is kind of
7 a shared one with Nunavut. And then sort of going from
8 east to west, we have Bathurst, Bluenose-East,
9 Bluenose-West, Cape Bathurst, and then the Tuktoyaktuk
10 Peninsula.

11 And during the calving period, each of
12 those herds has a very distinct calving ground. And
13 the collared caribou, the cows will show up, a very
14 high percentage of them, on that calving ground. And
15 so that's confirmation for us during the survey that
16 the animals are where they're supposed to be.

17 Those collared caribou also give us the
18 opportunity to look at the rate at which animals switch
19 between neighbours. And we have monitored that for the
20 Bathurst herd, for our other herds.

21 And what we have consistently seen is
22 that about 3 percent of the collared cows will switch
23 to the east or to the west, and about an equal
24 proportion of the collars from the neighbour will come
25 this way. So the net exchange seems to be very low.

1 But the collared animals are really
2 critical to monitor those movement rates and to confirm
3 for us during the surveys that the cows that we're
4 counting are the ones that we want to be counting on
5 their distinct calving grounds.

6 MR. JAMES WAH-SHEE: James Wah-Shee,
7 Review Board. The other question I have is that in
8 your -- I'm not sure it was in the presentation or it
9 was one (1) of the questions was directed to GNWT from
10 other parties.

11 My question is -- is that the -- given
12 the other herds, the existence of other herds other
13 than Bathurst, you have the Bluenose and then you have
14 the other herd, I -- around northern Saskatchewan.

15 Now, my question is -- is that: Is --
16 is GNWT working closely with the Nunavut Government
17 Wildlife Department and the northern Saskatchewan
18 Government in regards to the -- the overall general
19 caribou cooperative management?

20 So my question is: Do you work with --
21 with other governments and agencies in regards to -- in
22 cooperation in terms of the general caribou management?
23 And that also could include research, the approach of
24 how caribou is managed in other jurisdictions as well.

25 So could you perhaps enlighten me in

1 that area, please?

2 MR. BRUNO CROFT: Thank you, Madam
3 Chair. Bruno Croft, ENR. I know it's late, and the
4 short answer is yes. On the surveys we just completed
5 in June, Mr. Wah-Shee, we had five (5) Nunavut
6 biologists. Last year, they led the surveys on
7 Qamanirjuaq.

8 We were invited to work with them
9 closely on that survey. And same the year before when
10 -- when they did the entire Queen Maud Gulf survey,
11 which was a very good, comprehensive effort.

12 So we constantly work back and forth,
13 visiting each in each -- each jurisdictions and
14 comparing notes, methods. We learn from each other at
15 a technical level. And it has been going on for some
16 time.

17 We also have a -- a joint voice, if you
18 will, to the Beverly Qamanirjuaq Caribou Management
19 Boards, where management's decision on Qamanirjuaq and
20 the Beverly herds are -- are discussed and sometimes --
21 not management actions, but monitoring actions are
22 implemented and suggested.

23 We will work even more closely now, now
24 that we're hearing, for example, rumours of development
25 on the calving ground of the Bluenose-East herd, which

1 is not a good thing.

2 And the Nunavut Planning Commission's
3 wanting to set up workshop on -- on caribou. We are
4 all invited to participate in Nunavut, and us -- like,
5 I would say that the -- the role of joint effort that
6 we've done together in the last six (6) to eight (8)
7 years have contributed a whole lot in our understanding
8 on where we are with all the caribou herds.

9 I know Jan mentioned earlier we had --
10 we do have quite a few of those out there. You know,
11 we can name them again, but we -- you know them and we
12 all know them. In fact, we could just look at the
13 whole picture this way now compared to where we were in
14 the '80s and the '90s, because we touched on that.

15 And you had -- we had quite a few
16 surveys done jointly in recent years on all those
17 herds, quite a few of those this year, just a few
18 months ago. One (1) last year, and the -- the latest
19 one would have been in eleven (11). So we have a
20 pretty good handle on what's going on on all those
21 caribou herds.

22 And if you add them all up now, we'd
23 probably find ourselves with less than the total number
24 of barren ground caribou we have on the landscape in
25 Nunavut and in the NWT than we had in -- in mid-1990s.

1 So no matter how we look at this whole thing it's
2 different. And we all need to work together on all
3 this, Nunavut, us, and the industry.

4 So in a nutshell, I hope it answered
5 your question.

6 MR. JAMES WAH-SHEE: Madam Chair,
7 that's the only question I have. Thank you very much
8 for your clarification.

9 THE CHAIRPERSON: Thank you very much
10 for your presentation. We have several presentations
11 still left on the agenda and then we have a public
12 session also slotted. So at this time I'm going to
13 call a ten (10) minute break and ask that our Board and
14 staff caucus together.

15

16 --- Upon recessing at 4:37 p.m.

17 --- Upon resuming at 4:58 p.m.

18

19 PUBLIC COMMENTARY:

20 THE CHAIRPERSON: Okay. Are we ready
21 to begin? Just for some logistics and time frames we
22 would like to let you know that this is the plan for
23 the rest of the evening: we will start off with public
24 comments. After the four (4) public comments we will
25 have a break for an hour for supper and then we will

1 resume with the party presentations.

2 I would like to state again for the
3 public comment period members of the public are invited
4 to attend and to speak to the Review Board during the
5 public common period. Members of the public are
6 welcome to present their views directly to the Review
7 Board but may not ask questions of Dominion or parties.

8 Members of the public may also submit in
9 writing to the Review Board until the public record is
10 closed. In light of the time frame, again, we remind
11 you that you written comments can be submitted to the
12 Review Board and to please make your public comments
13 ten (10) minutes.

14 The Chair would like to now call up our
15 first public comment person, Chris O'Brien. Come to
16 the table.

17

18 (BRIEF PAUSE)

19

20 MR. CHRIS O'BRIEN: The button. There
21 were go. Is that better? Yes, I have my electronic
22 prompt here, but I don't know if it's going to help at
23 all. But I -- like many other times over the years,
24 I've come to this very room with all sorts of clear
25 thoughts.

1 THE CHAIRPERSON: Excuse me. Would you
2 please state your name when you speak --

3 MR. CHRIS O'BRIEN: Oh, I'm sorry.
4 Yes.

5 THE CHAIRPERSON: -- for the record?
6 Thank you.

7 MR. CHRIS O'BRIEN: Chris O'Brien,
8 member of the public. For many years, I've -- I've
9 come here going way back. I actually sat in on the
10 Berger inquiry in this very room. And -- but in
11 subsequent years, I -- I've come here with very clear
12 thoughts about what I wanted to say. And then I attend
13 a meeting like this and my brain just gradually becomes
14 like mush. So that's the state I'm in right now.

15 But what I wanted to say was that I've
16 seen, I've heard, because I'm -- I'm not living here
17 now, but I did live here for thirty-four (34) years.
18 And my heart has never left the territory since I --
19 since I left in 2009. And I'll be coming back for lots
20 of visits.

21 But anyway, I've heard that there have
22 been sacrifices made because of the decline in the
23 Bathurst herd by a number of people; the resident
24 hunters, the outfitters, and particularly, of course,
25 the Aboriginal hunters who I believe have been reduced

1 to fifteen (15) ceremonial animals.

2 I don't think that wolves have been
3 asked yet to -- to make their sacrifice, but I -- I
4 suppose that's -- that's a possibility. But what I
5 haven't seen is any mention of any sacrifice by
6 industry. What I gather is that we have in place
7 business as usual where there will be lots of
8 monitoring and, if necessary, lots of mitigation and
9 the impacts will be kept as low as possible.

10 But I'm beginning to wonder if, given
11 the drastic and perhaps ongoing decline of the Bathurst
12 herd -- it's just -- it's really stunning, isn't it, to
13 -- to think that this herd, which not too long after I
14 first arrived in the territories was four hundred and
15 eighty-six thousand (486,000), I think; that's the
16 number I remember. And I remember seeing them on the
17 landscape passing through on their migration in 1993,
18 and they were about three hundred and fifty thousand
19 (350,000) then.

20 It was just amazing to see on the
21 skyline caribou going and going and going. Now to
22 think that they're so far down. And I think it's
23 obvious to everybody how drastic it is. But the idea
24 that business as usual might continue, trying to keep
25 the impacts as low as possible, which was always the

1 case, but nothing much seems to have changed on that.

2 And so I was going to ask what
3 sacrifices might be asked of industry. And I didn't
4 hear anything about that all day until the Tlicho
5 Government, one (1) of their people asked if the GNWT
6 has come up with some sort of population threshold
7 number at which time there will be some serious calls
8 to industry to say that, sorry, we -- we have to start
9 putting restrictions on your activities, existing
10 activities, additions to existing activities, like the
11 Jay pipe. And I guess the -- the next one (1) is the -
12 - the -- what is it now? The -- another animal, you
13 know, the next pipe anyway, Sable.

14 That, to me, was crucial. I was very
15 happy to -- to get -- to hear that question asked and a
16 bit disappointed to hear -- well, encouraged to hear
17 that the GNWT is working on that, the idea of a thre --
18 I presume, a threshold number. If we reach this number
19 of -- of the Bathurst herd, then alarm bells will --
20 even bigger alarm bells will go off and action will be
21 taken to make sure that...

22 I did hear from a friend who has worked
23 with Tlicho Elders. And she -- she told me that what
24 the Elders have said is that what should happen is the
25 caribou should be -- just be left alone. You know, no

1 hunting. And not even any collars, no counting, flying
2 over and counting them. They should just be left
3 alone. And it seems to me that would have to include -
4 - five (5) minutes, yes, thank you very much. I'll try
5 to -- to use less than that. That would, to me, have
6 to include a reduction or a cessation of all industrial
7 activity. And that would include no exploration.

8 So I was a bit disappointed. I was en -
9 - encouraged to hear that thresholds are being looked
10 at. But I was discouraged to hear that there's --
11 there's no time frame. It's just something they're
12 working on, and that it'll happen in the next few
13 years. It seems to me we've got to have something like
14 that now, or very, very soon.

15 What happens if next year the Bathurst
16 herds survey -- well, I guess it won't be a survey,
17 because it's only done every three (3) years. What if
18 the reconnaissance, as Bruno Croft said, shows that --
19 and there are oth -- other indications that the herd
20 has declined even more? What happens? What -- what's
21 the plan? Is there a -- is there a plan in place for
22 if those major alarm bells go off that suddenly
23 everything stops? I mean, the hunting has stopped,
24 except for fifteen (15) ceremonial caribou, I believe.

25 But what else is going to stop? It just

1 seems to me that everything must stop for the future of
2 this herd. The idea that we would let a caribou herd
3 go extinct and just allow even a certain amount of
4 business as usual in their range is just -- is totally
5 beyond me. I mean, the extinction of a caribou herd is
6 -- it should be taken so, so seriously that drastic
7 measures have to be taken.

8 But I think there has to be a plan in
9 place ASAP for further -- just in case there are
10 further declines of the herd. So I think I'll probably
11 leave it at that and Allen (phonetic) will be pleased
12 that maybe there's an extra two (2) minutes for someone
13 else. So thanks -- thanks very much for your time.

14 THE CHAIRPERSON: Thank you, Mr.
15 O'Brien. The Chair -- the Chair would like to call up
16 Todd Slack.

17

18 (BRIEF PAUSE)

19

20 MR. TODD SLACK: Thanks, Madam Chair.
21 My name is Todd Slack. I've just got a couple of notes
22 here that I'll go through as quickly as I can. I know
23 you guys have had a long day.

24 Under the MDRMA, we all know that if an
25 impact is to be significant the MVEIRB is required to

1 reject a project if they cannot mitigate the impact or
2 to impose measures if they feel a project is not doing
3 enough to mitigate that.

4 So the first step I want to take here is
5 to talk about what is significant. And given the
6 conversation today I think that we're all at a point --
7 or well, I think that most of the conversation is that
8 the -- were caribou to disappear or continued Dene
9 harvest restrictions, that would represent
10 significance. The Dene people and their lifestyle have
11 evolved in concert with the barren ground caribou. And
12 the hardship that they've incurred has been significant
13 themselves.

14 Since the start of this decade Dene
15 people have faced restriction after restriction as the
16 herd declines. They've changed their lifestyle.
17 They've generally willingly adopted these restrictions.
18 And this is all to buy space for the herd, to help in
19 that recovery. And then over that time I've seen the
20 Dene communities continuously ask other land users to
21 do the same. To asking the government to impose
22 restrictions, not just on them and other harvesters,
23 but to look at industry to reduce their impacts. To
24 require actions for those who impact the herd upstream
25 of folks putting meat on the table.

1 And today I think it fair to say that
2 the government has effectively failed to enact other
3 instruments. Keeping Dene from harvesting seems to
4 have a strong preference. And I -- I get this, because
5 in the past that was their one tool, the -- the one
6 lever that they could use. They could change
7 harvesting levels.

8 And this was true before devolution.
9 You know, when you have a hammer, as they say,
10 everything looks like a nail. So they kept hitting
11 that harvesting restriction.

12 But now that their managers of land and
13 they have much more authority, what has the post-
14 devolution management response been? Well, it's been
15 more Dene harvesting restrictions.

16 And while this herd continues to
17 decline, the government continues to permit industrial
18 operations and allows them to operate as they -- as
19 they more or less have since the -- the opening of
20 Ekati.

21 Now, we've heard today from GNWT. I'm
22 not going to talk about their efforts to reduce
23 cumulative effects. The only red flag here is I ask
24 you: How are they going to enforce that? Whose
25 responsibility is it?

1 What you're going to hear them say is
2 that this is going to be everyone's responsibility to
3 enact. And when -- you know, again, we'll go with
4 another analogy here. When it's everyone's
5 responsibility, it's no one's job.

6 This effort came out of actions before
7 this Board in Gahcho Kue. This Board was concerned
8 about the cumulative effects, and they said, Hey, let's
9 put a cumulative effects framework in place.

10 And at this point, what we're going to
11 get out of that is more recommendations that aren't
12 going to necessarily address the significant impact
13 that your panel saw. Essentially, recommendations
14 without implementation or enforcement -- we -- we need
15 to have a significant change to that approach where
16 they're coming in and they're going to say, Well,
17 here's what we're going to recommend, here's what we're
18 going to do, and this is the mechanism by which we are
19 going to do it. Because right now it's a -- an open
20 question, and it's a very large question mark.

21 So if the government really isn't
22 helping the herd other than harvesting restrictions,
23 what about the Company? What have they done in recent
24 years to alter their approach, to lessen that impact on
25 the herd?

1 And though this is my opinion, I've been
2 involved with this project for some years now. And
3 really, they're operating in the same way that they did
4 ten (10) years ago, fifteen (15) years ago. The causal
5 mechanisms -- mechanisms of the effects aren't known.

6 What we -- we've heard today, and it's
7 different than what we heard in the past, is that they
8 may have -- and I'll paraphrase here -- a very, very,
9 very small effect, .3 percent decline in the herd, or
10 something along those lines.

11 I think though the reality is that the
12 Company doesn't believe that they're going to have an
13 impact at all. And this echoes what the current
14 president of Dominion Diamond said at a recent
15 Wek'eezhii Land and Water Board hearing.

16 So if they don't believe that they're
17 having an impact, why would they change their -- their
18 operations? The only reason they're going to change
19 their operations is if you tell them to.

20 Now, I spent a lot of years working with
21 traditional knowledge holders, and we heard Bob
22 Overvold talk earlier today about the Elders who
23 thought that the mines may not be having an effect.

24 In my eight (8) years with the -- the
25 Yellowknives on a daily basis -- I worked with land

1 users, I worked with leadership, I worked with Elders -
2 - that is not consistent with the views that I was --
3 that were expressed to me.

4 They talked about the impact of the
5 mines at every forum, whether it was a large forum,
6 small forum, whether it was about water, whether it was
7 about air, whether it was about land. The impact of
8 mines on caribou was always front and central.

9 Having this view echoed time and time
10 again, we don't see that as part of the submissions
11 from the Company. And, you know, that's hardly
12 surprising. Whether -- whether it's the Company or the
13 government, generally what you see is a lip service
14 paid to traditional knowledge.

15 Somebody earlier put up a slide that was
16 -- it showed half a page out of a hundred (100) sort of
17 thing. And that's generally the way it goes. And it's
18 hardly surprising because if your job is to drive
19 development or if it is to build a mine, when you can -
20 - when you don't have to worry about problems, you're
21 not going to create new problems for yourself.

22 You can simply acknowledge the issue,
23 write a letter that says you gave full and fair
24 consideration, and then keep doing what you were going
25 to do.

1 So we're at this point in which
2 traditional knowledge isn't a fact until there's been a
3 western science study. It took fifteen (15) years for
4 the zone of influence to come out. When you look at
5 the original hearing report, Dene were saying that when
6 Ekati was first permitted.

7 More recently, there was a study that
8 looked at herd migration, how far they're coming and
9 timing. Well, that came out of the Tlicho Elders.
10 Well, that wasn't a fact until Golder did a study and
11 now the Company accepts that and that's a problem.

12 But, you know, let's just acknowledge
13 that and we -- we don't have to -- my recommendation
14 here doesn't resolve -- or doesn't rest on resolving
15 that issue. I -- I simply see where TK is treated in -
16 - in a manner of the PHDs. The centuries on the land,
17 they're always going to occupy a place behind several
18 inches worth of writing.

19 So my recommendation is to take it out
20 of that one (1) way or the other context and adopt the
21 company's perspective. If this mine doesn't adopt --
22 or doesn't affect caribou, or if it's a very, very
23 small impact, there shouldn't be anything that
24 constrains the use of this area by caribou after
25 closure.

1 And, you know, I'm not the only -- only
2 one (1) to talk about this today. Our friends from
3 Diavik are raising the same issues and they are right
4 to be concerned. There is a risk that caribou may not
5 return to this area, but the answer isn't to remove
6 this closure objective from the Diavik closure plan,
7 which I -- I'm going to -- I'm going to suggest.

8 No, the answer is to ensure that that
9 perspective is part of this closure plan. Now, given
10 the potential for the significant impact, I think that
11 this Board has to make a measure. It'll require -- it
12 should require that post-closure conditions for caribou
13 use at Ekati and the crossing of the narrows be
14 reflective of pre-development conditions.

15 I'm going to suggest that this be
16 reflective -- or this be observed within thirty (30)
17 years of the cessation of operations and that this
18 measure will be implemented by the Mackenzie Valley
19 Land and Water Board and then incorporated into every
20 component of the mine closure plan, both land and
21 water, both existing and -- and to be constructed.

22 And I'm almost done here, but just to
23 explain, thirty (30) -- thirty (30) years, that's the
24 traditional knowledge cycle that some folks have talked
25 about today, you know, that alternates between rail --

1 relative scarcity and relative abundance. So if we
2 don't see caribou coming back within thirty (30) years,
3 you know, we're looking at a problem here.

4 Measures are the only enforceable
5 mechanism that compels companies to -- to act. This is
6 something I -- I've observed over my experience in the
7 -- in the north and working within the regulatory
8 system.

9 Now -- and I'll acknowledge that this is
10 something that could be done at the Land and Water
11 Board stage, but I really don't think it can wait and
12 there's no guarantee that it will be addressed. If
13 we're talking about the potential for a si --
14 significant impact that authority rests in this forum
15 with your Board.

16 There -- you guys can tell those guys,
17 Hey, you need to include this. You've done it in other
18 Environmental Assessments. And my intent here is
19 pretty simple. We -- we've heard the company talk at
20 length about the size of its security deposit. It's
21 220 million, I think. I'm sure they'll -- it's on the
22 record.

23 And yeah, that's a pretty big number,
24 but that's a big number that's going to compel
25 improvement and it's going to encourage excellence.

1 And just in closing, you know, we've heard the CEO --
2 or I've heard the CEO of Dominion Diamond say that the
3 mine isn't contributing to the decline or isn't hurting
4 the recovery of the caribou. Well, you know, that's
5 cool. That's his opinion here.

6 But the risk at this point it's too
7 great and we're at a point where we can't allow this to
8 go unchallenged without consequences. So my suggestion
9 is pretty simple. Hey, let's put the money where our
10 mouths are. If it's not going to affect caribou, no
11 harm no foul. The caribou will come back and the
12 surety companies will never have to pay up.

13 It'll simply be a checkmark on their
14 closure plan and this company will be able to get its
15 money back and walk away -- or well, never have to pay
16 up. And really, if this is as simply as this, if it is
17 what the company says, I don't think it's really too
18 much to ask given the hardship and the sacrifices that
19 the people of -- of the north have made.

20 Thanks very much for your time. I
21 appreciate it.

22 THE CHAIRPERSON: Thank -- thank you
23 for you comments, Mr. Slack. Our next speaker, Andrew
24 Cassidy.

25

1 (BRIEF PAUSE)

2

3 MR. ANDREW CASSIDY: Good afternoon,
4 Madam Chair and members of the Board. My name is
5 Andrew Cassidy. I'm the mayor of the town of Hay
6 River. As the mayor I'll be speaking today on behalf
7 of our elected council and our community at large.

8 Given the agenda and the depth of the
9 conversation, and I understand there's going to be a
10 late evening, I'll keep my comments a little bit
11 shorter.

12 However, I would like to stress that,
13 while my comments are going to be brief, our community
14 felt that it was important to appear in person at these
15 hearings to present our submission. And we feel that
16 this kind of underscores the importance of this
17 industry to our community.

18 I'd like to begin by thanking the
19 Mackenzie Valley Environmental Impact Review Board for
20 the opportunity to comment on the proposed Jay Project.
21 While in retrospect my comments would have been more of
22 a natural fit for yesterday's hearings, I'm glad I was
23 able to attend today's discussion to get a better idea
24 of the challenges and the concerns of the neighbouring
25 communities in relation to the wildlife.

1 After listening to the submissions
2 today, it's obvious that this is a complicated decision
3 with many factors to consider. While the proposed
4 project does not have any immediate environmental
5 impact to the community of Hay River, we do understand
6 the importance of these impacts and the cumulative
7 environmental effects across our territory,
8 specifically in the context of new or expanded resource
9 development projects.

10 However, we also understand the
11 importance of considering these impacts balanced
12 against the social and economic impacts to all northern
13 residents. The mining sector is the most significant
14 contributor to our territorial economy and is one (1)
15 of the main employers either directly or indirectly of
16 Northwest Territories residents.

17 The community of Hay River benefits
18 through both the direct employment of our residents
19 onsite and indirectly through the various businesses
20 that have been established locally to support the
21 growth and the ongoing operations of mining in the
22 Northwest Territories. And we're confident that our
23 community is not unique in the economic and social
24 benefits of this industry.

25 If approved, the proposed Jay Project

1 would ensure ongoing economic opportunities and
2 benefits and it will continue to grow in the Northwest
3 Territories at a time when there is widespread concern
4 around our territorial economy and our declining
5 population numbers. And just -- just to be clear,
6 today I'm talking about our residential population
7 numbers. I realize there's also caribou numbers we're
8 talking about. I'm talking about the numbers of people
9 here.

10 This review process demonstrates that
11 the people of the Northwest Territories are committed
12 to striking a fine balance between development and
13 environmental protection, between growth and
14 conservation opportunities.

15 Our community feels that through our
16 comprehensive review process the Northwest Territories
17 is undergoing, such as public input sessions, coupled
18 with ongoing environmental monitoring, adaptation,
19 mitigation planning from all the stakeholders, this
20 balance can be met and this balance can benefit our
21 communities for years to come.

22 In conclusion, the Town of Hay River
23 respectfully submits our full support for the approval
24 of the Jay Project. We offer the support based on
25 Dominion Diamond Corporation's ongoing commitments to

1 working with all of the various stakeholders. We offer
2 this support based on their willingness to continue to
3 monitor, to adapt and to evolve their operations and
4 their planning processes.

5 And finally, we offer our support based
6 on the social and the economic benefits to the
7 residents in the Northwest Territories. Once again,
8 we'd like to thank the Mackenzie Valley Environmental
9 Impact Review Board for this opportunity. And that's
10 all we have for today. Thank you. Masi.

11 THE CHAIRPERSON: Thank you, Mayor
12 Cassidy. Our next speaker, Noeline Villebrun.

13

14 (INTERPRETED FROM FIRST NATIONS LANGUAGE INTO ENGLISH)

15

16 MS. NOELINE VILLEBRUN: That's where my
17 granny and my grandfather had raised all their nephews.
18 I was raised in Deninu Kue. The first time when they
19 allocated back us to Deninu Kue. We used to live in
20 Rush River before. It was really beautiful when we
21 were living over at the Rush River. There was a lot, a
22 lot of caribou in those days and there's lots of dry
23 meat, abundance of meat. And also, we had abundance of
24 car -- fish.

25 When you see a person -- there's a lot

1 of people that -- used to be a lot of natives that were
2 living around the Great Slave Lake area. So there's
3 something that I want to tell -- say here at the public
4 hearing but I'm going to say it in English, so
5 everybody can understand me very well, because there's
6 a lot of scientist people are here. If we -- because
7 if we speak in our language, most of the people here
8 won't understand what I'm saying, so I'm going to be
9 speaking in English. Thank you very much.

10

11 (INTERPRETATION CONCLUDED)

12

13 MS. NOELINE VILLEBRUN: Thank you very
14 much to the Mackenzie Valley Review Board for allowing
15 me to speak during the public session.

16 As mentioned, I'm originally -- I'm a
17 Tthestonotine Dene. That is my tribal name. And this
18 is who we are. And my language dictates that. And
19 when we talk about the impacts of development, and the
20 caribou, and the wildlife, I'm here to remind the
21 Mackenzie Valley Review Board that tribal people like
22 the Tthestonotine have been impacted right from -- I
23 would say around 1939, when four (4) pieces of
24 legislation were put in place.

25 And these four (4) pieces of legislation

1 had to be put in place because of international law.
2 The international law of -- of exploration and
3 extraction, that any corporation, major corporation
4 that come into our country or our territory would have
5 to follow specific international laws. That's what I
6 understand today, and that's what I learned. I learned
7 that because I had to step outside the box. I wasn't
8 happy with what I was seeing. All these negotiations
9 and how they're being negotiated, and with the
10 information.

11 So one (1) of the concerns that I have
12 is on the language and the terminologies. And when I
13 hear companies use words like 'speculate', that's not
14 in our Dene language. That's in the English language.
15 Dene people do not speculate, because we speak from
16 experience. Our traditional knowledge is based on who
17 we are. And our language dictates who we are and where
18 we come from, from which territory. And it also
19 dictates our culture, our traditional beliefs and
20 practices.

21 So when I hear companies use words like
22 'speculate', 'uncertainty', and it's not just -- it's
23 not just the companies. It's also the Government of
24 the Northwest Territories, the federal government, all
25 the non-GOs that deal with our groups that -- where

1 they have to consult. So terminology for me is a big
2 issue, because it doesn't help our people. And even
3 sitting here, I still have a hard time with all these
4 words of 'cumulative effects'.

5 And although that's another point that
6 I'm going to make about the -- about the information,
7 and what I don't see here is the cumulative effects
8 from the impacts of -- right from the -- the time of
9 development and the creation of these legislation.

10 Now, I guess when I -- when I went and I
11 -- I learned about the process of how government was
12 created, and how we, the Dene people, were put into the
13 system, and I feel because of that process, that this
14 is how and why we are being dealt with as if we are
15 public, as if we are civilians just moved here from
16 someplace else.

17 But we're not. We're not civilians. We
18 are Dene people. I'm not a Canadian. I am a Dene
19 grandmother. And these are the types of information
20 and words that do have an effect and impact on reports
21 for the future. So when I sit here and I listen to
22 company -- the companies talk and discuss, you know,
23 how they will try to solve, I have concern because I
24 look at the process and how all of these decisions are
25 made. I do not feel that the people of -- for example,

1 in our area, Tsesonoinak (phonetic), are not
2 represented well.

3 This development, any dev -- actually,
4 it's -- the development started in our territory that's
5 Tthestonotine territory right from the time when they
6 created Giant Mine here. And when they talk about the
7 studies, I'm really concerned because what I learned
8 was that even back when Giant Mine was being developed
9 and claimed, one man arbitrarily decided that they will
10 start development and create Giant Mine, even though it
11 was under protected strategy.

12 This area called Woleschan (phonetic),
13 in my language means Coney River because this is where
14 the coney spawn. But, you know, you see how all of
15 these have taken place and how it impacts on us today
16 because of those decisions that were made.

17 And these people that were making those
18 decisions I feel today have to -- have to do with self-
19 interests or the interests of a company and the
20 shareholders of those companies. And this what we're
21 facing today as Dene people.

22 I'm one Dene woman, but I -- I will tell
23 you that I speak for many mothers and many grandmothers
24 because they asked me to because our voices are not at
25 these tables.

1 And when they talk about caribou and the
2 impacts and the effects, nobody is talking about the
3 trauma to our body when we do not have traditional
4 foods. And that's what's being discussed in the south,
5 but it's not being discussed up here, you know?

6 So I find there is trauma to our bodies
7 when we do not have our traditional foods. And caribou
8 is one (1) of our traditional foods. You know, it
9 always has been. It's sustained us for how many years,
10 from time immemorial.

11 But yet we have the Government of the
12 Northwest Territories with their legislation and their
13 laws. And they say we have to follow it. And those
14 laws are affecting and are detrimental to our people.

15 And I know and I understand at the end
16 of the day these developments are going to go ahead
17 what -- whether what we say here or not because I look
18 at the past and how these decisions were made.

19 But I -- I also understand that we do
20 have an opportunity to express, and this is why I go to
21 meetings and this is why I express these types of
22 concerns because they are not being dealt with
23 effectively or meaningful or respectfully.

24 And the Government of the Northwest
25 Territories right now does not value Dene people. They

1 don't hire Dene people. They exclude. They will go
2 out and do callouts for southern workers before they
3 will value our people.

4 And I have to remind everybody that the
5 money that comes from the Government of the Northwest
6 Territories trained us, but yet we're of no value. So
7 where is our value in here? It's not -- I don't see
8 it.

9 And, you know, I -- I have no faith in -
10 - in the system because of what it's done to many
11 families in the past, this development, the impacts.
12 And I've had many discussions with many -- many groups
13 and many people because of the lack of proper
14 information at -- at the forefront.

15 And what I find now today is that the
16 people that are making these decisions, whether they
17 work for Indian Affairs or for the territorial
18 government or for the federal government, you know,
19 it's like a big movement. They go from one job to the
20 other.

21 So for me, it's a barrier because these
22 people will not listen. And I don't see how they can
23 solve our issues when they haven't been able to solve
24 it over here.

25 So I know we have a few more -- I think

1 tomorrow, and I'm -- I am going to speak again
2 tomorrow, but I know we have a time limit of ten (10)
3 minutes. So I will respect that and just close my
4 comments for now and, I guess, say again that I do have
5 concerns that this project and any project in the
6 future is detrimental.

7 It has been in the past, because we have
8 history. We have to look at what happened in the past.
9 And I don't see how come this Company doesn't. They're
10 in other countries. And I know some companies that are
11 at other countries, they use force and they don't do it
12 here. And it's all for development and it's all for
13 the diamonds.

14 And it's not like the Dene people did
15 not know we have these resources. We knew there was
16 diamonds. We knew there was oil. Our Dene people were
17 being kicked out for development and it's not supposed
18 to happen. So it's no different about the caribou,
19 about the wildlife. The Dene is all part of it. We're
20 all one. You can't separate the other from one (1)
21 component to the other.

22 So with that, I'll just close and say
23 thank you very much. And I just want to acknowledge
24 some of the people sitting around here with the
25 Mackenzie Valley Review Board. And like I said, I've

1 had discussions and I've had a two (2) hour discussion
2 with Martin (phonetic), and I want to say it was a very
3 meaningful and respectful discussion. We may not see
4 eye-to-eye, but at least we can discuss.

5 And I want to acknowledge Bertha
6 Norwegian. I went to school with Bertha, and Yvonne,
7 and Kirby, and James. I know -- and Anne, I want to
8 thank her, because I know once she speaks, it comes
9 from the -- the heart and that she really does care,
10 because if you want to protect the land, the animals,
11 and the people, you have to have a heart, because
12 that's attached to our Dene values. Thank you.

13 THE CHAIRPERSON: Thank you, Ms.
14 Villebrun, for your comments. At this time, the Board
15 would like to call a break for supper for one (1) hour,
16 and we'll meet back here at 6:30 for the rest of the
17 presentations.

18
19 --- Upon recessing at 5:37 p.m.

20 --- Upon resuming at 6:49 p.m.

21

22 THE CHAIRPERSON: Okay. We'll
23 reconvene. We'd like at this time now to call the
24 Yellowknives Dene First Nation to do their
25 presentation.

1 PRESENTATION BY YKDFN:

2 MR. ALEX POWER: Alex Power,
3 Yellowknives Dene First Nation. I'm here with Randy
4 Freeman, although -- also of Yellowknives Dene First
5 Nation. Thank you, Madam Chair.

6 So I'm going to talk about the
7 cumulative -- negative effects, or cumulative effects
8 of -- on caribou. Getting feedback here, eh. Is that
9 okay?

10 So caribou are integral to the cultural,
11 spiritual, and economic well-being of the Yellowknives
12 Dene. And as we all know, we've all seen the numbers,
13 the caribou numbers are -- are in dire straits.
14 They've basically collapsed and are at, you know, less
15 than 95 percent of where they were at -- sort of at the
16 high point twenty (20) years ago.

17 Of course, we're here to talk about the
18 Jay Project, and the Proponent has proposed a project
19 that is going to expand mining through what's a
20 traditional migratory route of caribou. We know this
21 from traditional knowledge. We know that the narrow is
22 just south of the proposed site, is a -- is a
23 historically important route that the caribou use to
24 cross at the point between Lac de Gras and Lac du
25 Sauvage.

1 And the Yellowknife Dene -- Yellowknives
2 Dene maintain their position that this project stands
3 to pose a significant negative impact on caribou, and
4 by extension on their livelihoods, socio-economic well-
5 being, culture, and sense of spirituality.

6 So sort of altered a little bit what I'm
7 -- what I'm going to say just based on what -- what
8 everyone has presented, and there's some things that
9 don't need to be gone -- gone over again. And what --
10 what it all seems to boil down to is that there's a
11 number of factors that there --there's very little
12 argument that they have an effect on caribou.

13 So we know that roads have an effect,
14 and we know that roads deflect caribou. The extent to
15 which this happens, there's -- there's some -- you
16 know, there's some argument over, and it's -- the
17 argument really is just that we don't know how much,
18 and -- and that there's uncertainty around how much.

19 Likewise, we know that caribou can be
20 deflected -- or deflected by hydro wires, or -- or --
21 sorry, powerlines, or at the very least, they avoid
22 powerlines. There's some speculation as to why. I
23 know that, you know, UV light's been proposed, or just
24 the -- the appearance of these structures on the
25 skyline, or on the landscape, but in a way, it doesn't

1 matter.

2 We know that they have -- they have an
3 effect, and -- and in fact, the uncertainty around them
4 supports some of the -- the recommendations that have -
5 - made today, and to the need for more research. Maybe
6 it's UV, maybe it's something else, but we don't know,
7 and that -- that uncertainty remains.

8 We know that there's going to be habitat
9 loss in the form of a waste rock pile, and that this is
10 going to be a -- a non-trivial change to the landscape
11 in addition to the cut through the esker, the road that
12 runs from Misery across to where the Jay site is
13 proposed to be. The Jay site itself, of course.
14 Anyone who's seen the pits knows that they're not
15 insubstantial.

16 And there's been a lot of talk of, you
17 know, the -- the relatively small footprint that these
18 structures present on the landscape, and when weighted
19 against, of course, the -- the vastness of the tundra,
20 no one can argue that. That said, not all -- not all
21 habitat is weighted equally, where with this project,
22 it -- it really does bisect an important migratory
23 route that has been identified.

24 It's been identified through traditional
25 knowledge. It's been identified through radio collar

1 data. We know the caribou come through there, and we
2 know that we're slapping a -- a structure right in
3 their way.

4 Now, the -- you can take all these parts
5 that we -- basically everyone agrees has an effect, put
6 them all together, and then say that it -- it doesn't
7 have a significant effect for the YKDFN really defines
8 logic. And I guess that's because it, as has been
9 shown here in -- in multiple discussion, hinges on what
10 the meaning of 'significant' is.

11 And, of course, that's for the Board to
12 decide, but for the part of the Yellowknives Dene, the
13 -- it is significant. They -- they know it's
14 significant for them. This is a site they've used, you
15 know, for many years, and it has great cultural
16 significance, as you'll see in the traditional
17 knowledge presentation. The archeology supports this.
18 The traditional knowledge supports this.

19 You know, talking with -- Elders in the
20 community talk about going out to these sites and
21 hunting. And so whether or not it's significant for --
22 for the YKDFN is -- is resolved. It is significant,
23 and -- and we just hope that that's a view shared by
24 others.

25 Now, a -- a slightly more -- a -- a

1 little turn to a more technical interpretation of
2 significance, and -- and just to very briefly touch on
3 the modelling and the significance of the modelling,
4 and how -- if not explicitly, then sort of -- it --
5 it's implied that the -- we're -- we're looking at
6 often sort of TK versus science, and it's -- modelling
7 is being held up as a scientific approach.

8 But I'd -- I'd really like to point out
9 that a model isn't science. A model is a tool used in
10 science the same way any number of tools are used in
11 science. But a model is only as good as the inputs.
12 So a model is something you put information into, and
13 you spits information back out. And this is where we
14 get this point zero one (.01) to point zero three (.03)
15 number that keeps -- sort of being going back and forth
16 today.

17 One of the things about models is they
18 do -- they do fail, and sometimes they fail
19 catastrophically. And often this is the result of not
20 necessarily tech -- technical reasons. It's not that
21 there's anything wrong with how the model is executed,
22 it's that -- that there's missing things. You don't
23 know what they are.

24 We don't know -- I mean, we -- none of
25 us know why -- where -- why are the -- why has the

1 population collapsed? And we don't know. And the
2 model doesn't tell us why. The model describes
3 something that happens. It doesn't prescribe how it
4 will happen, and it doesn't tell us why it happens. It
5 says, Given these inputs, the population might do this
6 or that within some margin of error stipulated by our
7 statistical approach.

8 But it doesn't tell you what the missing
9 piece is that you didn't account for that sees the
10 population collapse, and it can't, because that's not
11 what models are. And that's fine. And they're still a
12 very good tool, but I think that just -- that's just
13 something that needed to be -- to be said. It's --
14 models are great tools, and -- and often they're the
15 only -- only tool.

16 But they're not prescriptive, and they -
17 - they don't predict the future. And if there's a gap,
18 you -- you might not know till it's too late, and
19 you're just -- you're left with your model that says,
20 Well, you know, the model said it was going to be okay,
21 and, you know, it's -- that's that.

22 And so, you know, taking it all
23 together, the -- the Yellowknives Dene have made a
24 number of sacrifices. They've made sacrifice in terms
25 of their, you know, Aboriginal rights to hunt. They've

1 made sacrifices in terms of, you know, cultural
2 practices surrounding the hunt and secondary activities
3 that arise after the hunt. There's been sacrifices --
4 nutritional.

5 Just socio-economic nutrit --
6 nutritional sacrifices. This is -- you know, it's
7 well-documented that -- you know, that the meat from
8 caribou from hunting generally, the -- you know, it --
9 it offsets -- it offsets costs for things that now have
10 to be bought at grocery stores. And that's -- these
11 are all things that -- again, it wasn't really dealt
12 with that much, but the -- you can't put these things
13 in silos.

14 Like the -- the caribou are socio-
15 economic. They are cultural. You know, they are --
16 you know, spiritual. They're -- they're so many
17 things, and that's why for the Yellowknives Dene this
18 is really -- it is significant for them. Whether or
19 not this process finds it significant, it will remain
20 significant for them. And they will -- they will go
21 home and it will continue to be significant long on
22 after this process is over.

23

24 (BRIEF PAUSE)

25

1 MR. ALEX POWER: So just one (1) final
2 thing that I -- I guess I forgot to say is that, I
3 mean, the -- the other -- all this sort of fits under
4 the auspice of, you know, the zone of influence.

5 You know, all the -- all these things
6 contribute to the zone of influence, and -- and that's
7 again something we -- we don't even really know what
8 defines it, what factors -- all the factors that
9 influence it. Of course, we know some, and we don't
10 know how mitigating them is -- is going to alleviate
11 that.

12 What we do know is that, you know, the
13 Yellowknives Dene are not killing caribou, you know.
14 People have gone out even before the Bands, and they're
15 not killing them because there's nothing there to --
16 there's no -- nothing there to harvest. So that's not
17 it.

18 So I guess, just as a final word, we
19 just hope that the position of the Yellowknives Dene is
20 really -- is considered, their -- the -- the sacrifices
21 they've made to date are considered, and that the --
22 their interpretation of -- of significance is -- is
23 given some weight, because again, to -- to the
24 Yellowknives Dene, this -- that's resolved, it's
25 significant, and we just hope that that can be --

1 others can be convinced of the same thing. Thank you.

2 I will pass this over to -- I didn't --
3 I didn't read the slides. They're just bullets, and
4 the Review Board has all the recommendations already in
5 the technical report. So I didn't think you wanted to
6 hear me just read through those, and you've heard them
7 already. Thank you.

8

9 (BRIEF PAUSE)

10

11 MR. RANDY FREEMAN: Anyway, thank you.
12 My name is Randy Freeman. I'm the traditional
13 knowledge specialist with the Yellowknives Dene. I
14 have been in the North for close to 30 years. I've
15 worked on traditional knowledge projects with many
16 First Nations, but almost exclusively with the
17 Yellowknives Dene for the past five (5) years.

18 What we did somewhat more than a year
19 ago now, we -- we approached Dominion Diamonds
20 requesting funding to take another look at a -- at a
21 massive project that was undertaken, started about
22 twenty (20) years ago. And I'd like to public --
23 publicly acknowledge the -- the support of Dominion
24 Diamonds for this project. Thank you very much.

25 It enabled us to begin the process of

1 digitizing and re-examining and analyzing, as I said, a
2 -- a large, a massive amount of information that was
3 gathered over a three (3) year period, twenty (20)
4 years -- eighteen (18), twenty (20) years ago. And we
5 were able to take a very close look at the
6 recommendations made at that point in time.

7 We had a site visit. The -- the
8 pictures you'll see in a few minutes here were part of
9 that. We held workshops, we held interviews, we talked
10 to Elders, today's Elders, about what the Elders of
11 twenty (20) years ago recommended, what they talked
12 about, what their concerns were.

13 And when I say, "the -- the Elders of
14 twenty (20) years ago," many of the Elders who were
15 part of that project twenty (20) years ago are now
16 gone. So I'm -- I'm here not only representing the
17 Elders of today, but the Elders of -- of yesterday.

18 And we produced a report from that. And
19 obviously, there's -- there's -- time does not allow me
20 to go through that report. It's there on the -- on the
21 record.

22 And so I guess I'm here to impress upon
23 the Board the -- the -- why that particular area where
24 the diamond mines are -- Lac de Gras, Ekati, and Lac du
25 Sauvage -- it has a traditional name, Nak --

1 Nak'ooaati, and I probably mispronounced that -- to
2 impress upon the Board just how very important that
3 area is to the Yellowknives Dene. And I think that I
4 can, by extension, say how important it is to other
5 First Nations, especially those who -- who, like the
6 Yellowknives Dene, can claim to be descendants of the
7 Tsetsoot'ine people.

8 And that would include the Yellowknives
9 Dene, the people from around Fort Resolution, and
10 Lutsel K'e, which is why we have a land claim underway
11 that's collectively called Akaitcho process.

12 So I'm not sure whether this is -- oh,
13 yeah. There we go. That's how you spell it, and you -
14 - there's a lot of -- lot of discussion about how it
15 should be spelled properly, but...

16 So the Yellowknives Dene, Tsetsoot'ine
17 descendants, are -- are also very closely related to
18 the Tlicho people.

19 And there are some significant events
20 over the past hundred (100) to a hundred and fifty
21 (150) years that happened with the Yellowknives Dene:
22 The signing of Treaty 8 and the -- and the mistakes
23 that were made in -- in claiming that Chief Drygeese
24 was a Dogrib -- he was not -- and in failing to extend
25 the boundary of that Treaty north of the north shore of

1 Great Slave Lake.

2 These were in part rectified in 1923
3 when the federal government came north and talked again
4 to Chief Drygeese, and the Yellowknife preserve was
5 created on federal maps.

6 Another very significant event, 1928
7 influenza. 1934, everyone knows that gold was
8 discovered in Yellowknife Bay, and all of the -- the
9 negative impacts of that that the Yellowknives Dene
10 have had to deal with.

11 And the not quite final insult, but when
12 anthropologists who were working with the Tlicho
13 determined that the Yellowknives Dene no longer
14 existed, which came as a big surprise to the
15 Yellowknives Dene, to be told that the last of you died
16 in 1928.

17 The development -- I didn't add that. I
18 -- I should have added this as a -- another point at
19 the end here. The -- the development of diamond mines
20 and mining in the Lac de Gras area was another
21 incredibly significant event for the Yellowknives Dene.

22 Mining for gold on -- in Yellowknife Bay
23 had destroyed their fishery, the -- the resource that
24 they relied upon to fish, net fish, dry fish, travel
25 north to the Lac de Gras area in order to meet the

1 caribou.

2 And up until recently, at least -- you
3 know, the fish may be gone, at least the -- the coney
4 that ran -- migrated up the Yellowknife River. They
5 may be gone, but at least they still had the caribou.
6 And that could have been -- you know, could have said
7 that to be true up until just a few years ago. And
8 certainly the -- the numbers, the most recent numbers,
9 are -- are alarming.

10 Going back to 1995, when the Elders
11 first got together to discuss the -- the whole -- the -
12 - the fact that mines were going to go into that
13 particular area was also a very alarming sort of thing.

14 We can -- you can read that into the --
15 the notes, you can hear it in the audiotapes and the
16 videotapes, and that the -- the predictions that were
17 made then -- well, the -- the number 1 recommendation
18 at that point in time was, Don't have a mine there, or
19 Don't have any mines there. Obviously, that didn't
20 happen.

21 And I don't think they had any realistic
22 expectations that it wouldn't happen. But the
23 predictions at that point in time were significant
24 impacts to the caribou that -- that had, for thousands
25 of years, reliably migrated through that area, and

1 about this time of year, could be found crossing Ekati,
2 Lac de Gras at the -- the numerous swimming places that
3 exist on the -- the eastern end of the lake.

4 This was how they -- they survived on
5 the land. I mean, it was -- the -- the fish from the -
6 - the bay here, the fish from the other -- numerous
7 other bays where the villages were located along the
8 north shore, fall, you know, fishing in the late summer
9 and early fall, drying fish, heading north, meeting the
10 caribou, harvesting those caribou, drying the caribou
11 meat, and processing the fat. And that's where the
12 name Ekati comes from, is the processing or rendering
13 of the fat. And apparently it was quite noticeable for
14 many generations, the smell of that in the air in the
15 fall.

16 So we -- we go from a situation of the
17 Yellowknives Dene having to -- you know, having lost
18 that particular resource in the harvesting of the -- of
19 the Coney on the Yellowknife River to now apparently
20 losing this resource of the -- the caribou in that
21 particular area.

22 Now, I -- I was quite disturbed to hear
23 someone with Dominion Diamonds talking about the road
24 that will cross from the Misery camp or Misery pit area
25 will cross a mere, what is it, six (6) or seven (7)

1 kilometres. And that -- you know, the way that it was
2 -- the way that it said, it was just -- just six (6)
3 kilometres.

4 Well, back in 1995 and '96 and '97, when
5 Elders got together they -- they discussed the role
6 that that area played in as a major migration route for
7 the Bathurst and conceded at that point in time that,
8 yes, there were going to be mines there. And the mines
9 -- you know, the recommendations within that report,
10 that they keep as far away as possible from the Misery
11 esker and the Misery -- Point Mis -- Point Misery and
12 the narrows, which are -- if I can point out. Okay,
13 here -- here's the narrows here. The esker runs up
14 here and a mine up here and the mine down here.

15 When you look at this map you -- you see
16 that it's -- why the caribou come through this area.
17 There are places that they can -- wow, five (5)
18 minutes. I only just got started. There are places
19 that they can swim across. And that is where -- where
20 the Yellowknives Dene and other First Nations used to -
21 - used to go in the fall to harvest those caribou.
22 When the mine went in on that island, that, of course,
23 cut that route off. When the Misery pit went in, that
24 -- that deflected the caribou over to here.

25 So the recommendations at that point in

1 time by the Elders were, you know, if you're going to
2 put mines in there, just, you know, keep away from the
3 Misery esker and don't go east of the Misery esker over
4 towards Lac de Sauvage.

5 Today, we now hear that that's in fact
6 what the plan is and that this has raised a great deal
7 of alarm amongst the Yellowknives Dene. And it's --
8 and Todd Ye -- or sorry, I called him Todd. I
9 shouldn't do that. Alex, our new Todd, he -- he used
10 the analogy of, you know, cutting a rope. And I -- I -
11 - it was kind of over my head, I guess, so I thought
12 more about thinking of this as a Los Angeles freeway,
13 you know, six (6) lanes wide.

14 And in the 1990s, you know, three (3) of
15 those lanes were closed, you know, so caribou got
16 forced to go more easterly. They still had a fine
17 place to cross at the narrows and at the end of the
18 Misery esker, but they no longer had access to the
19 caribou swimming places that were a little bit further
20 to the west.

21 Well, now that the proposal is to
22 perhaps not close the other three (3) lanes of this --
23 this freeway, but to -- to put some significant -- in
24 the -- in the words of the Elders, significant barriers
25 across those -- the remaining migration route, and

1 that's, of course, a very big concern.

2 Here is just some of the information
3 that was gathered twenty (20) years ago about fish --
4 where the fish over went or where the -- in the summer
5 -- spring and summer you can find fish. And if you
6 actually could zoom in on this you could see that that
7 little bit of purple is there under the Jay pipe.

8 We've got, you know, additional
9 information showing where there's -- there are graves.
10 And -- and I'm going to go ahead. Here's -- here's
11 Misery esker. Here's an archeological site. You know,
12 the archeology backs up what the Elders are claiming.
13 It's a hundreds, thousands -- perhaps thousands of
14 years of use of that area. Here's the esker going off
15 into the distance north. And here's the little saddle.
16 And I assume this is still part of the plan. This is
17 where the road will cross. This is somewhat further
18 north than that.

19 And you can see it. I mean, off in the
20 distance the Misery esker goes across there. This is
21 the -- the Misery pit and there's Lac du Sauvage off
22 there and -- and somewhere in one (1) of these little
23 bays out here is -- is where the Jay-pipe is located.

24 Turning from -- well, the same shot, but
25 taken a different direction, again, you have the esker.

1 You have the Misery pit. Looking down from this
2 helicopter it was very, very obvious that this is a
3 well used route. Caribou tracks are -- are visible.
4 They don't look old and overgrown as if they hadn't
5 been used in many, many years.

6 And we get to the narrows. And this --
7 you know, they're all -- they're leading to the
8 narrows. They're leading to the point of land that
9 sticks out in the lake down here just below the
10 helicopter. And here we have, you know, caribou track
11 coming across the narrows. This is a -- this is quite
12 an amazing picture. This is Kyle Sangris (phonetic)
13 standing there, you know, ankle deep at least in -- in
14 caribou hair. This is at the narrows. This was taken
15 in 1995/'96, somewhere in there.

16 It just shows that, at -- at least at
17 that point in time there were significant caribou
18 crossing at the narrows. They were losing their hair.
19 The hair was piling up and there's Kyle Sangris kind of
20 looking down. And -- and -- I don't think that you
21 could go there any longer and -- and still see the same
22 phenomena.

23 So it's a -- it's a major concern for
24 the Yellowknives Dene Elders that -- that a barrier --
25 a perceived barrier will go up in the form of a -- a

1 road and in the form of a pit.

2 This is, again, from the helicopter
3 showing the area. There's a ring of islands and this
4 is the -- correct me if I'm wrong. This is the Jay pit
5 area right in -- in here. And this was a little cache
6 that we found -- discovered being recorded by the
7 archeologists, which is almost directly below the
8 helicopter in the -- what was -- what will be the waste
9 rock area, I believe.

10 So the -- the evidence is there in the
11 traditional knowledge. The evidence is there in the
12 archeology. The -- the concern is there and it has
13 been there for many, many years by the Yellowknives
14 Dene Elders that impacts on the Bathurst herd will take
15 place, have taken place. Their predictions of those
16 impacts appear to have come true.

17 And, yes, they have lived through many
18 ups and downs in the caribou herd, caribou numbers, but
19 I don't think that anyone is saying that they've seen
20 it -- this much of a fluctuation in this short of a
21 period of time. So they do equate diamond mines with
22 caribou impacts. I know this clashes with what the
23 scientists are saying, but this is what the
24 Yellowknives Dene have -- Elders have observed and this
25 is what they believe.

1 And it was an absolutely gorgeous day
2 when we were out there. This -- nobody has -- nobody
3 has been talking about all the other resources around
4 there. I ate them. Those are -- those are gone, I ate
5 them. And this is out of focus, a blueberry, I ate it
6 too. But you could lay down anywhere you wanted on the
7 land there and it was just rich with berries and not a
8 caribou to be seen. Thank you.

9

10 QUESTION PERIOD:

11 THE CHAIRPERSON: Thank you. Questions
12 from the Monitoring Agency?

13 MR. BILL ROSS: Bill Ross, Agency. No
14 questions. Thank you.

15 THE CHAIRPERSON: Questions, Government
16 of the Northwest Territories?

17 MS. KATE WITHERLY: Kate Witherly. I
18 guess we do.

19 DR. JAN ADAMCZEWSKI: Jan Adamczewski,
20 with GNWT. Just a small request.

21 I would be very interested in seeing
22 that 1997 traditional knowledge study report if that
23 would be available. If -- if it's sort of in the
24 public domain I'd be quite interested in seeing that.
25 Thank you.

1 MR. RANDY FREEMAN: Randy Freeman, with
2 the Yellowknives Dene. I'll have to ask the Chiefs
3 whether that's -- it -- it wasn't at -- at -- in 1997
4 when it was produced it was not meant as a public
5 report. The owners of the Ekati mine received a copy.
6 There are several other copies floating around, but it
7 was -- I could ask. I'll see what I can do.

8 THE CHAIRPERSON: Questions, Government
9 of the Northwest Territories?

10 MS. KATE WITHERLY: Kate Witherly. No
11 more questions. Thanks.

12 THE CHAIRPERSON: Questions, Lutsel K'e
13 Dene First Nation?

14 MR. PETER UNGER: Peter Unger, Lutsel
15 K'e Dene First Nation. We'd like to thank the
16 Yellowknives for their presentation, but we have no
17 questions. Thank you.

18 THE CHAIRPERSON: Questions, Tlicho
19 Government?

20 MR. SJOERD VAN DER WIELEN: Sjoerd Van
21 der Wielen, Tlicho Government. No questions from the
22 Tlicho Government.

23 THE CHAIRPERSON: Questions,
24 Environment Canada?

25 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey

1 McMillan with Environment Canada. No questions.

2 THE CHAIRPERSON: Questions, Fisheries
3 and Oceans Canada?

4 MS. JULIE DAHL: Julie Dahl, Fisheries
5 and Oceans Canada. No questions.

6 THE CHAIRPERSON: Questions, North
7 Slave Metis Alliance?

8 MR. SHIN SHIGA: Shin Shiga, North
9 Slave Metis Alliance. We have no questions.

10 THE CHAIRPERSON: Questions, Deninu Kue
11 First Nation?

12 MR. MARC D'ENTREMONT: Marc
13 d'Entremont, for the DKFN. We have no questions.

14 THE CHAIRPERSON: Questions, Diavik
15 Diamond Mines?

16 MR. GORD MACDONALD: Gord MacDonald,
17 with Diavik. No questions.

18 THE CHAIRPERSON: Questions, Fort
19 Resolution Metis Council?

20

21 (BRIEF PAUSE)

22

23 THE CHAIRPERSON: Questions, Transport
24 Canada?

25 MS. ANITA GUDMUNDSUN: Anita

1 Gudmundsun, Transport Canada. No questions.

2 THE CHAIRPERSON: Questions, Dominion
3 Diamond Ekati Corporation?

4 MR. RICHARD BARGERY: Richard Bargery,
5 Dominion Diamond. I'd like to thank Alex and Randy for
6 their presentation, but we have no questions.

7 THE CHAIRPERSON: Questions from the
8 Review Board staff and counsel?

9 DR. ANNE GUNN: Anne Gunn, for the
10 Board. Madam Chairman, I have one (1) question. Thank
11 you for your presentation, and that spectacular shot of
12 the caribou hair at the narrows.

13 Do the Yellowknives Dene have any advice
14 or recommendations for looking after from in --
15 conserving that crossing so that in ten (10), twenty
16 (20) years when the Jay pit is closed and the caribou
17 will resume the use of the Esker crossing that the
18 narrows water crossing is intact and so they can
19 continue to proceed through?

20 MR. RANDY FREEMAN: Randy Freeman, for
21 the Yellowknives Dene. Yes, there was a very specific
22 recommendation that was made and, I believe, reiterated
23 in the -- the most recent report. But made in the --
24 in the 1997 report, and this was based on observations.

25 That -- when caribou cross at the

1 narrows there's a lot of -- there's a lot of boulders
2 submerged, and -- and they have frequently observed
3 caribou with their legs stuck in these boulders, and
4 having drowned. And so they -- they view it as a very
5 dangerous crossing.

6 It's a very -- it's -- it's a very
7 tempting crossing for caribou because it's very short.
8 You know, it's -- it looks like an easy swim compared
9 to some of the other crossings. But it's also very
10 dangerous, and the recommendation made in 1997 was to
11 go in and fill up some of those gaps between the big
12 boulders immediately under the water. Make that
13 transition a little easier to get into the deep water
14 where they actually swim.

15 So whether that's something that would
16 be allowed under water regulations, or whatever habi --
17 fish habitat, I'm not sure. But it was something that
18 the Elders thought would be very helpful to the
19 caribou. And certainly once the -- the mines have
20 closed down they do anticipate a large number of
21 caribou.

22 They -- they do -- they do hope that --
23 they do believe that the caribou numbers will come
24 back, and that once again it'll be a very important
25 caribou migration route, and caribou swimming places.

1 So making one of those swimming places easier would be
2 a good idea.

3 DR. ANNE GUNN: Anne Gunn, for the
4 Board. Thank you for that answer.

5 THE CHAIRPERSON: Questions from Board
6 members?

7 MS. YVONNE DOOLITTLE: Yvonne
8 Doolittle, Review Board member. You talk a little bit
9 about -- in your -- in the TK reports that the lands
10 that are wide and open.

11 Is that -- is that study on file -- what
12 -- did you file that study? And in there is that where
13 some of the written documentation from Elders talking
14 about avoidance of the Misery esker and narrows, is
15 that where that information is located? Yeah.

16 MR. RANDY FREEMAN: Randy Freeman,
17 Yellowknives Dene. Yes, that was -- the report was
18 filed with the Board. And there buried in the ninety
19 (90) some pages are -- are recommendations. And I
20 believe that was one (1) of them the -- mentioned.

21 MS. YVONNE DOOLITTLE: Thank you. I'll
22 have to go and look for that -- refresh myself with it
23 anyway. The other question that I wanted to ask is:
24 The -- how often -- how often is caribou talked about
25 and -- in this -- in this area of the Ekati mine, and

1 where the potential Developer's footprint is right now?
2 How oft -- how often is caribou talked about and the --
3 and the impacts coming true, and -- and those words
4 that you have used?

5 How often is that talked about in your -
6 - with -- with your members?

7 MR. RANDY FREEMAN: Talked about on --
8 oh, sorry. Randy Freeman, Yellowknives Dene. Talk --
9 in the sense of talked about in a formal, like,
10 workshops, the workshops that we hold are often
11 specific to projects that we're doing. But I can -- I
12 can assure you that even when a workshop is being held
13 that has nothing to do with caribou, it comes around to
14 -- the subject comes around to caribou. The discussion
15 is always there.

16 And it's something that in the five (5)
17 years that I've been with the Yellowknives Dene that I
18 hear on a daily basis. There's talk of caribou.
19 Whether it's talk ab -- of hunting restrictions,
20 whether it's talk of reduced numbers, or whether it's
21 talk of, you know, where are the caribou now sorts of
22 things. It's always there. It's always just below the
23 sur-- surface.

24 And -- and if I wanted to start a
25 conversation with someone all I have to do is say one

1 word, and that's caribou. And away they go. I mean,
2 they all have an opinion. They all have information.
3 They -- they -- the Elders are oriented to caribou to
4 the extent that it's -- it's not something you could
5 ever escape. You know, it's -- it's always there.

6 MS. YVONNE DOOLITTLE: Specifically, I
7 -- I guess, too is -- sorry. Yvonne Doolittle, Reb --
8 Review Board member.

9 Some of the words that you said were
10 'impacts to -- have come true'. So in those
11 discussions in -- in your dialogue with the Elders,
12 what are some of those impacts that they are saying are
13 -- I guess are they talking about them in a negative
14 sense, or a significant se -- exp -- how are they
15 talking about them? When they -- when you're saying
16 that they're always wanting to talk about it, and they
17 -- it's a big discussion even when the focus isn't
18 about caribou. It's always on the people's mind.

19 What are they saying about the impacts?
20 What impacts, and are they negative or positive?

21 MR. RANDY FREEMAN: Randy Freeman,
22 Yellowknives Dene. They -- when I talked about the
23 predictions made -- or not predictions, the
24 recommendations and predictions, because they can --
25 they can be read many ways, but made in 1997, were of

1 caribou. There were others. There were quite a few
2 recommendations. But the ones on caribou were of a --
3 a future. They saw a future of -- of some dramatic
4 impacts on the caribou, on caribou populations, on
5 caribou routes, on the perhaps future inability to find
6 caribou and hunt caribou.

7 I mean, the Yellowknives Dene had been
8 going to the Lac de Gras area in -- generally in
9 September of each fall, each year, for hundreds and
10 perhaps thousands of years. And they -- they -- when
11 the diamond mines went in, the -- the focus changed to
12 hunting in the MacKay Lake area, at least in the fall.
13 That's where the -- the annual fall hunt took place.
14 Up until just a few years ago there was a fall hunt.

15 So they're -- they're utilizing, you
16 know, still were utilizing that resource up until a
17 very few years ago. And it's something that's always
18 on the minds of, not only the Elders, but, you know,
19 younger harvesters. And as we get into the caribou
20 season as it was perceived, it -- it'll just be front
21 and centre in -- in many conversations.

22 MR. ALEX POWER: Alex Power,
23 Yellowknives Dene. To add to -- to Randy's answer, in
24 -- in discussions with the Department of Wellness at
25 the Yellowknives Dene, some of the things that have

1 come up around caribou, and the current lack of
2 caribou, specifically that Anne thinks -- or
3 specifically address your question is, you know, a lack
4 of community activities because a lot of community
5 activities and cultural practices are centred around,
6 you know, traditional hunts and going out on the land.

7 And it's not just the harvest, but the -
8 - like, it's not -- you know, it's not just the meat or
9 the -- or the hides that come out of this, it's -- it's
10 the practice of the community going out together and --
11 and taking part in this activity that's been practised
12 for -- for generations. And some specific, you know,
13 to borrow management talk, metrics that, you know, were
14 put forward is people not speaking the language because
15 people speak the language on the land.

16 You don't speak the language when you
17 work at Diavik or Ekati or any of these places. You
18 don't speak it -- depending on where the members live
19 because they don't all live in N'dilo or Det -- Dettah.
20 A number of them live in Yellowknife and go to schools
21 within, you know, YK1 or the Catholic Board or even the
22 -- the Francophone Board. You know, they don't speak
23 the language there.

24 Depending on the age of the parents or
25 if, you know, Elders are living in the house, they

1 might not speak it home either. And so a big concern
2 brought forth by Wellness was that the lack of caribou
3 and, by extension, no commun -- no -- no significant
4 community hunting activities, unless going out on the
5 land was eroding the language and cultural practices,
6 more generally.

7 And related to that, too, there were --
8 there was something that's been brought to me is
9 concern about the relationship between youth and Elders
10 because this is something that -- you know,
11 relationships that would often be built on the land as
12 Elders, you know, convey their knowledge and their
13 experience about being on the land and traditional
14 activities surrounding caribou harvest. And that's
15 when that information is -- is transferred to youth,
16 into the younger generations.

17 And so the lack of caribou and the
18 activities around it are seen as contributing to, you
19 know, linguistic cultural breakdown. And -- and, yeah,
20 so, I mean, that's it, right? That's -- these are --
21 these are the things that -- like, specific items that
22 have brought to me saying, you know, language isn't
23 spoken, people don't know how to leave on the land,
24 people aren't -- you know, nutrition is poor, you know,
25 fitness, which is -- you know, seems trite, but, you

1 know, diabetes is on the rise in First Nation
2 communities and, you know, walking's good for
3 everybody.

4 And so these are all things that aren't
5 getting done because of the lack of caribou, so. Thank
6 you.

7 THE CHAIRPERSON: Questions from Board
8 members? John...?

9 MR. JOHN CURRAN: Yes. John Curran,
10 Review Board. It's for Randy, maybe a very short one.

11 You identified a number of heritage
12 sites within your -- your presentation, although you're
13 sort of bouncing between '97 and more recently, when I
14 think you got those berries.

15 Yesterday, the GNWT had indicated that
16 there were no outstanding concerns about heritage sites
17 specifically. And -- and I just wanted to confirm.
18 Are you disputing that or have -- has everything been
19 taken care of already at site?

20 MR. RANDY FREEMAN: Randy Freeman,
21 Yellowknives Dene. I, too, am an archeologist. And I
22 have no concerns that within the footprint of the mine,
23 that there are any -- any significant archeological
24 sites. There's always a call made at some point, you
25 know, when you have a development, that if you have,

1 you know, a few scattered flakes on the ground, that's
2 an archeological site. But is it something you want to
3 preserve, you know, put a fence around or a Caron up or
4 something. It's -- no, you would never do that.

5 So -- so, no, there are no significant
6 archeological sites. But there are significant
7 archeological sites in the area, quite a number of
8 them, and among those would be the -- the graves that
9 have been identified and I believe have -- we certainly
10 know where they are, and -- and we'll be keeping well
11 away from them, I assume. Yes. Thanks.

12 THE CHAIRPERSON: Questions from Board
13 members? Bertha...?

14 MS. BERTHA NORWEGIAN: Thank you, Madam
15 Chair. I just want clarification. You have here in
16 your documents under 'Recommendations and Cumulative
17 Impacts,' number two (2) the first sentence reads:

18 "Conduct collaborative research with
19 other mine operators to deepen
20 understanding of the true zone of
21 influence."

22 I'm wondering: Is there something
23 missing regarding the zone of influence that we have
24 been talking about? And is there -- is it -- is the
25 zone of influence -- you're referring to the same, or

1 is there something more to this sentence? Thank you.

2 MR. ALEX POWER: Alex Power,
3 Yellowknives Dene. At the risk of being differential,
4 I think IEMA really did a better job of -- of answering
5 around that, and -- and we -- we agree with them. Not
6 just about, you know, the -- the need to identify
7 clearly the zone of influence -- sorry -- but what
8 defines it, or what -- not what defines it. What
9 causes it. Why -- why is there the zone of influence?
10 Is it dust? Is it noise? Is it light? Is it, you
11 know, a little bit of all of these things?

12 And so by extension -- you know, also if
13 -- if we find out it is dust we'd like to see something
14 done about the dust. So, you know, the follow up is
15 also, you know, front and centre on -- on the minds of
16 the -- the YKDFN.

17 Does that -- does that answer...

18 MS. BERTHA NORWEGIAN: Bertha
19 Norwegian, Review Board. No, you're not really
20 answering the question. When you say "a true zone of -
21 - of influence," the way that you've written up the
22 sentence it makes it sound like the Dene have a
23 perspective of -- of a true zone of influence as
24 comparison to what other cultures might think.

25 And there has to be a reason why you put

1 the word 'true' in front of zone of influence so that
2 it appears that there might be something that we're not
3 aware of. Thank you.

4 MR. ALEX POWER: Alex Power,
5 Yellowknives Dene. Okay, sorry, I didn't -- I don't
6 think I really heard your question right the first
7 time.

8 By -- by true zone of influence I'm
9 speaking to the gap in knowledge about what's causing
10 the zone of influence. And so what we're saying is we
11 -- we think it's probably bigger. Like we -- we do
12 think it's bigger than -- than Dominion is saying, the
13 same way we think the impact is greater than Dominion
14 is saying.

15 So true, I guess, is a statement about
16 the difference between what the proponent is -- is
17 suggesting the zone of influence is, and that this new
18 project won't extend the zone of influence
19 significantly. And our contention that it is, in fact,
20 being extended by this and that it's -- it -- it's
21 bigger. The -- the zone of influence, we believe,
22 because of the expansion of the road which creates more
23 dust and noise and -- and all these things that, you
24 know, we -- we believe are contributors to the zone of
25 influence.

1 So that -- that's what it speaks to.

2 MS. BERTHA NORWEGIAN: So would it be
3 correct for me to think, as a Board member, that the
4 true zone of influence not only impacts the land but it
5 also impacts the culture of the Tlicho as a whole
6 seeing as how they use this land for their seasonal
7 hunting grounds?

8 MR. ALEX POWER: Alex Power,
9 Yellowknives Dene. Yes, I -- I think it is safe to say
10 that, you know, anyone who uses this who has a
11 traditional -- as Randy has said that, you know, this
12 is -- this is an area that's been used by a number of
13 groups for a very long time. And their continued
14 ability, or their ability to continue to use it or --
15 you know, after mining's done or the -- or the site's
16 remediated, yeah, it's -- yeah, it would extend.

17 I mean, I guess you can take that. I
18 actually like -- I like the line of thinking of saying,
19 you know, the zone of influence actually conceptually
20 extends out to communities because of course it changes
21 the behaviour of -- of people in the communities.

22 So you could -- you know, you could say,
23 you know, by -- by affecting this area, you're
24 affecting these communities. And that in a sense can
25 be considered part of the zone. It's not how it's --

1 it's used in the DAR and it's not how -- it's not how I
2 used it when -- in drafting this, but -- and I -- and I
3 don't think that was the intent.

4 I mean, I'd like to steal your idea and
5 take credit for it. But everyone's witnessed it, so I
6 can't. But -- but I see what you're saying, and I
7 think it's -- I think that's actually a really good
8 point. I -- I think it really -- it really speaks to
9 the -- the scale and scope of the impacts that these
10 projects have.

11 MS. BERTHA NORWEGIAN: Before I sign
12 off, I just want to apologize to the Tlicho and the
13 Yellowknives. I know that this -- you're speaking on
14 behalf of the Yellowknives, so I didn't mean any harm
15 to anybody. I have no more questions. Thank you.

16 THE CHAIRPERSON: Review Board members,
17 questions? Kirby...?

18 MR. KIRBY MARSHALL: Thank you, Madam
19 Chair. Kirby Marshall, Review Board. With respect to
20 power lines, is the primary issue UV light emissions?
21 And if that issue was dealt with satisfactorily, would
22 you generally not have any further significant issues
23 with power lines? Or are there other things other than
24 UVs that need to get dealt with? Because we've only
25 heard UV with respect to power lines, unless I was

1 sleeping and missed something, which is possible.

2 MR. ALEX POWER: Alex Power,
3 Yellowknives Dene. So the UV issue is an interesting
4 one. It's recently come to light -- I'm sorry. I'm
5 sorry. But, I mean, you bring me here after dinner and
6 this is what you get.

7 You know, the -- the caribou are able to
8 detect ultraviolet light. It's also known that, you
9 know, caribou avoid power lines, and it's known that
10 power lines emit bursts of ultraviolet light.

11 The -- the connection from caribou, yes,
12 are avoiding ultraviolet light is not made. It's -- I
13 don't know. I mean, that's -- and that -- that's part
14 of why we think more research needs to be done.

15 I -- I can't say that. If someone else
16 tells you that's the reason, I mean, I -- I don't think
17 they can say that either. By extension, I don't think
18 anyone can say that that isn't the cause, you know.
19 And that's the flip side of -- of the uncertainty is
20 that, you know, I can't have it both ways, but neither
21 can anyone else.

22 I can't say that, you know, it's UV
23 light. Can't say it isn't. But some -- it's
24 something, something with power lines, and we need to
25 know what that is.

1 MR. KIRBY MARSHALL: Kirby Marshall,
2 Review Board. Calling you after dinner makes you a
3 little wishy-washy, too. Sorry, Alex. Yes, there is -
4 - that connection has not been made between caribou or
5 reindeer and UV light.

6 It's just that it's been brought up in
7 front of us a number of times, so I was hoping to -- to
8 try to -- to sort of nail down from the Yellowknives
9 Dene perspective with respect to if dealing with UV
10 sort of would take that issue off the table.

11 But can I move on to another question?
12 Thanks.

13 With respect to the -- the Jay Haul Road
14 route -- so we've seen four (4) proposed options for
15 it. Dominion has said Option 4 was -- or Alternative 4
16 was just not an option.

17 Does the Yellowknife Dene support as a
18 best option one (1) of the four (4)? Or do you have
19 something alternative to that that you can propose that
20 would be better? Thank you.

21

22 (BRIEF PAUSE)

23

24 MR. ALEX POWER: At this moment, no.
25 The Yellowknives Dene don't have a -- something

1 immediately to propose and say, you know, here's --
2 here's the silver bullet that's better.

3 MR. KIRBY MARSHALL: Fair enough. I
4 appreciate that. Thank you very much for your
5 presentation, Alex and Randy. Appreciate it. And no
6 further questions. Sorry. Kirby Marshall, Review
7 Board. We do it, too.

8 THE CHAIRPERSON: Review Board members,
9 questions? James, no?

10 At this time we'd like to thank the
11 Yellowknives Dene for their presentation. Thank you.

12 MR. ALEX POWER: Alex Power,
13 Yellowknives Dene. Can I make one (1) quick -- now
14 that I have everyone here? Pardon?

15 THE CHAIRPERSON: Ten (10) seconds.

16 MR. ALEX POWER: All right. I'm -- I'm
17 not the new Todd. Todd's the old Alex.

18

19 (BRIEF PAUSE)

20

21 THE CHAIRPERSON: Lutsel K'e Dene First
22 Nation.

23

24 (BRIEF PAUSE)

25

1 PRESENTATION BY LKDFN:

2 MR. PETER UNGER: Okay. Hi, everyone.

3 My name is Peter Unger. I am here representing Lutsel
4 K'e Dene First Nation. Thank you to everyone for
5 staying so late to listen to us.

6 I am just going to smash through my
7 slides fairly quickly, and -- and then a number of
8 community members who I have with me would like to make
9 a few comments. I already introduced them last time,
10 and they'll introduce themselves as we go along. So
11 let's just get into it.

12 So -- I've got to click all the way
13 here. You already saw all this. Here we go. So as --
14 as we mentioned before, Lutsel K'e Dene First Nation's
15 position is that given the precarious position of the
16 Bathurst herd, any impacts are significant. This is
17 especially true now that the GNWT has confirmed this
18 morning that estimates are the lowest they've ever
19 recorded. And it's clear that the reason are unknown.

20 Basically our other point is that, you
21 know, things that we don't know should make us more
22 cautious in this situation, rather than charging ahead
23 or dismissing concerns. I also have to correct myself.
24 When I cited the CBC article, I cited the wrong one.
25 This is the one that I was trying to cite this morning,

1 when I was saying. It's actually December 24th, not
2 December 19th.

3 And the main reason I bring this up is
4 because there is a quote from -- from Minister
5 Miltenberger in it. And these are the two (2) quotes
6 from him. The reason I bring this up is, number 1, it
7 suggests that the GNWT believes that the herd cannot
8 support any further population reductions.

9 And, number 2, it's also key because it
10 shows that our ability, or Lutsel K'e's ability to
11 harvest depends on the recovery of the herd. So it
12 shows a direct link to impacts on the caribou to
13 impacts on the community as a whole.

14 So basically what that boils down to is
15 any impact on the caribou is going to slow population
16 growth. And this impacts not only the practice of
17 culture, but also food security, in that a large number
18 of residents in Lutsel K'e depend on the caribou for
19 food security.

20 The last point I have up there is Lutsel
21 K'e does not believe that self-sustaining and
22 ecologically effective is a sufficient end-point. And
23 in questioning this morning the Board asked Dominion
24 about this. And Dominion said that it was up to the
25 communities to determine cultural significance. Well,

1 for Lutsel K'e cultural significance is the ability to
2 harvest caribou. We cannot harvest the Bathurst
3 caribou, therefore that assessment end-point is not
4 there for us. It's not there until we can harvest them
5 again, so the impacts do have cultural significance.

6 This leads us into our recommendations.
7 And this is our main recommendation. We'd like to
8 request the Board to determine the Jay Project would
9 have significant negative cumulative impacts on the
10 Bathurst caribou herd. We do have further
11 recommendations. This is very long, so to sum it up
12 basically, if the Company is going to go ahead with the
13 development, we would like them to either eliminate all
14 the negative impacts, or compensate and offset them in
15 some way.

16 So some suggestions that have already
17 come up and I'm going to talk about further are further
18 reclamation of waste rock storage areas, the dust
19 management we discussed, the dust management
20 suppression plan, and then compensating the community
21 of Lutsel K'e which ideally would be supporting the
22 community to -- to harvest herds that they can
23 sustainably harvest from.

24 The very, very last resort would be
25 financial compensation to -- which quite honestly the

1 community has mixed feelings. And some of the
2 community members found that to be slightly
3 distasteful. So that would be a last, last resort.

4 The next recommendation is again one we
5 brought up this morning is that we don't know why the
6 population has collapsed. And we think that research
7 needs to be intensified until we definitively know why.
8 And we're asking the communities to support this, and
9 to involve the community of Lutsel K'e, I mean,
10 ideally, all affected communities.

11 Moving on, this is my helicopter shot.
12 It's not nearly as nice as Randy's photos. Clearly I
13 don't take nearly as nice photos, but it will
14 illustrate my point. This is the Misery waste rock
15 pile. Down there, those are like -- those are eighteen
16 (18) wheel trucks, and these two (2) tiny little dots
17 up there are -- are big haul trucks.

18 So as you can see, it is pretty huge.
19 It's not just a small pile of rocks. It's -- it's
20 fairly gigantic. And our -- our issue is that this is
21 a major habitat change in the -- for the caribou.

22 And then our other issue is, I don't
23 know if this has changed, but we did read that -- that
24 caribou would be monitored based on incidental
25 sightings. And we don't think that this is sufficient.

1 We think, given how large that is and you can barely
2 see those haul trucks on the top, there needs to be
3 active monitoring on -- of the waste rock pile.

4 Also, in our opinion -- and again, we're
5 not engineers, but we think that the waste rock pile is
6 the low-hanging fruit for reclamation. It seems like
7 that's something that could be reclaimed and would
8 improve caribou habitat greatly. So that is our
9 recommendation for that.

10 And then again, the -- we'd like to see
11 a waste rock management plan as well and improved
12 monitoring.

13 That really brings me to the end of my
14 slides. I'd like to open it up for community members
15 to make a few comments. I'm going to start off with
16 our Elder, August Enzoë, to let him make a few comments
17 about the caribou and potential impacts from the Jay
18 Project. Thank you.

19 ELDER AUGUST ENZOE: Yeah. My name is
20 August Enzoë. I'm going to speak in my language.

21

22 (INTERPRETED FROM FIRST NATIONS LANGUAGE INTO ENGLISH)

23

24 ELDER AUGUST ENZOE: We're talking
25 about caribou for the last two (2) years -- or two (2)

1 days, all day today. I have been attending all kinds
2 of meetings regarding the caribou. Why is the caribou
3 declining?

4 We can't understand why the caribou is
5 declining, I'll tell you that. I can't say it's
6 because of this. I don't want to blame anybody.

7 In the past, when I had seen caribou --
8 I am seventy-seven (77) years old today. As Dene
9 people, we depend on caribou meat. That's -- that's
10 our livelihood. I'm not even only talking for myself.
11 I'm talking about Boulishey (phonetic) people and
12 Yellowknife and Deninu Kue, even Behchoko people. I'm
13 talking for everybody, all the Natives.

14 As Dene people, if we don't have any
15 meat, we're not going to be happy at all because we're
16 strong till today because we -- we live off the
17 caribou. Because of caribou blood, we are really
18 strong.

19 But now I've been here for two (2) days
20 and I've been eating from the restaurants, and I'm
21 still hungry because I haven't eaten my own meat. Us
22 Elders -- us Elders, if we don't have no caribou and
23 meat and no fish, we're going to starve.

24 In the past before, we used to have
25 abundance of caribou, moose in around Deninu Kue area.

1 There used to be a lot of moose, but now there's hardly
2 any moose. Even caribou. As to we had lost our
3 caribou. We don't know what happened to our caribou.

4 So we can't really blame somebody else
5 and saying it's because of this. Yet there was mine
6 development on our land. Before that, there was a lot
7 of caribou. I would say lots because around BHP,
8 before that development of BHP, there used to be a lot
9 of caribou around that area.

10 But ever since they put the roads in,
11 they put the high -- they made the roads really high,
12 so this is why the caribou had broken all their legs
13 when they were trying to cross over the road. I had
14 seen it with my eyes. Now it's all passed, that's
15 history.

16 But now when I go back to that mine and
17 now I noticed that they fixed the road. They made the
18 road lower where the caribou could cross easily. So
19 it's very good that if they make our roads very low so
20 the caribou could also use those roads in the future.
21 Event that Misery pit the road, it used to be really
22 high, but now they've fixed it, so it's very good now,
23 so the caribou could cross the road.

24 Now they said they're going to make
25 another road to Jay pit. That's on the esker. They

1 said -- we had checked out that esker where they're
2 going to -- the road is proposed. That's where they're
3 going to do it. And then we seen where -- where the
4 Misery pit is. We never check on -- on that land --
5 that area. Why is -- why weren't we brought there?
6 Because they told us we never had time to check that
7 area where that Jay pipe is going to be.

8 And also, they're going to have light
9 poles and the Elders are say -- even me I'm thinking,
10 If they put that light -- light poles for power the
11 caribou is not going to go there, because the caribou
12 is really -- it's really proud of their -- our -- their
13 horns. They protect their horns so they -- people from
14 Saskatchewan are saying that also and people from our
15 Elders in the past used to tell us that too.

16 They also say they never seen no caribou
17 in Saskatchewan area. This is why. That's an
18 experience they had. This is why I'm saying this. If
19 we lose our caribou in the past our Elders had used to
20 say, I seen -- from 1800 -- in 1950s I seen people that
21 are alive from 1800s, that were born in 1800s.

22 Our great grandfathers used to tell us
23 about caribou. In the future, they said, maybe you're
24 going to see it. They were telling me that the caribou
25 is going to be declining, it's going to disappear.

1 They're not going to say why. They didn't say why it
2 was going to disappear. But that was the prediction of
3 the future from our Elders, but now this is what it
4 seems like is happening.

5 We don't know why the caribou is
6 disappearing, because I don't think anybody would
7 understand that even though if you did really a lot of
8 studies. Even us, we don't even know why. Maybe it's
9 something or maybe this is how it was meant to be. We
10 know our land is dying.

11 Around my area we used to have a lot of
12 berries around Lutsel -- we used to have a lot of
13 cranberries before, a lot of -- woman's used to go
14 berry picking in the -- in the fall time. But for the
15 last three (3) years now there's no berries. There's
16 hardly any blueberries at all too.

17 In the past I never used to buy jam from
18 the store. From the last two (2) years now I started
19 buying jam from the store. I used to make my own jam.
20 So I said everything is dying from us. Not only our
21 caribou and also our berries and also our lands are all
22 burnt.

23 Just like last year -- a couple years
24 ago there's a big fire. Nobody started that fire.
25 It's because of the lightning, but yet as soon as the

1 fire starts by the lightning they -- they don't even
2 try to put out that fire. This is why. It's because
3 of the government. I don't know why they're not
4 putting out fires if it's close to that community.

5 And when -- we had two (2) herds that
6 come back to us in our area. In the wintertime they go
7 -- we go to barren land. They go to reliance and they
8 stay there for a while and they turn back and go back -
9 - back to the barren -- barren lands. It has been
10 happening the last four (4) years.

11 So -- we have meat all the time now, all
12 winter long. And besides that, our Dogrib people from
13 this -- come hunting too. We Dene people, we can't say
14 no to them. Every where -- people from Tachipa
15 (phonetic), and the people from Deninu Kue are come and
16 visit -- vis -- hunting too. So in the winter we have
17 four (4) people working there for us.

18 So people when they go -- they go hunt
19 and they're with -- they're the peop -- the four (4)
20 people that go -- that travel with them to guide them
21 so that they don't waste meat. When they stay there
22 two (2) weeks, that the -- they leave and then another
23 four (4) come. So all -- we live -- together so always
24 work all winter long.

25 How -- that's why we have caribou meat

1 now. That's why I said people from -- we can't tell
2 people from the out -- outside, the people that eat
3 meat like us, we can't tell them to go away. That's
4 all I wanted to say for now.

5

6 (INTERPRETATION CONCLUDED)

7

8 MS. BERNA CATHOLIQUE: Berna
9 Catholique, Lutsel K'e Dene First Nation. (OTHER
10 LANGUAGE SPOKEN) but we notice that there is impact on
11 the caribou. The caribou has declined, and they are
12 very skinny. Caribou used to come right in front of
13 our community, and now we haven't seen them for a long
14 time. And -- and they're heading south instead.

15 The Jay Project wants to make a road
16 right on the caribou migrating route, and told us it
17 will not affect the caribou. But it will affect the
18 caribou because of the noise, dust, and air pollution.
19 You say you're going to put up signs so the caribou can
20 have the right of the way, but they can't read or know
21 they have the right of the way. They get spooked easy,
22 and if they hear all the noise they would turn to a
23 different route with less noise.

24 The caribou is very, very important in
25 our lives. They are our main source of food for our

1 community. I'm very worried about the impact it will
2 have for our future generations. We at -- we eat
3 caribou almost every day in our livelihood. For me,
4 it's like what if you were told that cows are declining
5 and you will have no beef for a while? Wouldn't you
6 worry about it? Thank you.

7 MR. RON FATT: Good afternoon, Review
8 Board. My name is Ron Fatt, Lutsel K'e Dene First
9 Nation. I've been attending some of these meetings,
10 workshops with Elders, other community Elders.

11 You know, from what I see and hear and
12 what I understand is that the alarming rate of -- of
13 the caribou declining, it doesn't seem to -- to
14 industry to recognize or understand the magnitude of --
15 of this impact. When I say 'impact' I'm talking about
16 -- I'm -- I'm a traditional person. Traditional person
17 -- I was raised -- that's how I was raised by my mom,
18 my dad, and my -- my brothers. My whole relatives, you
19 know.

20 So -- so it's like a religion to me, my
21 tradition. This tradition I'm physically, mentally,
22 spiritually impact. That's a lot of impact. For one
23 (1) caribou to be impact, that's -- that's me right
24 there, one (1) caribou.

25 But when you take this huge number, the

1 last fourteen (14) years, from what we know and
2 understand is from four hundred and fifty thousand
3 (450,000) to twenty thousand (20,000) today, when you
4 look at the statistics and the results, how the caribou
5 are declining, the next ten (10) years there's going to
6 be no more Bathurst herd.

7 When you look at a herd like that
8 declining from industry, industry -- from what I heard
9 today it's like for them they're not at fault, you
10 know? It's the government, too, is at fault because
11 their government -- their policies are so lenient, so
12 therefore they get away with lot of things.

13 And -- and this -- this kind of impact,
14 you know, the other day before I came here I -- I was
15 telling a story with my son there. You know, he's
16 fourteen (14) years old. And 1993 was the last time I
17 saw caribou in the Bay. And when I asked him that
18 there used to be caribou, I'd get up, I look out the
19 window and I see caribou right across -- right across
20 the Bay. Today it's not like that, you know. This --
21 this kind of measurements that we need to put -- put in
22 place. We need to mitigate it fully and enforce it
23 fully so that industry like this won't get away with
24 it.

25 You know, they have lots of pits that

1 are un -- unclaimed yet. They haven't been rectified
2 yet, and this -- this is a huge number, you know. When
3 you look at -- at outside hunters coming to Lutsel K'e
4 traditional territory where my forefathers hunted and
5 trapped, they still have, you know, trap lands out
6 there. They still have cabins out there. There are --
7 there are graveyards right across the tundra, you know.

8 And -- and I'm not just impacted by
9 industry, but an impact socially. A lot of people that
10 go through the community for hunting, we see a lot of
11 drugs filter into communities. We see a lot of booze
12 filtering into our communities.

13 So, therefore, our social problems are
14 totally high, you know. This -- this kind -- this kind
15 of problem doesn't go away overnight. I need to under
16 -- I need to clearly state that these impacts are
17 tremendous. There is no social or economic or workshop
18 ever been done in -- in our community, this small,
19 little isolated community.

20 The cost of living is, like, four (4),
21 five (5), six (6) times the national average rate from
22 what you guys pay, go to the store here. Us, we don't
23 pay stuff like that. It's way high. I buy 5 gallons,
24 it's, like, fifty (50) bucks there. I buy another 1 --
25 1 litre of oil, it's, like, twelve (12) to fourteen

1 (14), fifteen (15) bucks. You know, you think about
2 those little things that cost a lot of money.

3 And when I go out hunting, 5 gallons is
4 not going to last. I'm spending about four (4) or five
5 hundred (500) bucks for one hundred (100) -- one (1) --
6 one (1) trip, one (1) hunting, you know. And these --
7 these little impacts -- cumulative impacts they were
8 talking about earlier, you know, they say it's really a
9 minimum impact. Well, this year, it's minimum impact.
10 But next year, it's going to be double the impact. The
11 following year, it's going to be triple the impact.
12 These impacts will grow and grow and grow.

13 And look at the numbers today of the
14 Bathurst herd, you know. So there's -- there's a lot
15 of outstanding questions that would -- needs be
16 resolved with industry, with the government. You know,
17 sometimes, there are a lot of negatives things that --
18 even Elders, too.

19 I -- I have -- I have no quarrel with
20 Elders, you know. And Mr. Overvold brought up just one
21 (1) -- one (1) Elder saying, Diamond mines are not at -
22 - are not at fault. Well, I don't believe that. They
23 are 100 percent at fault. We're -- we're not looking
24 those kind of situation. They have all PhDs, you know,
25 it's all bought and paid for in industry. You know, of

1 course they're going to mitigate as hard as they can.

2 It's already bought and paid for, you know.

3 I'm -- I'm at a point where it's like,
4 What are we going to do now? What kind of measures are
5 we going to strongly in place? It seems like, you
6 know, the government just -- we have a new government
7 in place called devolution. They don't seem to have
8 the criteria or the -- or the -- the work that's put
9 forward to engage, you know, and -- and implement and
10 enforce it, you know.

11 And IEMA, these people are here. You
12 know, you strongly advise it, to implement it, you
13 know. It's not happening yet. I'm just going to take
14 my statement to this far. I'm going to conclude this
15 at the rest -- on the Saturday in Lutsel K'e. So I
16 want to say thank you and masi for giving me a chance
17 to speak here.

18 MR. BRIAN SANDERSON: Brian Sanderson,
19 Lutsel K'e Dene. This impacts that you're talking
20 about for days and weeks and years, has it really sink
21 in for you guys for the impacts that we're -- we're
22 having in our lively -- in our lives? The impacts that
23 -- from the mines is not only from recent mines, but in
24 the past, there have been mines in our territory. To
25 be more specific, like, around Outpost Island, and --

1 well, yeah, there's about a few other mines that --
2 that are in our territory that were -- were up and
3 running in the 40s, 30s. And then there was a lot of
4 caribou around. Like, even millions of caribou at that
5 time.

6 From my traditional knowledge,
7 communicating with Elders, there used to be abundance
8 of caribou all over the Great Slave Lake. And then
9 mines came up when -- in the 40s, and then that was --
10 that caribou disappeared. No study's has been done
11 from that -- that time, so we'd have none to work with.
12 And then it was -- now this is happening.

13 Now the -- the caribou was around the
14 Great Slave Lake area those days. Mines went -- went
15 up. They closed. Caribou are gone. Now they move
16 further out, and now there's mines there again. And
17 then that -- now, where are the caribou are? They're
18 gone again.

19 So there's -- from my -- my Elders,
20 they're -- they're all gone now, and one (1) of the --
21 yeah. I still live off the land, and I hunt lots. And
22 not getting nothing is pretty -- pretty tough on my
23 family. Thank you.

24

25 (BRIEF PAUSE)

1 MR. ROGER CATHOLIQUE: Hi. Roger
2 Catholique, Dene First Nation. As a youth growing up
3 in Lutsel K'e, I - - I do remember seeing caribou
4 across the Bay, not even far outside community. And
5 every since that, I remember from BHP came in. Since
6 then, the -- they all have minimum -- minimum impacts.
7 Well, for -- for the first ten (10) years. Then more
8 mines kept popping up. And it drives caribou away,
9 because caribou are very sacred to us. They've been
10 here thousands of years, and -- and millions. And we -
11 - and us -- and our ancestors lived out there for
12 hundreds of years. And -- sorry, it's -- just a little
13 nervous.

14 My point is that my -- my grandfather
15 told me is that even that on the coldest day in the
16 barren lands, where the mines are, at the very spot,
17 you got to be very quiet, because, you know, caribou
18 get spooked real easy. And it's -- for them, it's --
19 it's not natural, even with all the explosions and all
20 the trucks going through.

21 It's -- it goes on year -- yearly -- all
22 -- all year, it goes on. And -- and it makes a big --
23 a significant impact on caribou, because it -- it makes
24 them -- drive them further. And they can't eat as much
25 as they can, because the -- because they get -- get

1 spooked farther from the migrating routes, their old
2 ones, where the mines are now.

3 And this -- this really impacts our
4 community real big, too, because everyone in the
5 community hunts, and we live off the caribou. Love
6 fish. Like, I grew up on the land. I was raised on
7 the land, and -- and I'm a young hunter, and I've been
8 going out as a monitor during the springtime. Well,
9 from wint -- all winter season, I was out there, and I
10 do see a lot -- a lot of people come -- come through
11 our way.

12 And they come a long ways, and it's --
13 sometimes they -- they get no meat, too. And they
14 travel very far, and it's not -- it's not easy to get
15 up there. And -- and then -- and it's not easy
16 skinning a caribou in fifty (50) below. And -- and yet
17 they're skinny, too. All the calves are fat, but the
18 mothers, the cows, they're -- they're skinny, I notice.

19 Back in my younger days, like, they used
20 to be just fat, the caribou. And nowadays, it's --
21 it's skinny. But I'm not saying they're all not like
22 that, but it's -- it's a big impact on the caribou.
23 And -- and it impacts us, too. Every single caribou
24 that is lost impacts us. Because we lived off hundreds
25 of years off the caribou, like, my grandfather and

1 after, his. It -- it impacts the culture, community.

2 And it's real hard for us to really
3 adapt to these changes, but we're -- we're keeping
4 strong as a community to try to reach out and -- and
5 come out to say these things are what finally come out
6 of -- of, Why, what's happening to our caribou?
7 Because even our Elders don't even know where, what's
8 happening. Yes, the mine will have a -- have a impact,
9 but what -- what's happening, too, when they're way
10 further away? That's what the -- we don't know.

11 And my other concern is that for the
12 dust particles off the trucks, or what -- whatever air
13 suppressants they're using. I want to recommend that
14 they check -- check the lichen out in mines. A hundred
15 kilometres, 200 kilometres, even further, because it's
16 the barren lands, the tundra, the very strong winds go
17 far ways. And you -- they -- you don't really know how
18 far the pollutants go. And it could stay there on the
19 -- on the rock, or on the lichen. That's something to
20 think of, too.

21 My other main concern, I -- one (1) of
22 my recent mine trips on -- is this waste -- waste rock.
23 That's -- that's really big. That's real unnatural for
24 caribou. I just wanted to make it, likes -- well --
25 well, you can't change the past now, but we could -- in

1 the future, we could -- could do something to make it
2 less big like that, or make it flat, or something
3 natural to the caribou, because it's unnatural to the
4 caribou. That's our main concern. And -- and it imp -
5 - impacts them dramatically at a alarming rate, over
6 the years, because the mines do run yearly round. And
7 that's all I could think on the top of my head. Thank
8 you for hearing me out.

9 MR. PETER UNGER: Peter Unger, Lutsel
10 K'e Dene First Nations. There's one (1) thing that I
11 think all the community members raised, and maybe I
12 forgot to mention that I'd just like to sum up, is
13 that, yeah, impacts to the Bathurst herd have compound
14 impacts as well, because that means other Aboriginal
15 groups are unable to harvest, and they come, and they
16 harvest in Lutsel K'e Dene traditional territory.

17 And, as August said, you know, we don't
18 want to turn them away. We want to be welcoming. We
19 want to have good relations with them. But it is a
20 concern, because they do come through and they do
21 harvest, you know, a hundred and fifty (150) animals at
22 a time. We had a number of different hunts. We had
23 some hunters from Rae. We had some hunters from Res.
24 We even had some hunters from N'Dilo and -- and they
25 took large numbers and -- and Smith.

1 And we had large numbers of caribou
2 taken, often taken out by a charter, and that is a
3 concern of the community that, Because they're unable
4 to hunt the Bathurst herd, they hunt the herds to the
5 east of us, and that we may not have caribou left for
6 us.

7 That -- that concludes our presentation
8 for right now and thank you very much for your
9 attention. Thank you.

10

11 QUESTION PERIOD:

12 THE CHAIRPERSON: Thank you for your
13 presentation. And just to let you know that we are
14 going into Lutsel K'e this week. So we'll see you
15 there, and hopefully we'll hear more comments from you.

16 At this time, I would like to ask for
17 questions from the Monitoring Agency.

18 MR. BILL ROSS: Bill Ross, Agency. No
19 questions. Thank you.

20 THE CHAIRPERSON: Questions from the
21 Government of the Northwest Territories?

22 MS. LORRAINE SEALE: Lorraine Seale,
23 GNWT. No questions.

24 THE CHAIRPERSON: Questions from the
25 Yellowknives Dene Band First Nation?

1 MR. RANDY FREEMAN: Randy Freeman,
2 Yellowknives Dene First Nation. I'd like to thank the
3 dele -- the rather large delegation from Lutsel K'e for
4 their -- for their heartfelt words, and we have no
5 specific questions.

6 THE CHAIRPERSON: Questions from the
7 Tlicho government?

8 MR. SJOERD VAN DER WIELEN: Sjoerd Van
9 Der Wielen, Tlicho Government. Thank you, Lutsel K'e
10 for this presentation, but no questions from us.

11 THE CHAIRPERSON: Questions,
12 Environment Canada?

13 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey
14 McMillan, with Environment Canada, no questions.

15 THE CHAIRPERSON: Questions, Fisheries
16 and Oceans Canada?

17 MS. JULIE DAHL: Julie Dahl, Fisheries
18 and Oceans Canada. No questions.

19 THE CHAIRPERSON: Questions, North
20 Slave Metis Alliance?

21 MR. SHIN SHIGA: Shin Shiga, North
22 Slave Metis Alliance. We have no questions.

23 THE CHAIRPERSON: Questions, Deninu Kue
24 First Nation?

25 MR. MARC D'ENTREMONT: Marc d'Entremont

1 for the DKFN. We have no questions.

2 THE CHAIRPERSON: Questions, Diavik
3 Diamond mines?

4 MR. GORD MACDONALD: Gord MacDonald, at
5 Diavik. No questions.

6 THE CHAIRPERSON: Questions, Fort
7 Resolution Metis Council?

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: Questions, Transport
12 Canada?

13 MS. ANITA GUDMUNDSON: Anita
14 Gudmundson, Transport Canada. No questions.

15 THE CHAIRPERSON: Questions from
16 Dominion?

17 MR. RICHARD BARGERY: Richard Bargery,
18 Dominion Diamond. And I'd like to thank the committee
19 and Peter for the presentation, and we look forward to
20 seeing you on Saturday in Lutsel K'e. No questions.

21 THE CHAIRPERSON: Questions from the
22 Review Board staff and counsel?

23 MR. MARK CLIFFE-PHILLIPS: No
24 questions, Madam Chair. Thank you to Lutsel K'e.

25 THE CHAIRPERSON: Questions from the

1 Review Board?

2 MS. YVONNE DOOLITTLE: Yvonne
3 Doolittle, Review Board. I'd like to recognize the
4 youth for speaking, the only one (1) so far in this
5 hearing. Congratulations. You were nervous. And if
6 that's what you get off the top of your head, that's
7 pretty impressive.

8 So I look forward to more on Saturday,
9 but I do have a question in general: Just can you give
10 me an example of what you would consider active
11 monitoring?

12 MR. PETER UNGER: Peter Unger, Lutsel
13 K'e Dene First Nations. I mean, ideally, I'd like to
14 have helicopters flying over the waste rock pile and
15 see how the caribou are -- are doing it or have at
16 least someone drive up regularly.

17 Basically, I want the -- I'd like to see
18 the waste rock storage area checked on as opposed to,
19 Hey, if we happen to see caribou. I'm going to turn it
20 over to my committee, though, to see if they have any
21 other ideas on that topic.

22

23 (BRIEF PAUSE)

24

25 MR. PETER UNGER: Yeah. I mean, I'm --

1 we're open to discussing that, how -- with the -- with
2 the -- the Company on, you know, how the best way is,
3 but basically, we'd like regular monitoring to see if
4 the caribou are going up and if they are going up, are
5 they getting down, and to see how -- how their
6 behaviour is different.

7 THE CHAIRPERSON: Questions, Review
8 Board? Bertha...?

9 MS. BERTHA NORWEGIAN: Thank you, Madam
10 Chair. Bertha Norwegian. I have a question for young
11 Mr. Catholique. I'm sure that you've had a lot of
12 opportunity to talk about your concerns with the youth
13 of the Lutsel K'e.

14 I wondered if you could tell us a little
15 bit about what the youth are talking about with respect
16 to the diamond mine development?

17 MR. ROGER CATHOLIQUE: Roger
18 Catholique. The youth, they -- can you repeat the
19 question? I couldn't really hear you that good.

20 MS. BERTHA NORWEGIAN: I apologize.
21 Bertha Norwegian.

22 I just wanted to have a sense of some of
23 the things that you -- you -- the youth of your
24 community, when you are with them, what you talk about
25 regarding development and diamond mines and its impact

1 on your community as a whole.

2 MR. ROGER CATHOLIQUE: Roger
3 Catholique, Dene -- Lutsel K'e Dene First Nation.

4 From far as I know, that not really much
5 of the youth are informed of the impacts like this.
6 I'm only one (1) of the few to, like, come up to these
7 meetings and getting to learn about things like this
8 and going out learning and discussing about the
9 caribou.

10 But with the mine, the -- they do
11 provide career fairs and that, but they don't really
12 give us much information to the youth of -- they just -
13 - just job creations and opportunities and that. But
14 they don't really exp -- break it down of what -- what
15 they do, other than the -- the diamonds. But they
16 don't really explain much to the youth of what really
17 goes down, like, around what we're discussing today and
18 the day before.

19 But, yeah, that's -- that's -- honestly,
20 I could say, yeah.

21 MS. BERTHA NORWEGIAN: Thank you very
22 much. Bertha Norwegian, Review Board.

23 I really appreciate the strength that
24 you had to share with us your knowledge of the land.
25 You're a young man, and certainly good potential for a

1 good leader. Masi.

2 THE CHAIRPERSON: Questions, Review
3 Board? Kirby...?

4 MR. KIRBY MARSHALL: Thank you, Madam
5 Chair. Kirby Marshall, Review Board. Peter, have you
6 ever considered the use of drones, automated drones, to
7 monitor the waste rock storage area?

8 MR. PETER UNGER: Peter Unger, Lutsel
9 K'e Dene First Nation. No, I haven't, but that's a
10 great idea. Dominion, I'd like you to start using
11 drones, please. Thank you.

12 MR. KIRBY MARSHALL: Another question,
13 please. Kirby Marshall, Review Board. Before
14 harvesting restrictions, what was the sort of numbers,
15 the average, then, for a community harvest, numbers of
16 caribous?

17 MR. PETER UNGER: Peter Unger, Lutsel
18 K'e Dene First Nation. I'm -- I'm not very qualified
19 to answer that. I'm going to let August answer that.
20 I've heard a number of different numbers, but I'm going
21 to let August answer that.

22 ELDER AUGUST ENZOE: Like, our average
23 in caribou, where I come from, it depends how many meat
24 you're going to bring back to -- on your sleigh. So
25 I'll say it's about a hundred miles, I think, from

1 Lutsel K'e to -- to get caribou. So if the road is
2 good, some -- some boys take about seven (7) or eight
3 (8) caribou, and the one -- but you got to -- you got
4 to have -- use a big skidoo. And a smaller skidoo will
5 get about three (3) or four (4). It's good enough.

6 Like, me, if I go hunt -- I usually go
7 hunt -- three (3) years, I never went hunting. Sitting
8 around -- my kids don't want me to go out in the bush
9 no more, so mostly putting -- putting me down, sitting
10 in the house and do nothing.

11 So one (1) year, that's a good question,
12 how many caribou we take. I don't know. Quite a bit,
13 anyway. I can't say how much it is. Thank you.

14 MR. PETER UNGER: To add to that -- oh,
15 Brian's going to add to it, as well. But just briefly,
16 we do run a caribou monitoring program out of Lutsel
17 K'e.

18 Now, I'll be completely frank with the
19 Board. The numbers are probably not the most accurate,
20 but the estimates are generally between four (4) and
21 five hundred (500) a season for the community.

22 MR. BRIAN SANDERSON: Brian Sanderson,
23 Lutsel K'e First Nation. Can you repeat the question?

24 MR. KIRBY MARSHALL: Before harvesting
25 restrictions, so when the herd was still healthy, in a

1 year, how many caribou were taken by the community
2 overall? So how many -- how many caribou would you --
3 would you harvest in a year in order to feed the whole
4 community?

5 MR. BRIAN SANDERSON: Brian Sanderson,
6 Lutsel K'e. For -- the community of Lutsel K'e is
7 about -- people living there year -- yearly, year round
8 is about three hundred (300). And then everybody gets
9 about at least -- over ten (10) caribou per year.

10 And sometimes I try to do that, so
11 that's quite a bit of caribou. And it's -- we -- we
12 need -- so you could see that we need this caribou to
13 sustain our livelihood in the future. And so the
14 numbers are probably like what Peter said, about --
15 that -- those are the -- roughly -- roughly the
16 numbers.

17 MR. KIRBY MARSHALL: Thank you very
18 much. Kirby Marshall, Review Board.

19 Just one (1) further question, perhaps
20 for Mr. Enzoë. When you -- when you gave your opening
21 comments, you spoke with respect to the issues related
22 to caribou and problems with their horns and causing
23 either -- either hurting them, maiming them, or -- or
24 killing them.

25 Can you speak more to -- in more detail

1 with respect to the powerlines and how it affected
2 caribou? Because so far, with respect of powerlines,
3 we've heard about potential light problems, UV
4 problems. But we haven't heard anything with respect
5 to the poles themselves. Thank you.

6 ELDER AUGUST ENZOE: Like, I'm -- I
7 didn't say they are killing caribou, but our electric
8 goes to the anglers, yeah, that's how it is. So they
9 stay out from our land, so they can't go under. That's
10 what I was -- I was told.

11 Way down Saskatchewan, Manitoba, I think
12 it was, and the people were saying, The government
13 build our land right across the caribou trail. So no,
14 they're -- they're not getting no caribou now. They
15 stay away from the line. That's what I was told.
16 Thank you.

17 MR. KIRBY MARSHALL: Kirby Marshall,
18 Review Board. Thank you. I appreciate that
19 clarification, and I very much appreciate the
20 presentation from the -- all the members from Lutsel
21 K'e. And we look forward to seeing you this weekend
22 and talking more. Masi.

23 THE CHAIRPERSON: Questions, Review
24 Board? None?

25 Thank you very much, Lutsel K'e, and to

1 all of you for your presentation. Masi.

2 MR. PETER UNGER: Thank you very much
3 for your time. Thank you.

4

5 (BRIEF PAUSE)

6

7 THE CHAIRPERSON: Could we just call a
8 five (5) minute break here? The Board would like to
9 caucus, here, with our counsel.

10

11 --- Upon recessing at 8:34 p.m.

12 --- Upon resuming at 8:45 p.m.

13

14 THE CHAIRPERSON: Just before we begin,
15 our translators have had a very long day. So is there
16 anyone that would need to have translation? So if you
17 could put up your hand if you need translation. If
18 there's no hands, I will ask that the translators could
19 be going home for the day. They've had a very long
20 day, and would -- they'll be back at the Tree of Peace
21 tomorrow.

22 Does anyone need translation? It
23 doesn't look like it. So thank you to the translators.

24

25 (BRIEF PAUSE)

1 THE CHAIRPERSON: We'll see you
2 tomorrow morning. Our next presentation is from the
3 Tlicho Government.

4

5 PRESENTATION BY TLICHO GOVERNMENT:

6 MR. SJOERD VAN DER WIELEN: Thank you,
7 Madam Chair. My name is Sjoerd van der Wielen. I work
8 for the Tlicho Government. On the right side of me is
9 -- my brain is fried -- John B. Zoe. I can't believe
10 it. This is promise -- this is promising something for
11 the presentation. Okay. And on the other side is
12 Petter Jacobsen, our traditional knowledge researcher.

13 Okay. So wish me luck. So our
14 presentation is really about the wisdom of caribou, and
15 how they behave on the lands. And we will use -- this
16 is the outline of the presentation. Our context --
17 we'll first talk about the context, so the existing
18 impacts on the caribou.

19 We have seven (7) issues that we would
20 like to discuss. These are cumulative impact, the zone
21 of influence, tataa, Jay roads, the waste rock piles,
22 dust, and the Tlicho access to caribou. And we'll end
23 up with our recommend -- recommended measures for each
24 of these issues.

25 So the existing impacts on caribou. It

1 goes without saying that the Bathurst caribou is one
2 (1) of the single highest priorities for the Tlicho
3 Government. And the proposed location of the Jay
4 Project is within an important migration and habitat
5 area for the Bathurst caribou. So therefore, any new
6 stresses -- stressors for caribou must be avoided.

7 So I'll start with the -- the issues.
8 The first one (1), obviously, is -- is the cumulative
9 impact. And the question that raised there: Are --
10 there are cumulative impacts on caribou in the region,
11 and the map that is on the screen right now is one (1)
12 of our TK research projects, where you can see the
13 migration pattern changes before the mine and after the
14 mine. And this raises the question: Will the Jay
15 Project add to these impacts, make them worse?

16 So the Tlicho cons -- conclusion of
17 cumulative impact is that TK studies have already
18 identified existing impacts onto caribou. The -- the
19 two (2) reports that come to mind, and I'll try to
20 pronounce them but I apologize, Decho goehshi, which
21 means 'throwing the lands away', which our Elders
22 believe that that's what the caribou exactly are doing
23 right now, is throwing the land away. They don't use
24 certain areas anymore.

25 And ekwo yeka at'i-le adza, which is

1 loosely translated as 'wisdom of the caribou', where
2 they avoid certain tataa, which is our eskers in
3 Tlicho, and they -- they avoid it, which has long-term
4 impacts along the line of migration routes. So many
5 potential impacts on the Jay Project will add to this.
6 We're talking about new roads, the waste rock piles,
7 and the dust generation, and there are many more. So
8 further research is required to better understand how
9 the Jay Project will act -- will add to these existing
10 impacts.

11 Our next concern is the zone of
12 influence. So are the methods used for determining and
13 understanding the zone of influence adequate? Our
14 conclusion is that the research regarding the -- the
15 ZOIs did not involve Tlicho traditional knowledge, and
16 so the magnitude of change within the ZOI has not been
17 assessed by the Developer. And we know -- we can
18 already say that the area around Lac du Sauvage is
19 known by the Tlicho to be critical -- critical habitat
20 for the caribou.

21 So tataa, which I mentioned before are
22 the eskers. These are very important travel routes for
23 the caribou. This is another TK study where we
24 identified travel routes. These are not all the
25 eskers. These are just important travel routes for

1 caribou. And other -- more research is needed for --
2 to -- to determine if they are significant that --
3 within the ZOI. And will they be impacted?

4 So we know where the Jay Project is
5 proposed, there is a significant route, or tataa, for
6 the caribou during fall migration. And changes to
7 forage from dust are already starting to keep caribou
8 away from using this tataa. Physical structures
9 associated with the Jay Project, such as the roads,
10 will create barriers on this important migration road,
11 and will add to the cumulative impact to the caribou.

12 Which brings me to our next concern, Jay
13 roads. So the Proponent has not worked enough with the
14 Tlicho to plan to cut through for the esker or
15 locations of the Jay roads. And our conclusion,
16 therefore, is Tlicho Elders with their intimate
17 knowledge of caribou trails and their use of eskers
18 must be included in any road planning. The Tlicho need
19 to be included in road planning prior to the final
20 design stages.

21 Our next issue was waste rock piles. So
22 the location of the waste rock piles and storage areas
23 and how they are built impacts caribou migration
24 decision. Therefore, our conclusion: TK shows how
25 caribou will avoid rocky areas. The location of the

1 waste rock storage areas and its caribou emergency
2 egress ramps will, if planned without input from the
3 Tlicho, prevent caribou from seeking shelter both in
4 the esker and along the shoreline of Lac du Sauvage.

5 Dust. Are the potential effects from
6 the generation of dust from the Jay Project site
7 significant? We believe we -- Tlicho construction.
8 Our -- Tlicho conclusion: The Tlicho have witnessed
9 the impacts from dust already occurring at the caribou
10 habitat. Tlicho Elders have identified healthy forage
11 food sources as a critical component for the caribou
12 habitat selection. Tlicho Elders have identified the
13 relationship between the impacts from dust to caribou
14 forage, and changes in caribou migration patterns and
15 routes.

16 So our last issue is the Tlicho access
17 to caribou. So access to healthy caribou is vital to
18 the Tlicho, and needs to be recognized. And I also
19 want to state that access not only means the
20 availability of healthy caribou in known hunting
21 locations, but also the ability of the Tlicho to hunt
22 them safely.

23 Which brings me to the conclusion. So
24 regarding Tlicho access. Dust on the lands limits
25 Tlicho access to clean berries and other plants when

1 spending time on the lands. And this matters, because
2 location of the project is within the preferred hunting
3 and camping area. Access also changed due to the
4 nature of tataa. Changes to caribou migration within
5 the ZOI will affect migration patterns outside of the
6 ZOI, and this is something what Joseph mentioned this
7 morning when they don't see caribou or as near as many
8 near D'wikiti (phonetic).

9 So we put it all in a nice table, so --
10 with our impacts and the measures. So for cumulative
11 impact, we recommend to minimize the project's
12 ecological disturbance, to further research, including
13 TK, by the Developer on caribou, reviewing the pre-
14 development baseline to study the changes that have
15 occurred as a result of development.

16 For the zone of influence, we measure,
17 regional research program to better understand the zone
18 of influence. And obviously, this needs to be with
19 Aboriginal involvement. We also recommend the use of
20 aerial survey data to estimate the -- the ZOI distance
21 and magnitude.

22 For the eskers, the tataa, we recommend
23 to develop -- for the Developer to conduct a project-
24 specific study concerning factors contributing to the
25 distance and magnitude of the ZOI, and the subsequent

1 impacts on caribou migration patterns.

2 For the Jay road, the Developer to work
3 with the Tlicho Government and Tlicho Elders on sitting
4 the -- on siting the location of the Jay road prior to
5 finalization of the design plans. So it includes the
6 Tlicho in determining caribou roads, crossing areas,
7 and for the Developer to work with Tlicho Elders to
8 determine the location of the cut-through the esker.

9 Waste rock piles. We recommend to the -
10 - for the Developer to include Tlicho Elders in the
11 location and design of all emer -- of all caribou
12 emergency ramps and application of the findings from
13 the Tlicho study on eskers.

14 And we recommend to develop a revised
15 Waste Rock and Ore Storage Management Plan and
16 submissions to the Wek'eezhii Land and Water Board for
17 the approval.

18

19 (BRIEF PAUSE)

20

21 MR. SJOERD VAN DER WIELEN: For dust,
22 we recommend revising the Air Quality and Emission
23 Monitoring and Management Plan. And in addition to the
24 details provided by IEMA, to include in the aqua -- in
25 -- sorry, in the Air Quality and Emission Monitoring

1 and Management Plan.

2 And again, includes the Tlicho
3 government and Tlicho Elders in development of the plan
4 as a whole and monitoring of critical caribou habitat.

5 Tlicho access to caribou. Compensatory
6 mitigation plan for caribou. And obviously again, with
7 the Tlicho government collaboratively developing a
8 plan.

9 Which brings me to my overall
10 conclusions. Given these significant impacts, the
11 Tlicho government supports IEMA's recommendation. A
12 determination of significant adverse cumulative impacts
13 of the Jay Project on the Bathurst caribou herds to be
14 made.

15 That compensatory mitigation be required
16 as part of the Developer's Wildlife Mitigation --
17 Management Plan.

18 To have the Tlicho government -- sorry.
19 The Tlicho government has made recommendation for
20 thirteen (13) measures related to caribou to be
21 included in the reports of the EA. And we require
22 these measures to be fully addressed.

23 The Tlicho government has also requested
24 that a determination of significant adverse cumulative
25 impact of the Jay Project on the Bathurst caribou herds

1 to be made by the MVEIRB.

2 This was my presentation, or the Tlicho
3 Government's presentation. I turn now to my
4 colleagues, if they want to add anything.

5

6 (BRIEF PAUSE)

7

8 MR. JOHN B. ZOE: Masi. Thank you very
9 much. My name is John B. Zoe. I'm the senior advisor
10 to the Tlicho government.

11 I think this is a -- a continuing story
12 from the mid-1990s when the diamonds were discovered in
13 -- in the landscape, and all the -- that work -- the
14 work that went into at the time the plans to develop
15 the first mine.

16 It's really about the -- the extraction,
17 the business of the -- the extraction, and putting the
18 waste into a pile, and the transportation, and the
19 footprint, and the -- the land and water
20 considerations, including the socio-economic. All the
21 things that a developing mine needs -- needs were
22 addressed through the licensing of the first mine.

23 So this Jay pipe development is supposed
24 to give another ten (10) year life to the -- to the
25 mine development, diamond mining in the area. And if

1 no -- no new developments are found, then that's what
2 they end up with.

3 So we're really in a -- in a critical
4 time in trying to define something that might work,
5 because this Jay pipe is going through a similar
6 activity that it's gone through in the mid-1990s, well,
7 we're talking about this big listing of things that
8 need to be looked at, considerations that need to be
9 done. They're similar to what it was then, but it's
10 really an extension of -- towards a larger footprint.

11 We know that the caribou for all
12 Aboriginal people in the area really defines the
13 foundation for our language, culture, and way of life;
14 it defines who we are. And because it defines who we
15 are, the threat to the caribou brought to us means not
16 only a further loss towards decline, but the loss of
17 our way of life and our way of thinking, that we're
18 tied to the landscape.

19 And what we're seeking is to find a way
20 of looking at this project that doesn't contribute
21 towards a further decline of the caribou, meaning not a
22 further -- also, not a further decline to our language,
23 culture, and way of life.

24 Because the reason that we're here today
25 is because of the early treaties, Treaty 8 and 11.

1 Through the interpretation of governments at -- at the
2 time, and even today, it's really a license, a --
3 having the authority to -- to license development. And
4 -- and the -- it -- it paves the way for how
5 development would happen in the area.

6 So that's why you have land and water
7 management under the Feds, but it's been devolved to
8 the north, but it still comes from the treaty.

9 So the mining have almost a guaranteed
10 process for developing projects. So they have a
11 responsibility of ensuring that they're really
12 implementing the treaty, not in a way that it should be
13 done, but we're really one (1) of the treaty partners.
14 And -- and one (1) of the things that were mentioned at
15 the time of treaty was that -- that we would be -- we
16 would not be restricted from our way of life, which, in
17 a large part, has to do with caribou because that's
18 what defines who we are.

19 So as a treaty partner, we wanted to
20 ensure that the treaty protected our way of life
21 unhindered. And so mining has a responsibility to
22 ensure that they're not contributing to an erosion --
23 further erosion to the original treaties.

24 And so what we have today is an
25 opportunity to -- to do something in a way where we

1 have an opportunity to address not only the protection
2 of the caribou, but finding ways to contribute towards
3 the recovery of the caribou because nobody can really
4 point to one area and say, This is the reason for the
5 decline. There are many factors that were -- are not
6 looked at.

7 We keep talking about it. We -- we say
8 it's clim -- climate change, we say it's development,
9 we say it's big game outfitting, all these privileges
10 that have been developed over time. But nobody really
11 delves into it to say, Well, what can we do to
12 contribute towards -- not contributing towards further
13 decline, but what can we do to ensure that there is a
14 plan of recovery?

15 And we know that mining and big business
16 can get licensed for doing the development without --
17 without anybody pointing to it to say that it's
18 contributing towards a decline, but we don't know what
19 that measurement is.

20 But the only thing that's really pointed
21 out in all this thing is that the blame for the caribou
22 decline seems to always be pointed towards the
23 Aboriginal communities in their relationship with the
24 caribou, that somehow we're kind of responsible for
25 that decline.

1 And I don't think that we need to go
2 down that road this time. This time we have a real
3 opportunity to do something with it because the
4 original Treaty is about a relationship to not only
5 preserve but enhance our language, culture, and way of
6 life, our relationship to the -- to the land and
7 animals.

8 And the Treaty also opened up
9 opportunities for developers to do the business of
10 extraction. So that Treaty gives them that
11 responsibility to do it in such a way that we need to
12 not only measure the destruction, but enhance the
13 recovery because we're -- we're going down the same
14 path that we've gone down in the mid-1990s when the --
15 the big concern of the Elders was the caribou, what
16 would happen to the caribou.

17 And here we are, pretty close to twenty
18 (20) years later. We're at the bottom of the barrel.
19 And the -- and the story is still the same. What is it
20 that's happening that's contributing towards a further
21 decline?

22 So we have an opportunity to do
23 something collaborative. We're -- we're in a spirit of
24 the Treaties doing something for the -- the recovery of
25 the caribou, stud -- a way of studying the habitat,

1 looking at different ways of how -- giving it new
2 thought because any time we're talking about a
3 development like we're doing here now, it seems to be
4 more like a confrontational exercise that happens every
5 time there's going to be a new development where we
6 have a measure of destruction, but no recovery of -- of
7 making sure that there is an equal value given to both.

8 That -- as Aboriginal people, we have a
9 relationship with the -- with the animals, in a
10 landscape, with the waters that flow through those
11 lands. And we need to ensure that there is renewal,
12 there -- there is a future beyond just this
13 development. We want to ensure that there is something
14 left at the end of it rather than just not
15 participating in -- in how those things happen.
16 Because at the beginning we've always thought that, and
17 we would be involved in -- in land and water
18 management, but in some ways those things are being
19 threatened.

20 And we also thought that we would be --
21 we would have a collaborative management plan rather --
22 interim management plans, a way of ensuring that
23 there's a recovery of those caribou that are
24 threatened. And all those kind of things are kind of -
25 - has been washed under the rug in more recent years

1 than any other, especially in those years that we
2 should have been strengthening our treaty relationship
3 to make sure that we're all pulling in the same
4 direction rather than trying to tear it apart.

5 So I think what -- what we're looking --
6 looking at is -- is the most important thing for -- for
7 us anyways on the Tlicho side, I can't speak for other
8 Aboriginal groups, but -- but the story is still the
9 same. The caribou is very important for us. It
10 defines who we are. We need to do something with the
11 authorities that allow for these developments, and the
12 mines have a responsibility because they are given
13 licences under that same treaty.

14 So they have some kind of fiduciary
15 responsibility that's never been measured, and this is
16 a good opportunity to explore that so we can -- we can
17 do something that's very meaningful in the north
18 because we have a small population. Our differences
19 are not that great. But we seem to do -- we seem to
20 stand on histor -- historical grounds as to where the
21 lines of authority are -- are drawn, and nobody is
22 allowed to pass or cross any of these little boundaries
23 that are created over time. Masi cho.

24 MR. SJOERD VAN DER WIELEN: That
25 concludes the presentation for the Tlicho Government.

1 I would like to make one comment. We had Joseph Judas
2 here, but he had to go home due to tiredness. So it is
3 late in the evening, so maybe that's something to take
4 in mind next time we're planning a scheduling meeting.
5 And we're open for questions. Masi.

6

7 QUESTION PERIOD:

8 THE CHAIRPERSON: Okay. Thank you.
9 Questions for the Tlicho from the Monitoring Agency?

10 MR. BILL ROSS: Bill Ross, Monitoring
11 Agency. No questions. Thank you, Madam Chair.

12 THE CHAIRPERSON: Questions, Government
13 of the Northwest Territories?

14 MS. ANDREA PATENAUDE: Hi. Andrea
15 Patenaude, GNWT. Just actually a question because I
16 can't see it. On your slide 8 -- eight (8) -- yeah.
17 What is the -- the little green dots? I can't quite
18 see what it is, and I was curious.

19 MR. SJOERD VAN DER WIELEN: Sjoerd van
20 der Wielen, Tlicho Government. This is a map straight
21 from a TK project being done for the Diavik, and I
22 believe those were dust collection sites. So they have
23 no -- they don't mean anything in this situation.
24 Thank you.

25 THE CHAIRPERSON: Questions, Government

1 of the Northwest Territories?

2 MS. ANDREA PATENAUDE: Andrea

3 Patenaude, GNWT. No more questions.

4 THE CHAIRPERSON: Questions, Lutsel K'e

5 Dene First Nation?

6 MR. PETER UNGER: Peter Unger, Lutsel

7 K'e Dene First Nation. Thank you very much, Tlicho

8 Government, for the presentation. No questions.

9 THE CHAIRPERSON: Questions,

10 Environment Canada?

11 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey

12 McMillan, with Environment Canada. No questions.

13 THE CHAIRPERSON: Questions, Fisheries

14 and Oceans Canada?

15 MS. JULIE DAHL: Julie Dahl, Fisheries

16 and Oceans Canada. No questions.

17 THE CHAIRPERSON: Questions, North

18 Slave Metis Alliance?

19 MR. SHIN SHIGA: Shin Shiga, North

20 Slave Metis Alliance. We have no questions.

21 THE CHAIRPERSON: Questions, Deninu Kue

22 First Nation?

23 MR. MARC D'ENTREMONT: Marc

24 D'Entremont, for the YKDFN. We have no questions.

25 THE CHAIRPERSON: Questions, Diavik

1 Diamond Mines?

2 MR. GORD MACDONALD: Gord MacDonald,
3 with Diavik. We have no questions.

4 THE CHAIRPERSON: Questions, Fort
5 Resolution Metis Council? Questions, Transport Canada?

6 MS. ANITA GUDMUNDSON: Anita
7 Gudmundson, Transport Canada. No questions.

8 THE CHAIRPERSON: Questions, Dominion
9 Diamond?

10 MR. RICHARD BARGERY: Richard Bargery,
11 Dominion Diamond. Thank you for your presentation. No
12 questions.

13 THE CHAIRPERSON: Questions, Review
14 Board staff and counsel?

15 MR. MARK CLIFFE-PHILLIPS: No questions
16 from Review Board staff or counsel.

17 THE CHAIRPERSON: Questions, Review
18 Board members? Yvonne...?

19

20 (BRIEF PAUSE)

21

22 THE CHAIRPERSON: Thank you very much
23 for your presentation. Thank you. Masi.

24 MR. SJOERD VAN DER WIELEN: Masi.

25 THE CHAIRPERSON: Our next presenters

1 is Environment Canada.

2

3 PRESENTATION BY ENVIRONMENT CANADA:

4 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey

5 McMillan, with Environment Canada. Good evening.

6 We'll be switching gears somewhat and focussing on

7 other wildlife. With me today is some of Environment

8 Canada's team, J.F. Dufour and Bradley Summerfield.

9 J.F. will be providing our technical recommendations

10 relating to other wildlife concerns.

11 The presentation prepared for these

12 hearings is based on our technical reports.

13 Environment Canada's roles and responsibilities were

14 outlined in details within this report. In brief,

15 Environment Canada's mandate covers the preservation

16 and enhancement and the quality of the natural

17 environment, including water, air, soil, flora and

18 fauna, as well as species at risk and migratory birds.

19 Environment Canada's recommendations are

20 intended to provide expert advice to the proponent and

21 decision makers in accordance with program-related

22 responsibilities, associated guidelines, and policies.

23 Our presentations will be presented over

24 two (2) days. Today, the wildlife concerns will be

25 addressed, including recommendations relating to

1 impacts to migratory birds, including water birds,
2 species at risks, and a habitat.

3 I will now skip the aquatic focus slides
4 and introduce J.F., who will present.

5 MR. J.F. DUFOUR: J.F. Dufour, with
6 Environment Canada Canadian Wildlife Service. Thank
7 you, Sarah-Lacey. And thank you, the Board staff and
8 members and everyone else in attendance today this
9 late. I was told to be very quick, and I will try to
10 do so.

11 The first issue that Environment Canada
12 identified in our intervention related to waterbird
13 bycatch. The Jay Project will involve dewatering of
14 approximately 4 square kilometres of Lac du Sauvage
15 within a diked area. If the project is approved, a
16 fish-out will be required and involves removing fish
17 from the portion of the lake identified for dewatering
18 before development activities begin.

19 Waterbird entanglement, or bycatch,
20 occurs when waterbirds, particularly loons and other
21 diving ducks, get caught and subsequently drown in
22 fishing nets while they're retrieving the fish that are
23 caught in these nets or, incidently, while diving for
24 other food sources.

25 Environment Canada is concerned by the

1 frequency of incidence during fish-out operations and
2 its issue appears to specific to northern mines in the
3 freshwater setting.

4 Activities where migratory birds are
5 killed or harmed may be found to violate prohibitions
6 in Section 5 of the migratory bird regulations. The
7 inadvertent harming, killing, disturbance, or
8 destruction of mig. birds' nests and eggs is known as
9 incidental take.

10 In addition to harming individual birds'
11 nests and eggs, incidental take can have long-term
12 consequences for migratory bird populations in Canada,
13 especially through the cumulative effects of many
14 different incidents.

15 Environment Canada noticed through the
16 wildlife based on report that there were several
17 species that represent a high risk of entanglement.
18 These include the loons, mergansers, and long-tail
19 ducks.

20 In response to our Information Requests,
21 the Proponent committed to developing a diving bird
22 mitigation strategy in consultation with Environment
23 Canada. And this would they said in -- would be
24 developed with the fish-out plan, the final fish-out
25 plan.

1 This will include lessons learned from
2 other fish-outs at northern mines, and the Proponent
3 committed to developing this strategy during the
4 regulatory phase of the EA.

5 Environment Canada is satisfied with the
6 Promen -- Proponent's response, and looks forward to
7 reviewing and providing input in the development of the
8 mitigation strategy.

9 As there's no simple solution to this
10 issue, the effectiveness of the proposed mitigation
11 measures will need to be monitored to trigger adaptive
12 management response, and also to inform future fish-
13 outs.

14 The Proponent also estimated that
15 approximately 702 hectares of terrestrial habitat will
16 be lost from the proposed footprint. Environment
17 Canada's concerns relate to incidental take and
18 migratory birds again, but specifically during land-
19 clearing activities.

20 Subsection 6(a) of the Migratory Bird
21 Regulations state that:

22 "No one shall disturb or destroy the
23 nests or eggs of migratory birds."

24 As mentioned previously, the -- in
25 addition to harming individual birds, nests, or eggs,

1 incidental take can have long-term consequences for
2 migratory bird populations in Canada, especially
3 through cumulative effects of the many different
4 incidents.

5 The Proponent indicated in the DAR that
6 activities would be managed to comply with the Species
7 at Risk Act and the Migratory Bird Convention Act, and
8 committed to developing mitigation measures to avoid
9 incidental take with Environment Canada during the
10 regulatory phase.

11 The Proponent also confirmed that
12 wildlife mortalities, including migratory birds, would
13 be reported by all staff to their environment
14 department and investigations would be conducted to
15 determine the cause of death.

16 Mortalities would also be reported to
17 the appropriate wildlife management authority,
18 including Environment Canada, and summarized in annual
19 reports. Again, Environment Canada was satisfied with
20 the Proponents response to our concerns.

21 Environment Canada's intervention
22 advised on the Proponent's need to avoid engaging in
23 potential destructive or disruptive activities in key
24 sensitive periods and locations, and the need to
25 develop and implement mitigation measures to minimize

1 impacts on migratory birds, nests, and eggs to help
2 sustain populations of migratory birds.

3 So in order to save some time, I'll not
4 read out our specific recommendations, but they are
5 presented in our intervention and summarized on this
6 slide.

7 The third issue. Environment Canada
8 reviewed the DAR for concerns related to exposure and
9 ingestion risks -- risks to migratory birds, this in
10 relation to Section 5.1 of the Migratory Bird Convention
11 Act that states that:

12 "No person shall deposit a substance
13 that is harmful to migratory birds or
14 permit such a substance to be
15 deposited in waters or an area
16 frequented by migratory birds."

17 The -- in the Developer's assessment
18 report, the Proponent identified the potential impact
19 to migratory pur -- to migratory birds from ingestion
20 of water, soil, and vegetation or inhalation of air
21 that has been chemically altered during the different
22 phases of the project.

23 It was assessed as a pathway with no
24 linkage by the Proponent, given the proposed design
25 features and mitigation to minimize risks, including

1 monitoring and management of water quality through the
2 water licence.

3 In response to Environment Canada's
4 Information Request, the Proponent also identified two
5 (2) potential contamination risks areas for migratory
6 birds, one being the water pond at the land farm and
7 the contaminated snow containment facility.

8 The Proponent also conducted a wildlife
9 health risk assessment where risks were assessed for
10 various fish and wildlife receptors. There was only
11 one (1) instance of a species and a constituent of
12 potential concern where the risks were predicted to be
13 unacceptable. This was with the semi -- semipalmated
14 sandpiper, which is a shore bird, and it was related to
15 chromium.

16 This species is one of many shore bird
17 species using the project area, and it also includes
18 the red-necked phalarope which is assessed as special
19 concern. Shore bird species share similar aquatic
20 feeding habits, and could also possibly be exposed to
21 similar low-magnitude health risks in the project area.

22 Monitoring data from other operating
23 mines in the Northwest Territories suggest that water
24 fowl and water birds can make extensive use of water
25 management ponds, especially if these areas are subject

1 to earlier thaw than natural water bodies.

2 As a precautionary measure Environment
3 Canada recommended that surveys of mine-altered water
4 bodies should be carried out. Some more details are on
5 the slide there. Monitoring results should be included
6 in the annual monitoring reports and Environment Canada
7 should be notified of any incidents involving injury or
8 mortality of migratory birds.

9 Again, Environment Canada is satisfied
10 with the proponent's response. They accepted our
11 recommendations and will incorporate this in the
12 revised Wildlife Effects Monitoring Program.

13 Subsection 79(2) of the Species at Risk
14 Act states that:

15 "During an assessment of a project
16 the adverse effects of the project on
17 listed wildlife species and their
18 critical habitat must be identified;
19 that measures are taken to avoid or
20 lessen those effects; and that it --
21 the effects need to be monitored."

22 Subsection 79(2) of the Species at Risk
23 Act applies regardless of the level of significance.
24 Environment Canada presented a list of terrestrial
25 species at risk that may be in the birds effect study

1 area in our intervention and they're presented here on
2 the slide.

3 All these -- all the avian species have
4 been detected or observed during baseline or the
5 various Ekati monitoring programs. So these -- these
6 species have been assessed -- eith -- either been
7 assessed by the committee on the status of endangered
8 wildlife in Canada or are on Schedule 1 of the Species
9 at Risk Act.

10 As the management responsibility lies
11 with the Government of the Northwest Territories for
12 most of these species with the exception of red-necked
13 phalarope, Environment Canada anticipates that the
14 Government of the Northwest Territories will provide
15 the expertise -- will provide expertise as to the
16 adequacy of the information provided and the mitigation
17 and monitoring measures proposed.

18 The proponent committed in their
19 Information Request response that the mitigation and
20 monitoring for species at risk will be included in the
21 Wildlife/Wildlife Habitat Protection Plan and -- excuse
22 me, Wildlife Effects Monitoring Program, which will be
23 submitted during the permitting phase.

24 Generally Environment Canada's
25 conclusions are the implementation of the general

1 mitigation measures for migratory birds that will be
2 identified in the mitigation plan that will be
3 developed in consultation with Environment Canada that
4 we mentioned in Issue 5.

5 The monitoring of the proposed -- the
6 monitoring proposed in the conceptual WEMP, the general
7 nesting periods, and specie specific setback distances
8 and recommendations, and the monitoring of migratory
9 bird use of mine-altered waters will help to mitigate
10 and monitor potential adverse effects to avian species
11 at risk during project undertakings.

12 That being said, Environment Canada's
13 recommendations specifically were that the primary
14 mitigation for species at risk should be avoidance.
15 Again, the species specific nest setback distances as
16 recommended by EC in Issue 5 should be used as the
17 basis to determine the zone of avoidance.

18 Monitoring should be undertaken to
19 ensure that mitigation measures were successful and the
20 results of monitoring should be provided to the
21 relevant agency with management responsibility for
22 these species. We also recommended that the proponent
23 ensure that mitigation and monitoring strategies are
24 consistent with any applicable COSEWIC assessment
25 status report, SARA recovery strategy, action plan, or

1 management plan that may be become -- that may become
2 available during the duration of the project and should
3 consult with the GNWT and Environment Canada on
4 adaptive management strategies should they be required.

5 Again, EC is satisfied with the
6 proponent's response. They have accepted all our
7 recommendations.

8 MS. SARAH-LACEY MCMILLAN: Throughout
9 our technical report and within our presentation,
10 Environment Canada's made several recommendations that
11 are intended to mitigate neg -- negative effects
12 related to Environment Canada's mandate. Any
13 additional information can be found within our
14 technical report.

15

16 QUESTION PERIOD:

17 THE CHAIRPERSON: Thank you for the
18 presentation. Questions from the Monitoring Agency?

19 MR. BILL ROSS: Bill Ross, Monitoring
20 Agency. In your presentation, you identified I think a
21 prohibition contained in the 'Migratory Birds
22 Convention Act' regarding putting stuff in the water
23 that makes migratory birds unhappy.

24 Could -- could you repeat that for me?
25 I wanted to make sure I understand it, and I'm --

1 probably have a follow up.

2 MR. J.F. DUFOUR: J.F. Dufour, with
3 Environment Canada. Section 5(1) of the 'Migratory
4 Birds Convention Act' states that:

5 "No person shall deposit a substance
6 that is harmful to migratory birds,
7 or permit such a substance to be
8 deposited, in waters or an area
9 frequented by migratory birds or in a
10 place from which the substance may
11 enter such waters or such an area."

12 MR. BILL ROSS: Bill Ross, Agency. In
13 -- in the latter stage of the Jay Project, there's a
14 proposed mixing zone in Lac du Sauvage, and -- and I
15 guess I want to be sure that Environment Canada is of
16 the view that no waters in the mixing zone are -- would
17 be in violation of that prohibition. Is that correct?

18

19 (BRIEF PAUSE)

20

21 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey
22 McMillan, with Environment Canada. Given the extent of
23 the water discussion tomorrow, and I'm sure mixing
24 zones are going to be brought up then, I'd prefer to
25 defer that. We are just prepared for the aquatics

1 tomorrow.

2 MR. BILL ROSS: Bill Ross, Agency.
3 That sounds like a brilliant plan, and I thank you. No
4 further questions.

5 THE CHAIRPERSON: Questions, Government
6 of the Northwest Territories?

7 MS. LORRAINE SEALE: Lorraine Seale,
8 GNWT. No questions, Madam Chair.

9 THE CHAIRPERSON: Questions,
10 Yellowknives Dene First Nation?

11 MR. RANDY FREEMAN: Randy Freeman,
12 Yellowknives Dene First Nation. I have no questions.

13 THE CHAIRPERSON: Questions, Lutsel K'e
14 Dene First Nation?

15 MR. PETER UNGER: Peter Unger, Lutsel
16 K'e Dene First Nation.

17 I was just wondering if Environment
18 Canada has any specific lessons learned from Gahcho
19 Kue, or other mines, that involved fish-outs and
20 dewatering for preventing the mortality of aquatic
21 birds?

22 MR. J.F. DUFOUR: J.F. Dufour,
23 Environment Canada. Could you repeat the one (1)
24 example that you referred to, or maybe you'd refer to
25 the project proponent? Maybe that would help me out.

1 MR. PETER UNGER: Well, I just referred
2 to De Beer's mine, Gahcho Kue, that's being dewatered
3 as we speak, and they're currently doing a big fish-
4 out. But I didn't -- you know, I'm open to other
5 examples. I'm not trying to focus you in on one.

6 If you can think of any other mines
7 anywhere that were dewatered and just some general good
8 practice measures to prevent the mortality of aquatic
9 birds. Thank you.

10 MR. J.F. DUFOUR: J.F. Dufour,
11 Environment Canada. To be honest, that incident is
12 probably what kicked up a lot of our concerns from now
13 on. The incident at Gahcho Kue involved a -- quite a
14 large -- quite a large lake, so the -- the situation
15 there is -- is slightly different from -- from the one
16 that we're discussing here today within the EA.

17 However, there are some mitigation
18 measures that we've developed more for the offshore, or
19 for instance with commercial fisheries. So we -- we
20 have extensive -- or not extensive experience, but we
21 definitely have developed some -- some mitigation
22 measures, or best management practices, for those
23 situations.

24 However, the freshwater setting of these
25 northern mine operations, they do present various

1 challenges. There's constraints related to the DFO
2 authorization. There's constraints related to the
3 water licence, and therefore, a lot of the mitigation
4 measures that might be suggested actually cannot be
5 followed in these situations. So it's a bit of a
6 challenge. It's an issue that we're -- we're becoming
7 well aware of right now. And the mitigations, really,
8 we -- we ask the Proponent to -- to propose some --
9 some mitigation measures based on their fish out plan,
10 and from there work on it.

11 But to answer your question, there --
12 there's definitely -- the timing issue would be our
13 number 1 pref -- pref -- preference, to definitely not
14 put nets -- gill nets in the water while the birds are
15 there. However, that is not operational-feasible.
16 Another mitigation measure that we would highly suggest
17 that is unfeasible operationally is to not leave the
18 gill nets overnight unsupervised. Again, that's not
19 operationally feasible.

20 So we are struggling. Other suggestions
21 have been to confine the area where the gill nets are,
22 hoping that the activity of tending to those nets will
23 actively deter the birds that in and in itself, rather
24 than having the nets all over the lake various
25 kilometres away from each other. And, therefore,

1 incidents could happen.

2 So unfortunately there's no -- there's
3 no perfect answer to this issue. However, we are
4 hoping to clarify reporting through these mitigation
5 strategies, so make it clear that they should let us
6 know as soon as that happens, so we can take a closer
7 look at the situation.

8 We also would require some data to be
9 collected regarding those mortalities, so that we can
10 try and figure out if there's any patterns that we can
11 see. That could include, like, the various parameters
12 of the gill nets that they set, location, the size of
13 the -- of the holes. And then also some of the weather
14 parameters.

15 Also we -- we make it clear that we
16 actually would want to take possession of all the
17 carcasses, so that the actual bodies could go to
18 science. Some of the ideas proposed were to sub -- I
19 guess the -- the new buzz -- buzz research is -- is
20 determining micro-plastics in birds. So often the
21 victims are loons, and -- and the loons spend their
22 winters in the ocean. So the contents of those
23 stomachs could go towards assessing whether plastics
24 are an issue and stuff. So there's definitely some
25 ways to use the carcasses, but I guess the short answer

1 is there's no perfect mitigation measure. But we're
2 definitely looking into it. And hopefully one day we
3 can find the solution.

4 MR. PETER UNGER: Peter Unger, Lutsel
5 K'e Dene First Nation. Well, one -- one small
6 comment. The community of Lutsel K'e has also asked
7 Gahcho Kue for those carcasses, so I'm sure we can sort
8 that out on our own after.

9 The -- the second question then: So
10 there's no official guidance then from Environment
11 Canada in terms of what are best practices in this --
12 in this case?

13 MR. J.F. DUFOUR: No, and it would have
14 to be assessed on a case by case basis, unfortunately.
15 OH, J.F. Dufour, Environment Canada. Sorry.

16 MR. PETER UNGER: Peter Unger, Lutsel
17 K'e Dene First Nation. No further questions. Thank
18 you for your presentation.

19 THE CHAIRPERSON: Questions, Tlicho
20 government?

21 MR. SJOERD VAN DER WIELEN: Sjoerd Van
22 Der Wielen, Tlicho government. No questions.

23 THE CHAIRPERSON: Questions, Fisheries
24 and Oceans Canada?

25 MS. JULIE DAHL: Julie Dahl, Fisheries

1 and Oceans Canada. No questions.

2 THE CHAIRPERSON: Questions, North
3 Slave Metis Alliance?

4 MR. SHIN SHIGA: Shin Shiga, North
5 Slave Metis Alliance. I have a -- a couple of
6 questions.

7 Does -- does Environment Canada have a -
8 - a scheduled assessment for barren ground caribou?

9 MR. J.F. DUFOUR: J.F. Dufour,
10 Environment Canada. Environment Canada does not have a
11 schedule, but COSEWIC, the Committee on the Status of
12 Endangered Wildlife In Canada has a schedule for
13 assessment. And I believe the schedule is made
14 available online at the COSEWIC website. And I do
15 believe it is scheduled for April 2016.

16 MR. SHIN SHIGA: Thank you. I might be
17 a little confused. But -- so is it -- I understand
18 that there's a Territorial and Federal Species at Risk
19 Act. I am aware that the Territorial Species Act is
20 going to assess barren ground caribou. So -- okay. So
21 I understand that there are two (2) going on right now.

22 My second question is: Under the
23 federal --

24 THE CHAIRPERSON: State your -- state
25 your name again please.

1 MR. SHIN SHIGA: Shin Shiga, at North
2 Slave Metis Alliance. My second question is: Under
3 the Federal Species Risk Act, can you assess a
4 population or herd of subspecies or does it have to be
5 at least subspecies?

6 MR. J.F. DUFOUR: J.F. Dufour,
7 Environment Canada. To be honest, I think it's the
8 whole barren ground caribou population. I'm not -- I
9 do not know specifically if it's by herd, but I believe
10 it's the whole species. Unfortunately, I'd -- I'd have
11 to look that up.

12 MR. SHIN SHIGA: Thank you. That's all
13 my questions. Shin Shiga, NSMA.

14 THE CHAIRPERSON: Questions, Deninu Kue
15 First Nation?

16 MR. MARC D'ENTREMONT: Marc
17 D'Entremont, for the DKFN. I have one (1) question.
18 So in regards to incidental take and fractions under
19 the Migratory Birds Convention Act, what penalties
20 would Environment Canada impose if there are these
21 infractions? Thank you.

22 MR. J.F. DUFOUR: Difficult question to
23 -- J.F. Dufour, Environment Canada. Difficult question
24 to answer.

25 Infractions would result in a wildlife

1 enforcement investigation. I think there's a lot of
2 considerations as to what the exact amount would be.
3 However, the definite -- one (1) of the things for sure
4 that enters into account is whether or not the
5 proponent used due diligence. I think that's common
6 practice.

7 But our regulations and the Migratory
8 Bird Convention Act in itself, they do propose some
9 fines, I guess, but I'd have to look that up. I don't
10 know exactly the to -- the specific amounts in dollars.

11 MR. MARC D'ENTREMONT: Marc
12 D'Entremont, for the DKFN. Thank you for that answer.
13 No -- no further questions.

14 THE CHAIRPERSON: Questions, Diavik
15 Diamond Mines?

16 MR. GORD MACDONALD: Gord MacDonald,
17 with Diavik. No questions.

18 THE CHAIRPERSON: Questions, Fort
19 Resolution Metis Council? Questions, Transport Canada?

20 MS. ANITA GUDMUNDSON: Anita
21 Gudmundson, Transport Canada. No questions.

22 THE CHAIRPERSON: Questions from
23 Dominion Diamond Ekati Corporation.

24 MR. RICHARD BARGERY: Richard Bargery,
25 Dominion Diamond. No questions.

1 THE CHAIRPERSON: Questions from Review
2 Board staff or counsel?

3 MR. MARK CLIFFE-PHILLIPS: No quest --
4 no questions from staff, Madam Chair.

5 THE CHAIRPERSON: Questions from Review
6 Board members?

7

8 (BRIEF PAUSE)

9

10 THE CHAIRPERSON: Thank you,
11 Environment Canada, for your presentation.

12

13 (BRIEF PAUSE)

14

15 THE CHAIRPERSON: Our next presenters
16 are Fisheries and Oceans Canada.

17

18 (BRIEF PAUSE)

19

20 THE CHAIRPERSON: Okay, I guess
21 Fisheries and Oceans are presenting tomorrow. So right
22 now, we would like to ask North Slave Metis Alliance.

23

24 PRESENTATION BY NORTH SLAVE METIS ALLIANCE:

25 MR. SHIN SHIGA: Thank you, Madam

1 Chair. My name is Shin Shiga, North Slave Metis
2 Alliance. I'd like to acknowledge the presence of our
3 -- our Elder member, Tony Whitford, in the back, right
4 there. Thank you for staying so late. I will keep my
5 presentation as short and succinct as possible.

6 I first would like to reiterate my
7 position that NSMA endorses IEMA's position on caribou,
8 especially on technical aspects of the discussion.
9 Barren ground caribou is what we might call a cultural
10 keystone species. Caribou brings people together,
11 families together, people and the land together, and
12 provides for other wildlife on the land.

13 It's been an uphill battle for most
14 Slave Metis people when it comes to Bathurst caribou.
15 We fought in court for years, and the Crown finally
16 reaffirmed that North Slave Metis people's Aboriginal
17 right to hunt caribou last winter. Many of our members
18 have not been able to go hunting, let alone eating,
19 caribou due to the erroneous decisions by the
20 government and the declining numbers of caribou.

21 Still, it is our view that the
22 conservation of caribou, especially the Bathurst herd,
23 is so important that NSMA is supportive of -- of
24 management measures that -- that would restrict
25 Aboriginal harvest of the Bathurst herd if ENR so

1 recommends.

2 What I am trying to get at is that the
3 declining of the barren-ground caribou is significantly
4 impacting all Slave Metis people. We agreed that the
5 cumulative effects on the Bathurst herd is significant,
6 and adverse. The critical rate at which the Bathurst
7 herd is declining means, to NSMA, that any further
8 negative impacts must be considered significant and
9 adverse.

10 It is NSMA's view that only acceptable
11 impacts today should be those that are beneficial to
12 caribou. To that end, I ask the -- the Board to make a
13 determination that the effects of the development,
14 which we heard is negative, as significant and adverse.
15 Earlier today we heard that the Developer is committed
16 to engaging with NSMA, and others, to work towards
17 compensatory mitigation.

18 I would like to state here that NSMA
19 envisions the compensatory mitigation programs to
20 resemble what IEMA earlier explained, and ask the Board
21 to write a measure effecting that the objective of the
22 compensatory mitigation program to be net positive
23 effects to the Bathurst herd, which at minimum includes
24 accelerated progress of reclamation of the Ekati mine,
25 and support for sustainable community harvesting of

1 traditional games.

2 I would also like to bring up that the
3 climate change is one of the recognized impacts on
4 barren ground caribou. Fire, changing snow pack, and
5 quality of snow and ice are some of the examples of the
6 results of climate change. GNWT and the Developer must
7 take leadership to -- to turn this around.

8 I would like to again ask the Review
9 Board to send a strong message to the Government and
10 the Developer that climate change is a significant
11 issue, and that predicted emission from the Jay Project
12 is a significant part of the cumulative effects. Thank
13 you.

14

15 QUESTION PERIOD:

16 THE CHAIRPERSON: Thank you.
17 Questions, from the Monitoring Agency?

18 MR. BILL ROSS: Bill Ross, Agency. No
19 questions. Thank you, Madam Chair.

20 THE CHAIRPERSON: Questions, Government
21 of the Northwest Territories?

22 MS. LORRAINE SEALE: Lorraine Seale,
23 Government of the Northwest Territories. No questions,
24 Madam Chair.

25 THE CHAIRPERSON: Questions,

1 Yellowknives Dene First Nation?

2 MR. RANDY FREEMAN: Randy Freeman,
3 Yellowknives Dene First Nation. No, I have no
4 questions.

5 THE CHAIRPERSON: Questions, Lutsel K'e
6 Dene First Nations?

7 MR. PETER UNGER: Peter Unger, Lutsel
8 K'e Dene First Nation. Thank you for the presentation.
9 No questions.

10 THE CHAIRPERSON: Questions, Tlicho
11 Government?

12 MR. SJOERD VAN DER WIELEN: Sjoerd van
13 der Wielen, Tlicho Governments. No questions.

14 THE CHAIRPERSON: Questions,
15 Environment Canada?

16 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey
17 McMillan, with Environment Canada. No questions.

18 THE CHAIRPERSON: Questions, Fisheries
19 and Oceans Canada?

20 MS. JULIE DAHL: Julie Dahl, Fisheries
21 and Oceans Canada. No questions.

22 THE CHAIRPERSON: Questions, Deninu Kue
23 First Nation?

24 MR. MARC D'ENTREMONT: Marc
25 d'Entremont, for the DKFN. We have no questions.

1 THE CHAIRPERSON: Questions, Diavik
2 Diamond Mines?

3 MR. GORD MACDONALD: Gord MacDonald,
4 Diavik. No questions.

5 THE CHAIRPERSON: Questions, North --
6 or pardon me, Fort Resolution Metis Council?
7 Questions, Transport Canada?

8 MS. ANITA GUDMUDSON: Anita Gudmudson,
9 Transport Canada. No questions.

10 THE CHAIRPERSON: Questions, Dominion?

11 MR. RICHARD BARGERY: Richard Bargery,
12 Dominion Diamond. I'd like to thank Shin, but we have
13 no questions.

14 THE CHAIRPERSON: Questions from Review
15 -- Review Board staff and counsel?

16 MR. MARK CLIFFE-PHILLIPS: Mark Cliffe-
17 Phillips, with the Review Board. No questions, Madam
18 Chair.

19 THE CHAIRPERSON: Questions from Review
20 Board members?

21

22 (BRIEF PAUSE)

23

24 THE CHAIRPERSON: Thank you very much
25 for your presentation. Our next presentation is Deninu

1 Kue First Nations.

2

3 PRESENTATION BY DKFN:

4 MR. MARC D'ENTREMONT: Thank you, Madam
5 Chair. My name is Marc d'Entremont, technical advisor
6 to the DKFN. We just have a -- a few slides regarding
7 the caribou, and then Patrick Simon has a few words
8 about DKFN and -- and their traditional use of caribou,
9 so that's how this presentation will proceed.

10 So our presentation is based on the
11 technical report we submitted, although, just -- I
12 think we submitted our -- our presentation a couple
13 weeks ago, but since that time, there's been lots of --
14 more information to consider, including the -- the
15 results of the caribou survey that GNWT provided last
16 week, and then lots of information that was shared in
17 the last day or -- and -- and yesterday and today for
18 these hearings.

19 So I'm not going to probably deviate a
20 bit from our -- our presentation. There's been
21 discussion about the assessment end points and the
22 meaningfulness of them and the fact that there's been
23 recorded declines in the Bathurst caribou herd showing
24 that there hasn't been any stable or population growth
25 in the -- in recent years, which begs the question the

1 applicability of the assessment end points.

2 Added to that, the fact that there's
3 been several management actions imposed over recent
4 years, and the fact that a lot of these management
5 actions are -- are -- seems to be up to Aboriginal
6 people to -- to implement these management actions for
7 the most part, so again, and -- some of the -- some of
8 the points that have been raised earlier is that
9 Aboriginal people are -- are -- you know, doing
10 mitigations, it -- that -- to help improve caribou. It
11 -- there has to be a -- obviously, more things
12 happening.

13 And the other point, too, is about --
14 and -- and Dominion Diamond has raised this too in
15 terms of their determination of significance on the
16 Bathurst caribou herd is -- is that the views that
17 there's resiliency in -- in the current population, and
18 then we've heard countering arguments that that
19 resiliency is compromised.

20 And I think the other main point that --
21 that needs to be raised too is the fact that social and
22 cultural systems are -- are affected by this too, and
23 the resiliency of these systems in light of the decline
24 of caribou are maybe not as resilient. And there's
25 been other -- other groups that also mention the fact

1 that, you know -- you know, cultural -- cultural
2 aspects are really being impacted and affected by
3 decline of the caribou.

4 And in terms of mitigations, that's a --
5 that's a really tough one -- a tough one to address.
6 Then again, too, this -- this comes back to the
7 cumulative effects that have been discussed as well.
8 And I think I'll just stick on this slide for a bit,
9 because we've heard different -- difference --
10 differences of opinion, I guess, with regards to the
11 cumulative effects on -- on the caribou herd from both
12 Dominion Diamond and the other groups, and -- as well
13 as our DKFN submission.

14 The one thing to point out here, too, is
15 in -- I guess the response to one (1) of our
16 Information Requests, Dominion Diamond does also admit
17 that the actual duration of effects is unknown.
18 Although in other information they present, too, it's -
19 - it's talking about the reversibility of -- of the --
20 the impacts. So there's, again, conflicting
21 information there from the -- from the Developer.

22 And again, just in the interests of
23 time, I'll keep moving on here. So we -- we did put up
24 some recommended measures in terms of what can be done
25 to -- to help the cur -- the Bathurst herd. And I've

1 got it on the screen here, but I'll -- I'll likely end
2 up re-wording this based on, like I say, the
3 information that -- that was presented last week from
4 GNWT, and then the further information from -- that's
5 been happening through these discussions.

6 So I -- I'd like -- just like to empha -
7 - emphasize that it's now under the Review Board's
8 purview to, you know, conclude that there's, you know,
9 impacts or not. But -- but you -- you can set specific
10 measures that Dominion Diamond must adhere to in your
11 decision. So we hope that these measures are as
12 specific as you can get. And, like I say, I will
13 provide a bit more detail in our -- in our written
14 summary arguments as to what we would recommend as some
15 of the specific measures.

16 And I'll skip through this. So I'm --
17 so we obviously know that caribou are -- are around the
18 mine site. And the final thing we -- we wanted to talk
19 about, too, was the whole barrier effect. And again, I
20 think -- we think the Review Board can recommend some
21 specific measures around the whole barrier effect, and
22 -- and triggers, and -- and what it means for the
23 realization of potential effects or not. And again,
24 we'll provide a bit more detail in our -- in our sort
25 of closing arguments that are written.

1 The one (1) thing I will add, which has
2 come up yesterday and today, is the -- is the whole
3 issue around dust, and the fact that we -- there's not
4 going to be a regulatory trigger for dust. So I think
5 this is one (1) area that the Review Board can, in its
6 recommendation of measures, add a bit more detail as
7 to, you know, what triggers could be for the level of
8 dust impact, and monitoring that dust impact. And --
9 and again, this will be something, too, that we will
10 provide a bit more detail on in our -- in our closing
11 arguments.

12 So with that, I'll just leave this on --
13 on the screen, and I'll pass it over to Patrick for
14 some words. Thank you.

15 MR. PATRICK SIMON: Thank you, Marc.
16 Patrick Simon, Deninu Kue First Nation. I just wanted
17 to say some brief words. It's late, I realize. And --
18 but I also realize that it's important for me to -- to
19 remain here to say a few words to ensure that -- that
20 people don't forget us. And I'm forever reminding
21 people that because we are on the south side, that
22 these issues aren't our issues.

23 I've travelled extensively throughout
24 the -- throughout the limits of my territory. So I --
25 I've met people. And -- and I've been told things by

1 these people from -- from Baker Lake, Rankin Inlet,
2 people of Saskatchewan, who -- Cambridge Bay,
3 Coppermine, Deline, Fort Rae, Yellowknives, and Lutsel
4 K'e.

5 And it was prett -- pretty clear to me
6 that when it came to caribou that we all knew each
7 other, and we all knew the value of what caribou meant
8 to us. And I heard that many times today here, that we
9 are caribou, and caribou is us. It defines us.

10 And that's an effect that someone is
11 having on us, and it's a social effect. But it's also
12 a -- a relationship effect, because in my father and my
13 grandfather's day, he knew all these people because he
14 -- he had to travel in this very area, and he ran
15 across these people. So he hunted, and he related, and
16 he shared and cared with these people, because that's
17 what we did in the past.

18 And I -- I heard of that by my own
19 family, and by the Elders in my community. I heard
20 that caribou came right to the Bay in Deninu Kue. In
21 my dad's younger days, that's what caribou did. And
22 then caribou never came around anymore, ever since the
23 mine started. Mines way before you -- way, way before
24 you.

25 My people have experience with mines,

1 and it's not a good experience, so we try not to bring
2 it along. You know, it's a day and age that does not
3 occur again -- anymore, and -- and we shouldn't live by
4 that. We should move on, and begin to deal with these
5 matters in -- in a way that's proper.

6 I also know that my people are -- are
7 recognizing these areas as -- as users of that area.
8 As people who -- who find what they need to sustain
9 their selves, what they need to bring them health, and
10 strength, and dignity, and respect, and recognition.
11 What they need to develop relationships, and those same
12 relationships have -- have been strained. There's no
13 question about it.

14 And when you're on my side of the
15 looking glass as opposed to a lot of people around
16 here, it's very noticeable. It's very hard not to
17 bring it at the table, but it doesn't pay us much to
18 bring it. We have to be proactive and we have to be
19 collaborative, because this is an issue that requires
20 that.

21 Also, that just by travelling around,
22 you know, when I went to Rae and spoke about air
23 emissions and -- on Diavik, Elders from there came up
24 and they knew who I was, yet I never really had any
25 kind of relationship that way with them. They just

1 knew who I was by the back of my features, because
2 apparently my grandfather and my uncle hunted and
3 trapped, and did a lot for those people.

4 And then when I went to Deline, I was at
5 the community hall and the same thing occurred to me.
6 I was buying a pop at the arena, and -- and these
7 Elders called me. And they told me exactly who I was.
8 So they -- they knew me and of me because my
9 grandfather and my uncle used to go up that way, too.

10 And they didn't go up there just to go
11 visiting. They went up there to go hunting, gathering,
12 to fish, to -- to bring food back for their people, for
13 their communities. So it's important for me to stay
14 here, all night if I have to, to talk to you guys to
15 explain that. Me, as a member of the Deninu Kue First
16 Nation, and the consideration I should be given is
17 equally so as anyone else in this room.

18 And it's important for me to -- to
19 continue to say that until one day I'm treated as such.
20 And we don't feel we are yet. And we tried different
21 approaches, and it didn't seem to work. The angry man
22 approach is just not where we want to go with this. We
23 want to extend our hands, and begin to work with people
24 to reestablish and re-recognize the relationships of
25 the whole and how we used to all speak for each other,

1 help each other. And even when communities were in
2 trouble, we -- we'd send food back and forth.

3 Oh, we're in trouble right now. In the
4 old days, I'd feel comfortable, because people behind
5 me would extend a -- a hand and a courtesy with -- with
6 whole-heartedness. But it's -- it's hard to feel now
7 in this modern way because of the separations of how
8 people are treated and recognized.

9 But we don't expect it to be cured or
10 fixed here. We expect many, many days and hours and
11 weeks of dialogues with everyone to gain that back.
12 And we're prepared to do it in the proper way that we
13 were taught and how we were raised.

14 You know, before, in my father's age,
15 even in my older brother's age, we were fortunate. We
16 considered ourselves very fortunate, because some
17 people only had the caribou. We had caribou, we had
18 moose, and we had buffalo.

19 Now, personally, if you ask me, what is
20 my favourite food, I'd say buffalo. But if you ask Res
21 that very same question, Deninu Kue, the majority of
22 them would say exactly what you've heard these -- this
23 day, that caribou is their favourite food, that caribou
24 is important to them.

25 And at one time, even people subscribed

1 our name as caribou eaters. And it's a shame that I
2 have to come here to continue to remind people that
3 what happens north of the lake is equally so important
4 to me and to my people that -- that we -- we have all
5 this other stuff, but even then, we found that, more
6 and more, that stuff has become -- people don't fight
7 fires any more. I don't know why. They used to all
8 the time. You know, everybody in the communities grew
9 up as a EFF (phonetic). I doubt it if we have many of
10 that anymore, because we don't fight fires.

11 So we have no moose in our country any
12 more. The fires chased them, chased them up. I don't
13 know, chased them somewhere. But it's really hard to
14 get moose.

15 And the buffalo are sick. We had our
16 own little herd and we're clinging to it, and even that
17 is becoming sick. It's -- it's becoming to a point
18 where I'm starting to hear in my own community that
19 people have no more faith or even -- in even wanting to
20 eat buffalo meat, because they're afraid that the
21 sickness will come to them.

22 So more and more, we are forced to go
23 back to rely on caribou. But the caribou don't come to
24 Res no more. The caribou don't come to a lot of places
25 no more, and they seem to be further -- further and

1 further away.

2 So I have to subscribe to you that the
3 effect for caribou for me is far greater than anybody
4 in this room, because I have to go further. I have to
5 demonstrate even more to people that -- of this effect.

6 I also have to, you know, struggle with
7 the ideas of how do we support our hunters and trappers
8 that want to get caribou? We don't -- we didn't -- we
9 don't get funded like other people, and at times we
10 don't even get access to that.

11 Other people have that access. That's
12 not what my Treaty said. I know this because I'm a
13 direct descendant of a Treaty signatory, and I know
14 this because, whether devolution or not, the Government
15 of the Northwest Territories is a government of law and
16 order and peace, similar to my treaty. In fact, my
17 treaty mentions that.

18 So we're not asking for much. We're
19 just asking people of law to practice what they preach,
20 to follow the law, in our sense, because we practice
21 our law. We honoured our treaty. People have been
22 here. We're the oldest community in the Northwest
23 Territories. We were once the capital, so we've done a
24 lot to help people to honour our treaty, and that's all
25 we're asking for when it comes to -- to caribou.

1 Because for me at home, it's harder. We
2 don't have money to send people in distances twice as
3 far as a lot of people around the stable have to go.
4 We have to go twice, and it costs more. And
5 governments don't recognize this as much. That's why I
6 say that this caribou effect is far greater for us,
7 because the long obstacles in the way that people don't
8 seem to be paying attention.

9 To be quite honest, the only time I'd
10 really stop coming here and saying something like this
11 is if I was treated 100 percent equal what -- as any
12 person in the room. Because, quite frankly, if left to
13 us alone, the Aboriginal peoples of this room alone, we
14 would do that, because we were taught to do that and we
15 have a history of doing that. But we don't get to say
16 that. Governments and big business and economies
17 apparently have to say that.

18 So for me, this whole issue is a very,
19 very hard thing to -- to do, to -- to be a part of,
20 because it's tiring and it's draining to come here and
21 maintain a certain amount of faith and dignity and
22 relations when it seems like nobody is listening. And
23 we really want people to listen, because it's a shame.
24 There's -- there's a -- a lot we can do together when
25 it comes to issues such as this.

1 I'm tired now. And -- and I'm just
2 going to end it at that, because, you know, I want
3 people to go home and have a good sleep, because we
4 come from a delta. Water -- we're water people, too,
5 and water's important. And people have to have good
6 minds to discuss that, because that is also important.

7 So, Madam Chairper -- person, thank you
8 and have a good night.

9

10 QUESTION PERIOD:

11 THE CHAIRPERSON: Thank you for your
12 presentation. Questions from the Monitoring Agency?

13 MR. BILL ROSS: Bill Ross, Monitoring
14 Agency. No questions. Thank you, Madam Chair.

15 THE CHAIRPERSON: Questions from the
16 Government of the Northwest Territories?

17 MS. LORRAINE SEALE: Lorraine Seale,
18 GNWT. No questions.

19 THE CHAIRPERSON: Questions from
20 Yellowknives Dene First Nation?

21 MR. RANDY FREEMAN: Randy Freeman,
22 Yellowknives Dene First Nation. No questions.

23 THE CHAIRPERSON: Questions from Lutsel
24 K'e Dene First Nation?

25 MR. PETER UNGER: Peter Unger, LKDFN.

1 Thank you very much, Deninu Kue, for their
2 presentation. No questions.

3 THE CHAIRPERSON: Questions from Tlicho
4 Government?

5 MR. SJOERD VAN DER WIELEN: Sjoerd Van
6 Der Wielen, Tlicho Government. No questions.

7 THE CHAIRPERSON: Questions from
8 Environment Canada?

9 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey
10 McMillan, with Environment Canada. No questions.

11 THE CHAIRPERSON: Questions, Fisheries
12 and Oceans Canada?

13 MS. JULIE DAHL: Julie Dahl, Fisheries
14 and Oceans Canada. No questions.

15 THE CHAIRPERSON: Questions, North
16 Slave Metis Alliance?

17 MR. SHIN SHIGA: Shin Shiga, North
18 Slave Metis Alliance. We have no questions.

19 THE CHAIRPERSON: Questions, Diavik
20 Diamond Mines?

21 MR. GORD MACDONALD: Gord MacDonald,
22 with Diavik. No questions.

23 THE CHAIRPERSON: Questions, Fort
24 Resolution Metis Council? Questions, Transport Canada?

25 MS. ANITA GUDMUNDSON: Anita

1 Gudmundson, Transport Canada. No questions.

2 THE CHAIRPERSON: Questions, Dominion
3 Diamond Ekati Corporation?

4 MR. RICHARD BARGERY: Richard Bargery,
5 Dominion Diamond. I'd like to thank Deninu K'ue for
6 their presentation. We have no questions.

7 THE CHAIRPERSON: Questions from Rev --
8 Review Board staff and counsel?

9 MR. MARK CLIFFE-PHILLIPS: Mark Cliffe-
10 Phillips, Review Board staff. No questions from staff
11 and legal counsel, Madam Chair.

12 THE CHAIRPERSON: Questions from Review
13 Board members?

14

15 (BRIEF PAUSE)

16

17 THE CHAIRPERSON: Okay. Thank you very
18 much for your presentation. Masi. Our next
19 presentation is from Diavik Diamond Mines.

20

21 (BRIEF PAUSE)

22

23 PRESENTATION BY DIAVIK DIAMOND MINES INC.:

24 MR. GORD MACDONALD: My name is Gord
25 MacDonald, with Diavik. And currently the combined

1 effects of Diavik and Ekati operations has resulted in
2 reduced frequency of caribou on the Diavik mine site,
3 an effect that we actually see as preferable for
4 caribou and DDMI during operations.

5 This local zone of influence and effect
6 was expected to be reduced within the next ten (10)
7 years, with the closure of the Ekati and the Diavik
8 mines. Post-closure an increased use of the Diavik
9 mine site by caribou was expected to be a key
10 performance criteria for Diavik.

11 The DAR provides evidence that if the
12 Jay Project proceeds, the zone of influence effects on
13 -- on the local movement of caribou would continue for
14 the life of the Jay Project, rather than reverse as
15 expected without the Jay Project. DDMI has accepted
16 the -- the evidence provided by the DAR.

17 For Diavik this would mean that with
18 the Jay Project it'll be more difficult for DDMI, as
19 the operator of the Diavik mine, to demonstrate
20 increased post-closure use of the reclaimed mine site
21 by caribou. This difficulty is likely to result in a -
22 - in challenges with the relinquishment of Diavik's
23 closure security.

24 DDEC has evaluated the effects of the
25 Jay Project on caribou, but has not on the value of

1 these effects on Diavik. DDMI expects with -- that
2 with the effects -- that these effects on Diavik can be
3 mitiva -- mitigated with the commitments made by DDEC,
4 but also require agreements from regulatory authorities
5 and parties to the environmental agreement.

6 We ask that the Mackenzie Valley
7 Environmental Impact Review Board confirm, through this
8 environmental assessment process, DDMI's position that
9 the Jay Project is likely to cause adverse economic
10 effects to DDMI, as the operator of the Diavik mine.

11 That the Mackenzie Valley Environmental
12 Review Board require that the Proponent engage with
13 DDMI to develop mutually acceptable monitoring and
14 mitigation to effectively eliminate these impacts to
15 Diavik.

16 And that the Mackenzie Valley
17 Environmental Impact Review Board specify that the
18 monitoring and mitigation specific to impacts on Diavik
19 be included within the regulatory phase with the Land
20 and Water Board, the GNWT, and parties to Diavik's
21 environmental agreement.

22 I'd ask you to note that Recommendation
23 Number 5 in both the technical report and the
24 presentation specific -- should specifically reference
25 the Diavik environment agreement, rather than simply

1 the environmental agreement. Relin -- relinquishment
2 of closure security is an aspect of Diavik's
3 environmental agreement, and hence the need for these
4 parties to be engaged. I apologize for the inaccuracy
5 in our submissions. Thank you very much.

6

7 QUESTION PERIOD:

8 THE CHAIRPERSON: Thank you for your
9 presentation. Questions for Diavik from the monitoring
10 agency?

11 MR. BILL ROSS: Bill Ross, monitoring
12 agency. No questions. Thank you, Madam Chair.

13 THE CHAIRPERSON: Questions, Government
14 of the Northwest Territories?

15 MS. LORRAINE SEALE: Lorraine Seale,
16 GNWT. No questions.

17 THE CHAIRPERSON: Questions,
18 Yellowknives Dene First Nation?

19 MR. RANDY FREEMAN: Randy Freeman,
20 Yellowknives Dene First Nation. No questions.

21 THE CHAIRPERSON: Questions, Lutsel K'e
22 Dene First Nation?

23 MR. PETER UNGER: Peter Unger, LKDFN.
24 Thank you, Diavik, for the presentation. No questions.

25 THE CHAIRPERSON: Questions, Tlicho

1 Government?

2 MR. SJOERD VAN DER WIELEN: Sjoerd van
3 der Wielen, Tlicho Government. No questions. Thank
4 you, Madam.

5 THE CHAIRPERSON: Questions,
6 Environment Canada?

7 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey
8 McMillan, with Environment Canada. No questions.

9 THE CHAIRPERSON: Questions, Fisheries
10 and Oceans Canada?

11 MS. JULIE DAHL: Julie Dahl, Fisheries
12 and Oceans Canada. No questions.

13 THE CHAIRPERSON: Questions, North
14 Slave Metis Alliance?

15 MR. SHIN SHIGA: Shin Shiga, North
16 Slave Metis Alliance. We have no questions.

17 THE CHAIRPERSON: Questions, Deninu Kue
18 First Nations?

19 MR. MARC D'ENTREMONT: Marc
20 d'Entremont, for the DKFN. We have no questions.

21 THE CHAIRPERSON: Questions, Fort
22 Resolution Metis Council?

23

24 (BRIEF PAUSE)

25

1 THE CHAIRPERSON: Questions, Transport
2 Canada?

3 MS. ANITA GUDMUNDSUN: Anita
4 Gudmundsun, Transport Canada. No questions.

5 THE CHAIRPERSON: Questions, Dominion
6 Diamond Ekati Corporation?

7 MR. RICHARD BARGERY: Richard Bargery,
8 Dominion Diamond. No questions.

9 THE CHAIRPERSON: Questions from Review
10 Board staff and counsel?

11 MR. MARK CLIFFE-PHILLIPS: Mark Cliffe-
12 Phillips, with the Review Board. No questions from
13 staff and counsel, Madam Chair.

14 THE CHAIRPERSON: Questions from Review
15 Board members?

16

17 (BRIEF PAUSE)

18

19 THE CHAIRPERSON: No questions. Thank
20 you very much for -- for your presentation. We're like
21 a horse to water at the end of this, I guess, isn't it.
22 Twenty (20) after 10:00.

23 I would like to thank each and every one
24 of you for your presentations today, for your diligence
25 to stay here. It's very late. We've had a very long

1 day. Thank you for your participation. Thank you to
2 the staff that have stayed here. The girls that are
3 waiting by the door for us, thank you for all you've
4 done for us. Thank you for feeding us.

5 To our Board members and to our staff,
6 and Dr. Gunn, thank you for your insight into the
7 caribou presentation and the questions. And tomorrow
8 morning we'll be -- have to move -- we'll be moving to
9 the Tree of Peace, and we'll be starting tomorrow
10 morning at 8:30. So everything has to be taken out of
11 the room. All your books and binders. Thank you.

12

13 --- Upon adjourning at 10:23 p.m.

14

15 Certified correct,

16

17

18

19 _____

20 Robert Keeleghan, Mr.

21

22

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