



“When You Talk - We Listen!”



MACKENZIE VALLEY LAND

AND WATER BOARD

Gahcho Kue Mine

WATER LICENCE AND LAND USE PERMIT APPLICATIONS

De Beers Canada Incorporated

MV2005L2-0015 and MV2005C0032

PUBLIC HEARING

Panel Members:

Chairperson	Willard Hagen
Member	Joseph Mackenzie
Member	Frank McKay
Member	Floyd Adlem

HELD AT:

Tree of Peace

Yellowknife, NT

May 7, 2014

Day 2 of 2

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11 David Fox )

12

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16 Sean Whitaker )

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17		future plans by May 15, 2014	154
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1 --- Upon commencing at 9:01 a.m.

2

3 THE CHAIRPERSON: Good morning to  
4 everyone. Thank you for being back and on time. And  
5 we're going to get started at nine o'clock. So we'll  
6 continue with where we left off yesterday afternoon,  
7 and that is questions to GNWT-ENR. And we had left it  
8 at the staff starting first thing this morning. So I  
9 will turn it over to the staff.

10

11 GNWT-ENR PRESENTATION QUESTION PERIOD CONTINUED:

12 MS. REBECCA CHOUINARD: Thank you, Mr.  
13 Chair. It's Rebecca Chouinard, with Board staff. I've  
14 just one (1) little question that I promised I would  
15 deliver.

16 I am just wondering if you have any  
17 thoughts on what an appropriate term would be for the  
18 water licence and, if so, the rationale.

19

20 (BRIEF PAUSE)

21

22 MR. ROBERT JENKINS: Thank you, Mr.  
23 Chair. It's Robert Jenkins, with ENR. A lot of  
24 talking here internally about that little -- that  
25 little question you said that you'd ask. It's a bit

1 bigger of a question, although it was a very short one.

2           We haven't provided in our intervention  
3 any recommendations on -- on a term for the licence.  
4 We do recognize that the legislation now allows a life  
5 of project licence, although the legislation formerly  
6 offered a -- you know, up to twenty-five (25) year term  
7 could be -- could be authorized. So in either case,  
8 there is the ability to -- for the Board to permit this  
9 -- this operation for the entire length.

10           Often what we've seen in recent licences  
11 that have been issued been in the range of eight (8) to  
12 fifteen (15) years. Those have been sort of the  
13 standard lengths that have been -- been permitted.  
14 Often they're aligned with -- with key aspects of the  
15 project, you know, a couple years before you get into  
16 closure, where you've got a lot of data and you can  
17 start thinking and have a good discussion about --  
18 about how things should be closed off.

19           But we do -- we do need to recognize  
20 that if a longer licence is issued, there is the  
21 ability through amendments for a public hearing to be  
22 held. I guess that's sort of a long-winded way of  
23 getting to I don't -- I don't have an answer for you or  
24 -- or a recommendation here on the spot. It's  
25 something that we can -- we'll go back and think about



1 and put a bit of rationale and -- and something in our  
2 closing statements, if that's considered appropriate by  
3 the Board.

4 THE CHAIRPERSON: And thank you for  
5 that. And, Rebecca, further?

6 MS. REBECCA CHOUINARD: Thank you, Mr.  
7 Chair. Rebecca Chouinard. No further questions. And  
8 we'll look for your position on that in your closing  
9 arguments. Thank you.

10 THE CHAIRPERSON: Okay. Thank you for  
11 that. Further from the staff?

12 MS. JEN POTTEN: Hi. This is Jen  
13 Potten, for Board staff. ENR, would you be able to  
14 verify with your security estimate if in the \$84  
15 million the -- that includes the amount of security  
16 that has been currently posted with the existing land  
17 use permit and water licences that have been issued to  
18 De Beers for this project?

19 THE CHAIRPERSON: Thank you for that,  
20 Jen. Over to ENR.

21

22 (BRIEF PAUSE)

23

24 MR. ROBERT JENKINS: It's Robert  
25 Jenkins, with ENR. The estimate that we put forward is

1 -- is the estimate that we have for the Gahcho Kue  
2 project and it's -- it's in its entirety.

3 THE CHAIRPERSON: Okay. Thank you for  
4 that. Further from technical or legal?

5 MR. JOHN DONIHEE: Thank you, Mr.  
6 Chairman. It's John Donihee. I'm Board counsel. I  
7 have a couple of questions about the follow-up programs  
8 that were recommended by the Environmental Impact  
9 Review Panel. And more specifically, I guess, I -- I  
10 guess what I'm hoping you can do, because the -- at the  
11 time that the panel's report was issued, of course, was  
12 pre-devolution, and now we have a different minister  
13 responsible for carrying out some of those programs.

14 And I'm -- I'm just hoping that we can  
15 explore that a bit and -- and that you can give me some  
16 indication of your department's views on how, for  
17 example, the follow-up programs with respect to water  
18 and aquatic effects, how you see them being addressed.

19 I mean, the -- the minister has an  
20 obligation, as I read the Act under -- under 1 --  
21 Section 136, to do everything that's necessary to bring  
22 the panel's report into -- into effect. And obviously,  
23 that would include some role now in -- in dealing with  
24 the follow-up programs.

25 So maybe before I -- I ask a more

1 specific question, I'm -- I'm just -- is it your  
2 understanding, you know, that as a result of changes in  
3 responsibilities for your minister that ENR is going to  
4 be playing the primary role in -- in seeing to the  
5 implementation of these follow-up programs?

6 THE CHAIRPERSON: Thanks for that,  
7 John. Over to ENR.

8

9 (BRIEF PAUSE)

10

11 MR. ROBERT JENKINS: Thank you, Mr.  
12 Chair. It's Robert Jenkins, with ENR. Some great  
13 questions this morning from staff. I first just want  
14 to thank you for those great questions that have our  
15 minds going at light speed at -- at 9:00 a.m. in the  
16 morning.

17 I guess to -- to put it in -- to take a,  
18 I guess, a little bit of a step back, yeah, there are a  
19 number of measures, you know, in the report of EA. And  
20 -- and those, as we all are aware, measures and reports  
21 in the EA need to be implemented moving forward.

22 Some of those measures were directed at  
23 the GNWT and AANDC at the time. And, yes, April 1st,  
24 the magic happened and -- and there was a transfer of  
25 responsibilities over to the Territory government from

1 AANDC, but AANDC still does have some residual  
2 responsibilities in the NWT and -- and some of those  
3 are in -- in with respect to EA.

4 I -- I'm not privy of -- of any sort of  
5 discussions between my current government and my former  
6 government on -- on how they are going to interact with  
7 respect to ensuring that this -- these measures get  
8 implemented.

9 But, you know, a -- a lot of the follow-  
10 up programs are in areas that are now -- do rest  
11 primarily with the GNWT, so it would seem inherent  
12 that, yes, if there is going to be someone who is --  
13 is, I guess, a primary and a secondary, that the GNWT  
14 would likely be primary.

15 MR. JOHN DONIHÉE: Thank you, Mr.  
16 Chairman. John Donihee again, and -- and thank you,  
17 Mr. Jenkins.

18 What I'm hoping to do with these  
19 questions is really just to sort of sort out what the  
20 Board's role is and -- and what the Applicant and  
21 Intervenors can anticipate, being it a licence or a  
22 permit, and which -- which other things are more  
23 generally responsibilities of government. So that --  
24 that's the reason for the question.

25 And, you know, the -- the follow-up

1 programs, I -- I guess just to be clear, I -- I -- my  
2 understanding would be that they're -- it's -- that's  
3 something that different than a measure, which, you  
4 know, there -- there's three (3) measures in the -- in  
5 the report of -- of the -- the panel. And -- and the -  
6 - so the -- the question I want to ask now is really on  
7 -- for water and aquatic effects, if you -- if you look  
8 at the -- the follow-up measure that was recommended  
9 there, the panel seemed to anticipate that that would  
10 primarily be dealt with through the Aquatic Effects  
11 Monitoring Program, which is normally part of a water  
12 licence.

13                   And -- and so my question for ENR is  
14 whether that would be your view of it as well, that,  
15 you know, the matters that are set out to be dealt  
16 with, or addressed in -- in the follow-up program to  
17 deal with water and aquatic effects are essentially  
18 contained within the Aquatic Effects Monitoring  
19 Program?

20                   Do you see a role beyond that for your  
21 department and -- and ultimately your minister as the  
22 approving authority? Or is ENR satisfied that if the  
23 AEMP that's developed in the normal way through --  
24 through the water licensing process, if the AEMP is  
25 satisfactory, that that will deal with that particular

1 follow-up program that was recommended by the panel?

2 THE CHAIRPERSON: And thanks for that,  
3 John. Back to ENR.

4

5 (BRIEF PAUSE)

6

7 MR. ROBERT JENKINS: Thank you, Mr.  
8 Chair. It's Robert Jenkins, with ENR. Yes, I mean, I  
9 think, you know, as it -- as it reads, it talks about  
10 the Aquatic Effects Monitoring Program. It talks about  
11 water and aquatic effects being incorporated into that.  
12 It also talks about fish and -- and having that as an  
13 aspect of the Aquatic Effects Monitoring Program.  
14 That's part of the follow-up program in that -- in that  
15 piece that was issues by MVEIRB.

16 As well, I think it would help to  
17 satisfy some of the -- some of the roles and  
18 responsibilities as stated in here about follow-up  
19 programs should be developed by the Proponent in  
20 collaboration with regulatory, community, stakeholder  
21 input, consideration of traditional knowledge. These  
22 are all things that -- that do get embedded into the --  
23 the AEMP.

24 So I would say that, yes, I think that  
25 that would -- that would satisfy that.

1 MR. JOHN DONIHÉE: Thank you, Mr.  
2 Chairman. John Donihee. Okay. I thank you for that.  
3 I -- I want to move on then, because the -- the panel  
4 also recommended a follow-up program with respect to  
5 two (2) matters related to wildlife, which are also  
6 your department's jurisdiction: one (1) dealing with  
7 barren-ground caribou and habitat, and the other one  
8 dealing with wildlife -- other wildlife and species at  
9 risk, which again are matters under your minister's  
10 purview.

11 So the -- the question here really is  
12 just wanting to try and provide a -- some evidence on  
13 the record that makes is clear where, you know, a -- a  
14 Land and Water Board's authorities begin and end in --  
15 in respect to some of these wildlife matters and where,  
16 you know, your government, your department's  
17 responsibilities rest in -- in relation to,  
18 particularly, you know, things like species at risk and  
19 -- and wildlife populations, as opposed to habitat.

20 So -- so the -- the question really is -  
21 - is simply: Would -- would you agree that, you know,  
22 from the standpoint of this Board's jurisdiction, that  
23 really on the water side there's very little that the  
24 Land and Water Board can do about wildlife and wildlife  
25 habitat, and that on the land use permitting side, that

1 the Land and Water Board's responsibilities are limited  
2 to conditions in a land use permit that can address  
3 wildlife habitat?

4 THE CHAIRPERSON: Thanks, John. Over  
5 to ENR.

6

7 (BRIEF PAUSE)

8

9 MR. ROBERT JENKINS: Thank you, Mr.  
10 Chair. It's Robert Jenkins, with ENR. I think I'd  
11 like to go back on this one and -- and have the  
12 discussion with -- with some of my colleagues. What I  
13 would suggest is that if the question, if I -- if I  
14 could, I guess, rephrase it slightly, and -- and I'm  
15 sure you'll correct me if -- if I take it too much out  
16 of -- out of scope.

17 But it seems to me that the crux of the  
18 matter is -- is how -- or what areas of jurisdiction  
19 would the -- does the Board have in regards to this  
20 follow-up program respecting barren land, you know,  
21 caribou, caribou habitat, wildlife habitat? So sort of  
22 what areas, you know, does the GNWT feel falls under  
23 the jurisdiction of the Board in -- in regards to  
24 implementing those versus the areas that would have to  
25 be implemented by another body?



1 MR. JOHN DONIHUE: Thank you, Mr.  
2 Chairman. That -- that might be -- I -- I'm going to  
3 agree that it's probably better, and we can move --  
4 move along more quickly this morning, if perhaps the --  
5 the GNWT-ENR would respond to these matters in its  
6 final argument rather than us -- I realize there --  
7 there's some legal content or background to these  
8 questions, and I apologize if I caught you by surprise.

9 But -- but it's quite important from the  
10 Board's standpoint, because I think the -- the record  
11 has been used as a repository in some ways for a number  
12 of submissions that -- you know, we -- we don't vet  
13 things before they're filed. They tend to come in, and  
14 -- and they end up on the record.

15 And then afterwards when the Board  
16 deliberates to make a decision, we're often called to  
17 advise the Board, and -- and deal with issues of:  
18 Well, is that within our jurisdiction or not. It's  
19 actually on the record. You know, should we be dealing  
20 with it. How do we deal with it?

21 So we'd like some help from -- we'd like  
22 ENR's views on -- on some of these things. And to be  
23 clear then, what I'm asking about at least in -- in the  
24 question I just asked and I have one (1) more for you  
25 before we're through, but -- but the question I just

1 asked was, you know: Please give the Board ENR's views  
2 with respect to the scope of the Board's authority over  
3 wildlife habitat and -- and wildlife in -- in relation  
4 to some of the materials that are on the record and in  
5 -- in specific relation to those follow-up measures  
6 because, as a regulator, the Board has it -- its own  
7 obligations to -- to address follow-up measures. So  
8 that's the first part of what I'm asking you, if -- if  
9 you will do an argument.

10 And I'll -- I'll go to the second point,  
11 as well, I guess, and it has to do with some of the air  
12 quality issues that have -- have come up, and I -- I  
13 know you're very familiar with the definition of  
14 'waste', given your current and former in --  
15 involvement in these kinds of matters.

16 And the -- the issue that -- that arises  
17 has been arising on a rather regular basis before the  
18 Board has to do with the assumption that, you know,  
19 anything, essentially, that has to do with an  
20 incinerator can be dealt with in a water licence, and I  
21 think there are some limits on the Board's authorities  
22 in that respect as well. The Board regulates the  
23 deposit of waste into water, as -- as you know very  
24 well, and you can look at the definitions.

25 But I would -- I would like to hear from

1 ENR, if you're willing to make those submissions, on  
2 your views about the scope of that authority and -- and  
3 why, in particular, you know, that ENR and the GNWT is  
4 not looking at its own legislation, the Environmental  
5 Protection Act, as a -- as a source of authority to  
6 deal with some of these matters, rather than, you know,  
7 this fuzzy sort of approach that -- that's emerged as  
8 to just, you know, whether everything that comes out of  
9 the stack is waste.

10 So anyway, I -- I hope you understand  
11 the -- the questions, if you're clear with them, and if  
12 you would just confirm for the Board that ENR is  
13 comfortable responding to them in final argument, then  
14 those would be my questions, Mr. Chairman.

15 THE CHAIRPERSON: Thanks, John.

16 Further from ENR?

17

18 (BRIEF PAUSE)

19

20 MR. ROBERT JENKINS: Thank you, Mr.  
21 Chair. It's Robert Jenkins, with ENR. We will  
22 endeavour to -- to address those -- those items, the --  
23 what you discussed about wildlife habitat and -- and  
24 air in -- in context of -- of jurisdiction, in context  
25 of the follow-up program that came out in the report of

1 EA, so we will endeavour to provide input and -- and  
2 something for the Board in our closing statements.

3 THE CHAIRPERSON: Great. Thanks.  
4 Further...?

5 MR. ZABEY NEVITT: Zabey Nevitt, with  
6 the Board. I just have a question in relation to the  
7 government's responsibilities in the determinations of  
8 adequacy of consultation prior to the enactment of  
9 devolution. The minister of AANDC would, of course,  
10 make that determination as part of their approval of a  
11 water licence.

12 Can we assume that as the minister of  
13 ENR is now the approving authority for the water  
14 licences, that that same kind of determination of  
15 adequacy of Crown consultation will -- will be carried  
16 out by the minister of ENR?

17 MR. ROBERT JENKINS: Thank you, Mr.  
18 Chair. It's Robert Jenkins, with ENR. Yeah, the --  
19 the onus is on the -- the minister of ENR now, as the  
20 approving body of this water licence, to ensure that  
21 the Crown consultation obligations have been met.

22 Obviously, a big part of this assessment  
23 relies upon the Board process, the opportunity for  
24 parties to participate in that process, the concerns  
25 raised, and obviously, how those concerns were

1 addressed in -- in the water licence which is  
2 presented.

3 So I guess in short, yes, but the -- as  
4 you're aware, the Board plays a very big part in that.

5 THE CHAIRPERSON: Thank you for that.  
6 Further for Board staff, technical? I'll thank you,  
7 ENR, for taking all their questions into consideration,  
8 coming back at some point. It's -- I think they're  
9 very important questions for the Board here to make to  
10 further decisions.

11 I think I mentioned yesterday that we  
12 have an unofficial agreement that the -- most Board  
13 members won't ask questions. We've got them through  
14 the legal or through the staff. We would rather inhale  
15 than exhale in the same meeting, and -- but they're  
16 independent, so they do have the right. So I'll pass  
17 it over to Joseph MacKenzie.

18 MR. JOE MACKENZIE: Joseph MacKenzie,  
19 Board member. I have no question.

20 MR. FLOYD ADLEM: Floyd Adlem, I have  
21 no questions.

22 MR. FRANK MCKAY: Frank McKay. I have  
23 no questions, Mr. Chair.

24 THE CHAIRPERSON: Great. Thank you to  
25 all -- all the members, and so our next round here will

1 be an Intervenor presentation by Environment Canada.

2

3

(BRIEF PAUSE)

4

5

THE CHAIRPERSON: If anybody wants to  
6 grab a fast coffee or tea before we proceed, you are  
7 more than welcome.

8

9 --- Upon recessing at 9:31 a.m.

10 --- Upon resuming at 9:33 a.m.

11

12

THE CHAIRPERSON: If everybody could  
13 take their seats again, please. And we'll welcome  
14 Environment Canada to do their presentation.

15

16 PRESENTATION BY ENVIRONMENT CANADA:

17

MS. SARAH-LACEY MCMILLAN: Good  
18 morning, Mr. Chair, members of the board. My name is  
19 Sarah-Lacey McMillan, and with me I have Ann Wilson and  
20 Dave Fox. you for the opportunity to present  
21 Environment Canada's intervention on this water license  
22 application. The department would like to acknowledge  
23 the professional manner in which De Beers and the  
24 consultants have displayed throughout the water licence  
25 application process, and the cooperative approach taken

1 to work through the outstanding issues.

2 Environment Canada is of the opinion  
3 that the conclusion drawn by De Beers in general are  
4 supported by the analysis, and EC acknowledges and  
5 appreciates the efforts and -- and will continue to  
6 invest in monitoring.

7 The specifics of EC's outstanding issues  
8 are outlined in this presentation, and deal with the  
9 fresh water environment and the waste management, and  
10 we'll be presenting on behalf of the Department for the  
11 freshwater, and then Dave will continue on with some  
12 waste management.

13 MS. ANNE WILSON: Thanks, Sarah-Lacey.  
14 Good morning. My name is Anne Wilson, and I work on  
15 water quality issues with Environment Canada. Today  
16 I'll be presenting a number of concerns -- do you want  
17 to flip the next slide -- relating to the freshwater  
18 environment, and how contaminants are regulated, how  
19 monitoring results are used, and some recommendations  
20 on contingency and closure planning. I won't read the  
21 whole list that's up there.

22 I'd like to start with Effluent Quality  
23 Criteria. De Beers has provided a thorough review of  
24 parameters based on pre-development information and  
25 their modelling predictions. However, as experience

1 has shown us, we've got lots of hindsight on all the  
2 other mining files we've looked at, modelling has  
3 inherent uncertainties, and until we can have real  
4 world data and calibrate the models and then update and  
5 validate the predictions, there's always a degree of  
6 uncertainty.

7                   To address this, De Beers has proposed  
8 that a form of adaptive management would be to start  
9 with a proposed list of parameters as EQCs, then review  
10 operational data, and add any that might subsequently  
11 prove to be warranted. I take the opposite -- or the -  
12 - the converse view that it would be reasonable to  
13 regulate the typical parameters included for northern  
14 mining operations and -- and based on what's in this  
15 geology, and then adjust that at future renewals if  
16 concentrations are sufficiently low or predictions are  
17 validated.

18                   Next slide. EC had also presented a  
19 recommendation that total petroleum hydrocarbons be  
20 included in the list of regulated criteria, and De  
21 Beers has agreed to this at a level of 5 milligrams per  
22 litre, which is pretty typical.

23                   We would also like to see a broader list  
24 of discharge criteria, and that this be applied to all  
25 releases of effluent to the aquatic environment.



1 Additional parameters which may be considered for  
2 inclusion with regulated limits could include sulphate,  
3 chloride, cadmium, chromium, arsenic, copper, lead,  
4 molybdenum, nickel, and zinc.

5           Inputs to the water management pond,  
6 which will then be discharged to the receiving  
7 environment, will come from groundwater via the mine  
8 from surface runoff over the metals-rich lake bed  
9 sediments and from seepage through the PKC filter dike,  
10 and from waste rock storage areas, and coarse  
11 kimberlite pile.

12           These could be sources -- and I know De  
13 Beers has modelled what they expect to see coming from  
14 these -- of the parameters that I've listed up there.  
15 And I feel that these should be not only monitored, but  
16 regulated at reasonable limits if they -- especially if  
17 they're not going to be a problem for De Beers to  
18 achieve as predicted, then there should be no jeopardy  
19 in including those as regulated criteria.

20           Of course, one (1) of our fall-backs is  
21 that the draft licence does include the requirement  
22 that any discharges be non-acutely toxic. And -- and  
23 that is always a nice integrator of the whole effluent  
24 quality.

25           So next slide. So carrying on with

1 toxicity testing. Sublethal toxicity testing is a nice  
2 tool which can provide an indication of effects what  
3 you're -- of what you expect to see in the receiving  
4 environment. It's one that the Environmental Effects  
5 Monitoring -- Metal Mining Effluent regulations  
6 requires. It's used to characterize effluent. And you  
7 can see what's likely to happen to the biota in your  
8 receiving environment.

9 De Beers is proposing to use it and it  
10 will contribute to the weight of evidence approach in  
11 evaluating effects. We've pointed out that testing  
12 should be conducted on effluent at end-of-pipe, not in  
13 the receiving environment. And De Beers has agreed to  
14 this.

15 And I note that there will have to be a  
16 few corrections in the AEMP, which I saw for the first  
17 time yesterday for the updated draft, which still  
18 referred to the mixing zone collection of samples. But  
19 if that can be updated to the end-of-pipe, that would  
20 be more accurate.

21 Next slide, please. So EC's  
22 recommendations that are sublethal toxicity testing  
23 should be conducted on samples collected from end-of-  
24 pipe. And we would recommend that if results from  
25 these tests indicate concern, then a tiered approach

1 could be used in which samples from within and at the  
2 edge of the mixing zone also be evaluated.

3                   Sub-lethal toxicity testing isn't quite  
4 as clear cut as acute toxicity testing. That's got a  
5 very clear fail rate. If you have 50 percent or --  
6 more than 50 percent of your fish or your daphnids die,  
7 then you've failed your test. Sub-lethal toxicity  
8 testing is based on having an effect on a certain level  
9 of the pop -- a certain amount of the population given  
10 a concentration of effluent; so, for example, growth or  
11 reproduction. And if you affect 25 percent of your  
12 test organisms at a given lev -- concentration of  
13 effluent, then you've either passed or failed.

14                   And we don't have a good yardstick for  
15 this. So I would like to see some discussions with the  
16 Proponent of what concentration of effluent would be a  
17 trigger for action in their Response Plan. Currently,  
18 they are saying if there's anything below 100 percent  
19 effluent showing chronic toxicity, then they would take  
20 further action. That might give rise to too many, what  
21 I -- I might call false positives. I -- because  
22 biological organisms do have some variability. I just  
23 wanted to note that.

24                   Next slide, please. I'm going to switch  
25 now to the -- further on the pre-defined action levels

1 and triggers. The Gahcho Kue panel statement was that:

2 "For adaptive management to be  
3 effective, it needs pre-defined  
4 action levels or thresholds and  
5 proposed mitigation designs,  
6 policies, and practices linked to  
7 these action levels as a clear and  
8 testable starting point for adaptive  
9 management."

10 So as we had flagged yesterday, it's  
11 important to have numeric thresholds and be very clear  
12 on what constitutes a trigger or a benchmark for action  
13 and take that into the Response Plan ahead of having to  
14 do so. We do support the Proponent's use of industry  
15 best management practices. And this will complement  
16 the implementation of their Adaptive Management Plan.

17 So as noted, we recommend the  
18 establishment of pre-defined action levels or triggers  
19 and pre-defined alternative monitoring, mitigation, or  
20 management actions. We noted yesterday that this could  
21 fit as subsections of plans as appropriate. This could  
22 feed into the Aquatic Effects Monitoring Plan; the  
23 Groundwater Monitoring Plan, notably on the inflow  
24 levels; on the seepage monitoring and management, on  
25 the seepage quality, Sediment and Erosion Management

1 Plans, Dike Construction and Management Plans, and on  
2 the water quality and Kennady Lake rec -- reconnection.  
3 Closure. So EC concurs with the Gahcho  
4 Kue panel that the information provided in the  
5 Monitoring and Adaptive Management Plans should  
6 demonstrate how the monitoring results are going to  
7 inform management actions such as changes in their  
8 mitigation designs, policies, and practices, in  
9 particular, when such changes will be required and how  
10 they'll be implemented in a timely manner. And we  
11 recommend that these details be further established  
12 during the licensing process here.

13 My next slide deals with the phosphorus  
14 action levels and preliminary management responses. De  
15 Beers proposes regulation of phosphorus through end-of-  
16 pipe concentrations only, rather than the use of a  
17 loading limit. Our concern, of course, is with the  
18 potential for phosphorus to accumulate in the lake  
19 sediments as the increases in production of the algal  
20 populations end up dying off, going to the lake  
21 sediment bottoms, where they decompose and use up the  
22 oxygen that is limited in winter because of the ice  
23 cover.

24 The next one. So we recommend tracking  
25 of various eutrophication indicators. This should

1 include monitoring of winter oxygen levels in the  
2 receiving environment lakes as well as the pro --  
3 proposed primary productivity end point, such as the  
4 phytoplankton that they are going to be monitoring  
5 during the summer season.

6 De Beers has agreed to this, and I just  
7 wanted to note that the timing will be important on  
8 this. If the lake is going to have a depression in the  
9 dissolved oxygen, typically you'd want to start looking  
10 in January, February as opposed to the proposed April  
11 monitoring which is scheduled.

12 So at least in the deepest basin of the  
13 receiving environment lake, if there's concern with  
14 oxygen, we would want to monitor monthly during the  
15 winter. These monitoring results can then be used to  
16 trigger mitigative action as appropriate.

17 EC had also flagged some concerns in  
18 relation to mercury levels. When you have an  
19 impoundment of a water body where the water levels are  
20 raised, you often get methylation of the mercury, which  
21 can then be available to the biota.

22 It's typical that you wouldn't see it in  
23 the water so much, but you would see it accumulating in  
24 the sediments where the benthic invertebrates would  
25 take it up, and then the fish would eat those, and --

1 and start to accumulate it.

2                   So our thought is that if you were  
3 monitoring, which is proposed to be done anyways, and  
4 see increases in the sediments, then we'd want to see  
5 corrective action if possible taken before it actually  
6 gets to be higher in the fish.

7                   And I will acknowledge that mercury is  
8 very problematic. It's difficult to address this in  
9 the environment, and I think a lot of what can be done  
10 will be limited to making sure that the fish aren't  
11 used if it gets to that, or if there are alternatives  
12 to reduce the amount of impoundment that has to be  
13 done, so.

14                   The next slide. Just summarize that  
15 recommendation, EC recommends that in addition to fish  
16 tissue levels, data for water and sediment mercury  
17 should be reviewed on an ongoing basis, and mercury  
18 levels tracked for increasing trends. The sediment  
19 samples should be collected in areas that you would  
20 expect to see the most sediment falling out, where the  
21 sediment will be focussed, so probably the deepest  
22 basins, depending on the areas of currents.

23                   And prior to observing any upward trends  
24 in mercury in sediment or fish, EC recommends that the  
25 Proponent identify specific feasible management

1 response actions which could be taken, and as noted,  
2 any limitations to what can practically be done.

3 Now, we had put a red flag up in  
4 relation to the significance thresholds. Based on the  
5 panel report, the -- the no-go areas are things like,  
6 you know, the -- the water is not drinkable. Fish in  
7 the lake can't survive, grow, or reproduce.

8 I got a little bit of comfort -- well, a  
9 lot of comfort, actually, when I saw the revised draft  
10 AEMP yesterday, which does note that these are no-go  
11 scenarios, and my concern had been with the terminology  
12 that these were significance thresholds. So really, we  
13 see significance at lower levels that triggers action  
14 so that you don't ever get up to these no-go scenarios,  
15 to use the words in the AEMP.

16 We had recommended that the Proponent's  
17 interpretation of a significance threshold be revisited  
18 to ensure that that level represents an initial  
19 boundary, which it does. It represents a low action  
20 thre -- threshold as I understand it now, not a more  
21 adversely affected state. So the AEMP addressed that  
22 in Section 8.3.

23 We'd also noted that with respect to  
24 spill contingency planning, there seemed to be a gap on  
25 the runoff from the airstrip to the Area 8 sub-



1 watershed. We were concerned about possible spills  
2 having deleterious effects on the fish in Area 8 sub-  
3 watershed due to the airstrip. It just hadn't been  
4 referenced in any of the plans. De Beers has responded  
5 that this would fall under the overall Spill  
6 Contingency Plan, and they will make sure it's included  
7 in the planning.

8                   So that -- our recommendation would be  
9 met that we recommend Part H of the water licence  
10 conditions applying to contingency planning require  
11 contingency planning for any potential spills of  
12 deleterious substances within the Area 8 watershed,  
13 including from the airstrip.

14                   Still on contingency measures. It had  
15 been proposed that discharge of untreated sewage to an  
16 adjacent wetland would be a contingency in case that  
17 the sewage plant or upset conditions. While wetlands  
18 do have a good assimilative capacity to treat  
19 wastewater, that can be affected by how much discharge  
20 is received, the retention time, the time of year and  
21 precipitation, and so on. So we raised a concern that  
22 there would be the potential for deleterious wastewater  
23 reaching fish-bearing waters.

24                   De Beers agreed and will update their  
25 Spill Contingency Plan so that there will be other

1 options for retention or alternative management of camp  
2 wastewater in the event of treatment plant issues.

3                   Now looking towards closure. At  
4 closure, it'll be very critical to maintaining good  
5 quality water in the refilled Kennady Lake for the  
6 saline water to be isolated at the bottom of Tuzo pit  
7 under a chemocline. So the denser water would stay on  
8 the bottom half of the pit or -- or whatever proportion  
9 it is, and the freshwater would just sit on top of  
10 that. There's precedent for that in some other mines.

11                   And in this case, there are just two (2)  
12 main areas of uncertainty: whether we're going to see  
13 vertical diffusion, so some of the -- the constituents  
14 of the bottom layer diffusing upward; and what kind of  
15 groundwater inflows might drive the chemocline higher  
16 or even result in -- in weakening it.

17                   So following the refilling of the Tuzo  
18 pit, model calibration can be done to existing  
19 conditions -- again, that real-world data that I love -  
20 - to evaluate the stability of the meromixic, or this  
21 chemocline layer, to improve the confidence in that.  
22 And I think we're going to need to have that, you know,  
23 for closure planning.

24                   So we're concerned with the maintaining  
25 or enhancing chemocline stability in a meromixic state

1 in the Tuzo pit in particular. To that end, EC  
2 recommends that the water licence Part J conditions  
3 applying to closure and reclamation should include the  
4 requirement that the Proponent provide a periodic  
5 update on the progress of any related monitoring or  
6 research on mechanisms that might affect the meromixis  
7 and be relevant to closure predictions for water  
8 quality.

9                   Okay, now I'm going to put our mining  
10 officer's hat on and -- and give you the geochemical  
11 slides. We had a little bit of discussion on that  
12 yesterday. The concern was identified that identifying  
13 which rock is likely to be potentially acid generating  
14 is going to be done only on the sulphur content. And  
15 that is pretty standard. You see that with all the  
16 mines. And we discussed yesterday about the rates that  
17 that would be done at.

18                   It's -- sulphur content is used in  
19 conjunction with other tests to determine whether a  
20 rock sample is likely to be potentially acid generating  
21 or not, because even with low amounts of sulphur  
22 content rocks may generate acid if there's low  
23 neutralizing capacity in the rocks. And I understand  
24 that that is the -- the case with a lot of the rocks in  
25 the area. Therefore, including other methods would

1 ensure proper characterization of the rocks and help  
2 determine placement of the rocks either appropriately  
3 in the PAG or in the non-PAG pile during mine  
4 operation.

5 EC recommends the Proponent include  
6 other methods of characterization for the  
7 classification of mine rocks in the proposed Mine Rock  
8 Monitoring and Testing Plan. And yesterday, De Beers  
9 did agree to periodically use other assays to this end.

10 Now I'm going to pass the mic over to  
11 Dave Fox to talk about the incineration issues.

12 MR. DAVE FOX: Good morning, Mr. Chair.  
13 As Anne said, I'm here to speak to the next couple of  
14 slides on incineration of waste.

15 Inciner -- incineration of -- of waste  
16 can be an environmentally sound method of disposing of  
17 camp waste. However, there's a potential for the  
18 formation and release of contaminants to the  
19 environment if appropriate incineration technologies  
20 and operating practices are not used. Of particular  
21 concern are dioxins and furans, which can be formed as  
22 a byproduct of incomplete combustion during the  
23 incineration of waste. Dioxin -- dioxins and furans  
24 are persistent in the environment. They're able to  
25 bioaccumulate through the food chain, and are toxic to

1 fish and wildlife.

2 In the EC written intervention, we've  
3 cited two (2) scientific studies that link incineration  
4 of waste to adverse environmental impacts. The first  
5 was an environmental fate modelling study, which found  
6 that -- that proper waste incineration is unlikely to  
7 have an adverse impacts to -- to environment. However,  
8 poor incineration could lead to adverse impact to soil,  
9 water, lake sediments, fish, and wildlife.

10 The second study was a sediment sampling  
11 study conducted at Ekati diamond mine. This study  
12 linked camp incineration waste to elevated levels of  
13 dioxins and furans in the lake and lake sediments. Due  
14 to the pot -- potential impacts to lake and lake  
15 sediments, waste incineration should be managed through  
16 water conditions of the water licence.

17 So, Mr. Chair, I want to be clear.  
18 We're not asking the Board to -- to deal with an air  
19 quality issue. We're -- we're asking the Board to deal  
20 with a source of waste which has been shown to -- to  
21 cause adverse impacts to lakes and lake sediments. So  
22 we do not view this as an air quality issue. This --  
23 this is a water issue, and which can be -- which we've  
24 also shown can be controlled by proper equipment and  
25 proper operating practices.

1

2

(BRIEF PAUSE)

3

4

MR. DAVE FOX: Sewage and sewage sludge have high moisture content and low heat content, which makes it difficult to burn and can lead to poor incineration performances. So it could -- could actually cause an increase of -- of contaminants to be formed and released. Sewage should only be burned in incineration equipment designed for this type of waste. Sewage should not be burned in the batch waste incinerators that are typically used in the North.

13

EC recommends that the Proponent include its commitment to not incinerate sewage or sewage sludge in its revised Incineration Management Plan. The Proponent has restated its commitment not to burn sewage and has agreed to revise its Incineration Plan - or Management Plan to reflect this.

19

However, if for whatever reason the Proponent reconsiders and decides to burn sewage, EC recommends that the Proponent provide the Board a letter from the manufacturer stating that the incinerator is designed to incinerate sewage. The letter should include previous stack testing results demonstrating that the incinerator can achieve the

25

1 Canada-wide standards for dioxins and furans while  
2 incinerating sewage.

3 EC recommends the Proponent complete  
4 stack testing of incinerator emissions for all  
5 incinerators to ensure that they achieve the Canada-  
6 wide standards for dioxins and furans and the Canada-  
7 wide standards for -- for mercury.

8 Now, the -- the Canada-wide standards  
9 for dioxins and furans, from our modelling study, had -  
10 - was shown to be protective of the environment. So if  
11 they achieve these -- these levels, we don't think  
12 there will be an issue with -- with an accumulation of  
13 dioxins and furans in the -- in the lake sediments. So  
14 this is the link between the emission testing and the -  
15 - and the -- the sediment impacts. So if they can  
16 achieve these -- these standards, we're -- we're quite  
17 confident there -- there shouldn't be an issue.

18 Then just further on -- on the  
19 information that we need from these stack tests. It --  
20 it's important that the stack tests are completed with  
21 typical waste streams that are proposed by the  
22 Proponent. The -- the emissions from the incinerator  
23 varies dramatically depending on what's being burned in  
24 it. So we want these tests conducted with typical  
25 waste streams that we'd see at the mine. And the test

1 report that's submitted afterwards should include the  
2 types of waste, the quantities and the -- and the types  
3 of waste that are burned, in addition to the -- the  
4 operating conditions for the -- the incinerator during  
5 the test.

6 Now, incinerator testing has become more  
7 common in the North. However, few -- few stack testing  
8 reports have provided information on waste streams that  
9 are used in the test. This information is -- is really  
10 important to understand the results themselves. And so  
11 we'd really like to see that included with the -- the  
12 stack testing reports.

13 Now, I'll pass it back over the Sarah-  
14 Lacey. Thank you.

15 MS. SARAH-LACEY MCMILLAN: So just in  
16 conclusion, Environment Canada would like to thank the  
17 Board for the opportunity to comment on the regulatory  
18 process and that we hope that these technical comments  
19 and recommendations are useful to the Board in their  
20 decision-making process.

21

22 (BRIEF PAUSE)

23

24 QUESTION PERIOD:

25 THE CHAIRPERSON: Great. Thank you for



1 that presentation. So in order then of events, we will  
2 go to De Beers for any questions.

3 MS. VERONICA CHISHOLM: Thank you, Mr.  
4 Chair. Veronica Chisholm, from De Beers. We have no  
5 questions. Thank you.

6

7 (BRIEF PAUSE)

8

9 THE CHAIRPERSON: Okay. Then I thank  
10 you for that. Then we'll go to GNWT-ENR.

11 MR. SEAN WHITAKER: Sean Whitaker, with  
12 the Government of the Northwest Territories,  
13 Environment and Natural Resources Division. We thank  
14 Environment Canada for that great presentation, and we  
15 have no questions at this time.

16 THE CHAIRPERSON: Okay. Thank you.  
17 Then we will go to the Deninu K'ue First Nation.

18

19 (BRIEF PAUSE)

20

21 MR. MARC D'ENTREMONT: Thank you, Mr.  
22 Chair. It's Marc d'Entremont, from the DKFN. I just  
23 have one (1) question and it's more for clarity, with  
24 regards to slide number 9, about action levels and  
25 triggers and management responses, where you mention

1 having pre-defined action levels and pre-defined  
2 monitoring mitigation and management actions.

3 In some of the information we've seen,  
4 there has been different levels in terms of negligible,  
5 low, moderate, and high. So would -- again, for  
6 clarity, would you like to see these pre-defined  
7 measures at all these levels?

8 THE CHAIRPERSON: Thank you for that.  
9 Back to Environment Canada.

10 MS. ANNE WILSON: Thank you. It's Anne  
11 Wilson, with Environment Canada. It appears that  
12 there's a good start on the negligible and the low and  
13 that it's reasonable that we're going to see a tiered  
14 approach that may vary from plan to plan, because we do  
15 want to see thresholds for different components of the  
16 project and different components of the environment.

17 So I think that there will be further  
18 discussions of what those numbers should look like,  
19 what the actual benchmarks or triggers should be, and  
20 then how that will feed and flow from the low levels to  
21 the medium and high, so. I think there is a little bit  
22 more work to do, but I'm happy with the start on the  
23 low ones so far.

24 THE CHAIRPERSON: Thank you for that.  
25 Further from DKFN?

1 MR. MARC D'ENTREMONT: Marc  
2 d'Entremont, DKFN. No, thank you for the response.  
3 That's my -- that's the end of my -- that's all my  
4 questions, thanks.

5 THE CHAIRPERSON: Okay. Thank you.  
6 Then we will go to Yellowknives Dene First Nation.

7 MR. TODD SLACK: Todd Slack, for the  
8 Yellowknives. No questions.

9 THE CHAIRPERSON: Thanks, Todd. North  
10 Slave Metis Alliance...?

11 MR. MATT HOOVER: Matt Hoover, North  
12 Slave Metis Alliance. No questions. Thank you.

13 THE CHAIRPERSON: Thank you for that.  
14 Any registered speakers...?

15

16 (BRIEF PAUSE)

17

18 THE CHAIRPERSON: I don't believe  
19 there's any persons on the conference call-in line.  
20 Any questions from the general public?

21

22 (BRIEF PAUSE)

23

24 THE CHAIRPERSON: Then we'll turn it  
25 over to Board staff, technical advisors, and legal.

1 MS. REBECCA CHOUINARD: Thank you, Mr.  
2 Chair. It's Rebecca Chouinard, with Board Staff. Just  
3 my one (1) question on term.

4 If you have any position on what you  
5 think an appropriate water licence term would be, and  
6 if so, the rationale.

7

8 (BRIEF PAUSE)

9

10 MS. ANNE WILSON: Okay. Thank you.  
11 It's Anne Wilson with Environment Canada. The Pro --  
12 Proponent has asked for a twenty (20) year term, so I  
13 went through the activities. You've got two (2) years  
14 of construction, followed by eleven (11) years of  
15 operations, followed by twelve (12) years of -- of  
16 closure monitoring.

17 If we looked at something in the  
18 neighbourhood of a ten (10) year term, we would see a  
19 good track record going into construction and  
20 operation, while still having approximately a three (3)  
21 year mine life to start the actions, finalize the  
22 closure and reclamation planning, and then move into  
23 review of everything for a second licence that would  
24 then see them into the closure, so.

25 Ten (10) years is a bit longer than most

1 licences that have been issued, so that would be the  
2 top end of what we would be comfortable seeing without  
3 it being reopened and revisited.

4 MS. REBECCA CHOUINARD: Thank you,  
5 Environment Canada. And, Mr. Chair, it's Rebecca  
6 Chouinard, here, with the Board. I have no further  
7 questions.

8 THE CHAIRPERSON: Okay. Thank you,  
9 Rebecca. Further from technical?

10 DR. NEIL HUTCHINSON: Thank you, Mr.  
11 Chair. Neil Hutchinson, for the Board. Environment  
12 Canada, yesterday we heard discussions between ENR and  
13 De Beers on the appropriate species to -- of fish to be  
14 selected for toxicity testing, whether rainbow trout  
15 should be used, fathead minnow test, or -- or both.

16 Did Environment Canada have any guidance  
17 on that question?

18 MS. ANNE WILSON: Thank you. Anne  
19 Wilson here. The point was made that we really want to  
20 have the information from the sublethal toxicity  
21 testing. If the species isn't perfect, then the key is  
22 going to be that the test is achievable.

23 Snap Lake has had problems doing the  
24 full early life stage test on the rainbow trout. The  
25 fathead minnow test would be representative of the lake

1 chub in the lake, which aren't exactly a -- a valued  
2 game species, but the rainbow trout might be seen to be  
3 more representative of the lake trout that are also in  
4 the lake.

5 We could have further discussions on  
6 doing a shorter duration of the rainbow trout test in  
7 order to make it doable. I believe that Snap Lake has  
8 run into most -- most of their problems when they're  
9 trying to do the third stage of it into a longer test  
10 duration. The fathead minnow test is only seven (7)  
11 days. It's routinely done and very easy to run.

12 So if it sounds like I'm sitting on the  
13 fence, there are arguments for using either test, and I  
14 don't know that it's necessary to do both tests, but  
15 each one (1) would provide us information on chronic  
16 effects on fish.

17 DR. NEIL HUTCHINSON: Neil Hutchinson,  
18 for the Board. Thank you.

19 Any -- any guidance on other sublethal  
20 test organisms that might be considered, or do you  
21 think we should just stick to fish?

22 MS. ANNE WILSON: Anne Wilson here.  
23 The Proponent is proposing in their draft AEMP to  
24 include monitoring on the algal species and on the  
25 Cladoceran Ceriodaphnia dubia. Those two (2) would be

1 pretty standard test species.

2                   The Ceriodaphni (sic) are very sensitive  
3 to the salinity, and so would provide good information  
4 on that, and I don't know that it would be necessary to  
5 actually move to a Hyalella test or to a -- a duckweed  
6 test at that point, but those could be kept as a tiered  
7 approach in the arsenal to further round out if there  
8 were toxicity concerns seen.

9                   THE CHAIRPERSON:    Further from Board  
10 staff?

11                   DR. NEIL HUTCHINSON:    Nothing else from  
12 me, Mr. Chair.

13                   DR. KATHY RACHER:    Kathy Racher from  
14 the Board.  Thanks for your presentation.  My one (1)  
15 question is about your recommendation for if the test  
16 results at the end-of-pipe for chronic toxicity tests  
17 indicated some concerns that you may want to move --  
18 have sort of a tiered approach going into testing in  
19 the -- in the receiving environment and the mixing  
20 zone, for example.

21                   And I just -- I was trying to figure out  
22 in terms of drafting the licence, were you thinking  
23 that that tiered approach would be in the SNP?  Like  
24 the chronic toxicity tests at the end-of-pipe would  
25 typically be stipulated in the Surveillance Network

1 Program, and we have, in -- in other licences, done  
2 sort of a tiered approach. If -- if you fail this,  
3 then -- then you do another test.

4 And I was wondering if -- if that's what  
5 you envisioned, or if you envisioned mixing zone --  
6 moving to mixing zone tests for chronic toxicity with  
7 something you saw in the AEMP instead.

8 MS. ANNE WILSON: Thank you. Anne  
9 Wilson here. I think it would fit nicely in the  
10 proposed action levels in the AEMP response framework.  
11 And the trick would be setting the number that  
12 triggered that -- moving to that testing.

13 THE CHAIRPERSON: Further from the  
14 Board from legal? Okay. Then thank you. John, did  
15 you have something?

16 MR. JOHN DONIHEE: It's John Donihee,  
17 Board counsel. Those -- those are all the questions  
18 from counsel and staff. I -- I don't have any  
19 questions. Thank you.

20 THE CHAIRPERSON: Okay. Thank you all  
21 for that then. We'll go to the Board members. Joe  
22 Mackenzie...?

23 MR. JOE MACKENZIE: Joe Mackenzie. I  
24 don't have a question.

25 MR. FLOYD ADLEM: Floyd Adlem. I have



1 no questions.

2 MR. FRANK MCKAY: Frank McKay. No  
3 questions, Mr. Chair.

4 THE CHAIRPERSON: Great. So thank you,  
5 Environment Canada, for your presentations and your --  
6 your answers. That's much appreciated. Did we want to  
7 take a quick coffee break about now? So let's take a  
8 fifteen (15) minute break then if you could. Thank  
9 you.

10

11 --- Upon recessing at 10:07 a.m.

12 --- Upon resuming at 10:23 a.m.

13

14 THE CHAIRPERSON: Thank you for that  
15 quick order. And just a quick information here is that  
16 yesterday's transcripts from the hearing are up on our  
17 -- on our public registry. So if anybody wants to  
18 review them, they are there. So our next Intervenor  
19 presentation is the Deninu K'ue First Nation. Welcome.  
20 And it's all yours.

21

22 PRESENTATION BY DENINU K'UE FIRST NATION:

23 MR. MARC D'ENTREMONT: Thank you, Mr.  
24 Chair. So as mentioned before, my name is Marc  
25 d'Entremont. I'm a technical consultant to the Deninu

1 K'ue First Nation. And with me today is Mr. David  
2 Pierrot, who is a councilman with DKFN. So again we'd  
3 like to thank the Mackenzie Valley Land and Water Board  
4 for hosting these hearings and De Beers for all the  
5 information that's been shared to date.

6 I'll just start off by saying the DKFN  
7 has been involved in this project for a number of years  
8 now and -- and through the environmental review stage  
9 process and in regard -- parts of several working  
10 groups specific to wildlife and aquatics effects and --  
11 and other things throughout the -- the time.

12 And I would just go on by saying DKFN  
13 wants to be very clear, determined, and optimistic with  
14 its involvement in this project that the DKFN rights,  
15 duties, traditions, treaty, and way of life continue to  
16 be paramount and accommodated in the deliberations,  
17 final decision, directions, and recommendations of this  
18 Board with regards to the -- De Beers's Gahcho Kue  
19 diamond mine project's request to construct --  
20 construct, operate, and reclaim a mine project within  
21 the traditional territory of the DKFN.

22 And part of the DKFN's involvement in  
23 this project has been the preparation of an  
24 ethnohistory report describing DKFN's historic and  
25 present day use of the land and waters within the

1 barren lands that embrace the Gahcho Kue site.

2                   And one (1) of the outcomes of that  
3 undertaking was the development of this sort of  
4 traditional use map, which highlights some of the sort  
5 of key areas of more so present day traditional use  
6 with regards to sort of hunting, and trapping, and  
7 fishing.

8                   So our intervention today, it's -- it's  
9 -- kind of builds on our written submission and covers  
10 some general and specific comments with -- with regards  
11 to the items that were identified in the draft water  
12 licence.

13                   So going forward, I'm going to touch  
14 upon the general comments first, and then get into the  
15 specific comments, and on -- on each slide -- I guess  
16 the slides aren't numbered, but each slide, there's --  
17 there's a reference to the response that De Beers has  
18 provided in terms of the -- the numbering system, so  
19 that'll show up in the sort of bottom left-hand corner.

20                   So our general comments were with  
21 regards to the updated Management and Monitoring Plans,  
22 response framework, Ni Hadi Yati, and cumulative  
23 effects. With regards to the updated Management and  
24 Monitoring Plans, I guess I'll just start by saying the  
25 draft water licence that we reviewed, these -- the

1 specific makeup of what is to go in these plans wasn't  
2 included in any of the schedules. That had been left  
3 out.

4           So one (1) of the main comments, then,  
5 being timelines. So it seems typical with other water  
6 licence issued by the Land and Water Board that a  
7 ninety (90) day period is provided for the licensee to  
8 resubmit these plans once the water licence is issued  
9 by the Board, and it seems reasonable that that --  
10 that's a sort of condition that carries forth in -- in  
11 this permit. And then we also recommended that  
12 construction activities not commence until these plans  
13 -- these revised plans are submitted.

14           In its response, De Beers submits that a  
15 sixty (60) day approval time should be sufficient for -  
16 - for an informed decision, so they've kind of upped us  
17 on the -- the ninety (90) period, which is great, and  
18 they've also suggested that the Aquatic Effects  
19 Monitoring Plan, the Sediment Erosion Plan, and the  
20 Dike A Construction Plan, as they're currently written,  
21 should be considered as final.

22           Just with regards to that response, I  
23 just want to highlight some of the previous discussions  
24 around the sort of Adaptive Management Plan and  
25 strategy and -- and the response framework, and that

1 perhaps some of these plans need to be revisited based  
2 on some of the outcomes from these hearings.

3                   So with regards to the response  
4 framework, and probably, you might see -- realize this  
5 is one (1) of the topic that -- that's of kind of high  
6 interest to myself based on some of the questions I've  
7 been asking, so I've sort of prepared a bit of a longer  
8 bit for this slide.

9                   So in our intervention -- or in our  
10 written interventions, we commented that the response  
11 framework only appeared to be a component written  
12 within the Aquatic Effect Monitoring Program, and De  
13 Beers's response was that it -- it's addressed in not  
14 just the AEMP, but other plans.

15                   So I think one (1) of the outcomes to  
16 that, as I mentioned, some of the previous discussions  
17 during the hearings with regards to the response  
18 framework kind of shows that there's still a little bit  
19 of uncertainty and clarity around how this is made up,  
20 and how it -- how it needs to be presented, and I would  
21 sort of agree with what Environment Canada said earlier  
22 about having -- how this response framework really  
23 needs to be established during the permitting process.  
24 And -- and again, sort of there needs to be some  
25 clarity within the actual water licence and land use

1 permit around the -- the use of this response  
2 framework.

3 I'll go on by saying -- kind of relating  
4 this to what the GNWT said yesterday about potentially  
5 having a -- an umbrella document for adaptive  
6 management that has clear definitions for action levels  
7 and management response framework, and again, also  
8 building upon some of the earlier comments from  
9 Environment Canada.

10 So as I said, it seems clear that some  
11 additional work needs to be undertaken around the whole  
12 adaptive management approach for this project,  
13 particularly before the issuance of the permits, or the  
14 permits need to be very clear on what the expectations  
15 for adaptive management and/or the response framework  
16 are.

17 So in the context of this project,  
18 essentially adaptive management is carried out by  
19 identifying what the potential effect is, applying the  
20 mitigation to that effect, and monitoring the  
21 effectiveness of that mitigation and then adapting the  
22 mitigation where required to keep the effects to  
23 acceptable levels.

24 And again, this is primarily applied  
25 where there is certain levels of a -- levels of

1 uncertainty. And I think the response framework is a  
2 simplified version of this, where the monitoring  
3 results are linked to the management actions that are  
4 to keep the effects to, again, to acceptable levels.

5           So now as I mentioned in our opening  
6 statements, I think the experience that De Beers has  
7 with mining and mining in Northern Canadian  
8 Environments, plus with the current number of operating  
9 diamond mines in the NWT, I think the level of  
10 uncertainty around project-related effects and  
11 effective mitigation should be low. Furthermore, the  
12 amount of lessons learned from other projects can be  
13 applied to those situations that may be unexpected.

14           And this knowledge should be applied to  
15 identify appropriate levels of management actions --  
16 again, referring back to the levels being negligible,  
17 low, moderate, or high for some components -- and that  
18 the proactive approach be taken that whether specific  
19 triggers are identified and/or specific management  
20 responses, recognizing that it's -- it's not going to  
21 be the case for probably all plans, as kind of  
22 mentioned in the previous presentation, but that  
23 there's probably a lot more that can be done than --  
24 than, I guess, what we've seen to date.

25           So again, this would be the preferred

1 approach, rather than identifying action levels and  
2 appropriate responses through monitoring. And as I  
3 said, it takes a more -- a bit more of a proactive  
4 rather than a reactive resp -- approach to it. This is  
5 not to say that ongoing monitoring is not important.  
6 It's -- it's very valuable and it must continue,  
7 primarily to ensure that compliance is maintained and  
8 the effects as predicted are within those levels.

9           And again, sort of finally, looking at  
10 the last point on this slide is that identifying kind  
11 of response action levels and -- and mitigation kind of  
12 within the -- the permitting stage provides that sort  
13 of level of clarity to the entire response framework.

14           Now, moving onto Ni Hadi Yati, we had  
15 recommended that the -- the water licence include a  
16 provision for Ni Hadi Yati. So Ni Hadi Yati, it's  
17 intended to be a form for indigenous parties to  
18 increase their technical capacity, to assist with the  
19 development and implementation of monitoring and  
20 management plans for the project. As many of these  
21 plans are conditions of the water licence, reference to  
22 Ni Hadi Yati is warranted to facilitate full  
23 transparency and accountability throughout the  
24 regulatory process.

25           So that being said, our recommendation



1 was that the water licence not be issued until the Ni  
2 Hadi Yati agreement between De Beers and the Aboriginal  
3 parties is in place, as this remains an outstanding  
4 commitment from the report of the environmental impact  
5 review.

6                   And I just want to reiterate the -- the  
7 point mentioned by the North Slave Metis Alliance  
8 yesterday that it still remains a little unclear as to  
9 what the mandate of Ni Hadi Yati will be when it's  
10 implemented. And De Beers's response, as they said  
11 yesterday, they kind of disagree with our  
12 recommendation. So I kind of leave this point open to  
13 -- I guess for others to ask questions and to see what  
14 the opinion of the Board is.

15                   In regards to cumulative effects, so  
16 cumulative effects, it's not specifically mentioned in  
17 the draft licence, despite this being a major issue  
18 throughout the environmental review process. And the  
19 specific conditions for the various management and  
20 monitoring plans must include provisions for measuring  
21 potential cumulative effects to ensure that these are  
22 addressed in the response framework. And our  
23 expectation, I guess, would be that the specific  
24 schedules that outlines what's to be included in the  
25 various management and monitoring plans has a -- a

1 cumulative effects component.

2 In De Beers's response, they provided a  
3 -- a lot of information regarding the work that they've  
4 completed to date with regards to cumulative effects,  
5 which has been primarily around wildlife and wildlife  
6 habitat, and we'd like to acknowledge De Beers for  
7 their work, and we think it's fantastic for what  
8 they've done to date. However, we want to ensure that  
9 other valued components, including aquatic social and  
10 cultural, are not overseen here.

11 So getting into the specific comments  
12 regarding our review of the water -- the draft water  
13 licence. So on the slides, I've identified the -- the  
14 parts and items that we're referring to. It's all  
15 detailed in our -- in our written intervention, and I  
16 kind of reiterate some of our -- our general comments  
17 mentioned earlier here.

18 The first one was with regards to Ni  
19 Hadi Yati, and rewording the licence -- rewording the  
20 licence to include the fact that, you know -- you know,  
21 have the Ni Hadi Yati agreement finalized before  
22 issuing of the permit. And again, De Beers has  
23 disagreed with this one, and I guess we look for input  
24 from others on -- on this point.

25 The next comment regarding the

1 definitions in -- in the licence, and the confusion  
2 around which minister is -- is included in the -- in  
3 the definition with regards to the recent evolution, so  
4 not a big point here. I think it's one that's easily  
5 fixed, and again, just providing that -- that clarity  
6 at the beginning of the -- the permit.

7                   Comment around Part B in the General  
8 Conditions, Item 9, around the calibration of meters  
9 and devices, and I guess we would like to see that the  
10 techniques and any calibration that's -- that's done  
11 throughout the -- the monitoring, and that this be  
12 captured within the annual reports. Whether we've got  
13 the terminology correct in terms of whether -- whether  
14 devices are calibrated or validated on-site, or  
15 recalibrated if necessary. The main point is that --  
16 that when this is done, that it be detailed in the  
17 annual report.

18                   With regards to the timing for the  
19 submission of the annual report, we feel that a  
20 deadline of March 31st of the -- the next calendar year  
21 following the -- this -- assuming that the -- the  
22 annual report will cover a period from January to  
23 December, if -- if then that report is submitted the  
24 following -- by the end of the following March, that  
25 would essentially give De Beers a ninety (90) day

1 period to -- to finalize that report. We feel that's a  
2 -- an appropriate time.

3 De Beers is requesting a date of May  
4 1st, which is essentially an additional month. We'd  
5 just like to add to that. I guess May is a -- a bit of  
6 a busier period for people in terms of -- I guess the  
7 spring hunt is on around that time, and -- and having  
8 the ability and -- and the resources available to kind  
9 of effectively review and comment on a report at that  
10 period might be a bit more hindered, whereas if the  
11 report's submitted at the end of March, the timing  
12 would be a bit better for having, I guess, more  
13 effective comments.

14 And again, we think it's ample time  
15 available to -- to get a report prepared. Thinking  
16 ahead that, too, as monitoring happens throughout the  
17 year, the methods, results, and preliminary sort of  
18 discussions can also be sort of drafted during that  
19 time.

20

21 (BRIEF PAUSE)

22

23 MR. MARC D'ENTREMONT: So Part B,  
24 General Conditions, Item 11. Again in -- in regards to  
25 the provisions for the response framework, I won't

1 spend much time on this, as we've kind of already  
2 discussed it. Again, as -- as our point here being  
3 that if it's provided in Schedule 1, again, we haven't  
4 -- that -- that detail wasn't included in the draft  
5 review. So as long as it's clear in there. And I just  
6 reiterate again the -- the importance of having this  
7 response framework approach.

8                   Our comments around Part B general  
9 condition Item 19, where Measure 3A was identified, and  
10 then kind of going back to the report of the  
11 environmental impact review, we did not see a Measure  
12 3A. So it just led to some sort of confusion as to  
13 exactly what the -- the Board was referring to here. I  
14 don't think we need to get into the details of this one  
15 other -- again, just a little -- a little lack of  
16 clarity and -- and some confusion around it. So  
17 something for the -- I guess the Board to revisit in  
18 the final permit.

19                   With regards to, I guess, water  
20 withdrawal, it's the -- the way the -- the draft  
21 licence is written:

22                   "In one (1) ice covered season, the  
23                   total water withdrawal from a single  
24                   water body outside of the controlled  
25                   area shall not exceed 10 percent of

1 the available water bod -- [sorry]  
2 available water volume."

3 And again, just for clarity, that single  
4 water body, I guess, is understood to be Area 8. So we  
5 had recommended that instead of -- that Area 8 be  
6 specifically identified.

7 In De Beers's response, they -- they  
8 wanted it not to specifically say Area 8 to keep some  
9 flexibility in -- in the licence. And they suggest,  
10 too, I guess, if there were, I guess, an occasion where  
11 another water body might be identified with -- for  
12 potential water withdrawal.

13 So in response to that, I guess, we'd  
14 like to know what the other water body would be. So,  
15 again, maybe some clarity around that, in terms of  
16 where other potential sources of water withdrawal might  
17 be.

18 Our next comment was with regards to  
19 some sort of just discrepancies in the timing of  
20 construction plans, I believe, in terms of adding two  
21 (2) or six (6) months before various things. Not --  
22 not a sort of huge issue. Just again, I'm looking for  
23 a bit more clarity. And I guess just to sort of refer  
24 back to if -- if there's the requirement to kind of go  
25 back and review some of the response framework, that

1 this be captured before any issuance of the licence and  
2 any updates of -- of -- and revisions to any of these  
3 plans.

4 Our next comment was with regards to  
5 sort of signing off on engineered structures. And we  
6 recommended that any as-built reports and drawings with  
7 specifications be stamped by a professional engineer.  
8 And De Beers agreed with us on this comment. That's  
9 great.

10 The next comment, Part G, Item 1. The  
11 draft licence was written as:

12 "The licensee shall manage water and  
13 waste in with the objective of  
14 minimizing the impacts of the project  
15 on the quality and qua -- quantity  
16 and quality of water in the receiving  
17 environment through the use of  
18 appropriate mitigations, monitor --  
19 mitigation measures, monitoring, and  
20 follow-up actions."

21 And we just recommended that -- to -- to  
22 the end of that statement, that those actions be  
23 outlined in the Water Management Plan and Waste  
24 Management Plan. And again, this -- oh. And in De  
25 Beers's response, they kind of agreed with that

1 wording, but they also added:

2 "Circumstances and situations not  
3 specifically outlined in the draft  
4 Management Plan and Waste Management  
5 Plans -- shall use appropriate  
6 mitigation monitoring and follow-up  
7 actions, minimizing the impacts of  
8 the project on the quantity and  
9 quality of water in the receiving  
10 environment."

11 Which then kind of led us to go, Well,  
12 what circumstances and situations are they specifically  
13 referring to? So again, the need for more clarity, and  
14 then again building upon or using the -- the vast  
15 knowledge that De Beers has attained through its  
16 monitoring practices to date can -- I think there is a  
17 opportunity to identify what these circumstances and  
18 situations might be.

19

20 (BRIEF PAUSE)

21

22 MR. MARC D'ENTREMONT: Our next comment  
23 was with regards to timing of water discharge and --  
24 and having that detailed in the Management Plan, and in  
25 De Beers's response, they have identified that kind of



1 the overall schedule will be included in the plan. The  
2 specific -- I guess the specific timing will not be  
3 there, but I think essentially, that's essentially what  
4 we were looking for, that there would be some sort of  
5 schedule, and that -- then that would be included,  
6 which is good.

7

8

(BRIEF PAUSE)

9

10 MR. MARC D'ENTREMONT: I believe this  
11 kind of the first of several slides regarding some of  
12 the specific management plans, and then we just asked  
13 that -- kind of the additional provision that, let's  
14 see, that specific mitigation measures, monitoring, and  
15 follow-up actions are identified in these plans, and  
16 again, that would be linking back to the -- the larger  
17 adaptive management strategy and sort of the response  
18 framework.

19

20

(BRIEF PAUSE)

21

22 MR. MARC D'ENTREMONT: Again, this  
23 comment is similar to the previous one (1) about having  
24 the -- the monitoring and follow-up actions, and the  
25 extra point here being as -- as we've discussed

1 throughout the -- the hearings, there are several  
2 management and monitoring plans, and again, perhaps  
3 consideration of that sort of larger umbrella document  
4 that kind of ties everything together might be  
5 worthwhile. And again this -- this slide just sort of  
6 reiterates that point, so.

7                   As does this one with the Dike  
8 Management Plan. So again, include the mitigation  
9 measures and monitoring and follow-up actions  
10 identified in the plan, likewise for the processed  
11 kimberlite or Mine Rock Management Plan.

12                   In this comment with -- with regards to  
13 dam safety review, we had recommended that the item  
14 should stipulate that the inspection to be done by a  
15 professional engineer.

16                   In De Beers's response, they suggest  
17 that:

18                   "The weekly inspection will be  
19 carried out by on-site personnel, and  
20 the personnel will be trained by  
21 professional engineers and follow  
22 detailed procedures developed by a  
23 professional engineer, and the  
24 procedures will include reporting  
25 requirements as indicated in item 28,

1 and a professional engineer will  
2 perform an annual inspection during  
3 the summer months with a full  
4 geotechnical inspection -- inspection  
5 report being prepared."

6 I would just go back and ask that with  
7 regards to the weekly inspections, maybe De Beers can  
8 confirm that these will also be sort of signed off by a  
9 professional engineer, which I think is important. It  
10 gets back down to sort of the accountability of sort of  
11 professional practice, which is kind of required  
12 throughout the -- the project as well.

13 So Item 30. There was a little  
14 discrepancy with kind of referencing to previous items.  
15 So we'll just -- kind of a -- detailed in our written  
16 response so we don't need to get into it here.

17 Item 31. Again, with regards to dam  
18 safety review. We had recommended that the dam safety  
19 review should be completed on all dikes, regardless of  
20 being identified of low consequence or not.

21 In De Beers's response, they stated  
22 they'll follow the Canadian Dam Guidelines requiring  
23 dam safety review of all significant dam classification  
24 within a ten (10) year period, and all dikes listed in  
25 the water licence will fall into this category and will

1 have dam safety reviews. The collection ponds are in a  
2 low dam class, and do not require dam safety reviews at  
3 a ten (10) year period.

4                   However, De Beers agrees to reevaluate  
5 the classification and need for dam safety review  
6 throughout the project. So we think that action is a  
7 very good one and a very good, proactive measure that  
8 De Beers is taking, and we just want to commend them on  
9 -- on being forthcoming on that point.

10                   Item 32. Again, weekly inspections,  
11 where we recommended that they -- they be conducted by  
12 a professional engineer, and De Beers has stated that  
13 these will be carried out by on-site personnel as  
14 directed by a professional engineer, but again, I'd  
15 just like to clarify whether any weekly inspection  
16 reports are being signed off by a professional engineer  
17 to, again, bring in that sort of professional  
18 accountability.

19                   Item 36, with regards to seepage  
20 surveys. We recommend that the results of, I guess,  
21 the reports of the seepage surveys be submitted within  
22 ninety (90) days, and De Beers would like to include  
23 these within the annual reports. However, I -- I  
24 believe that within other water licences that have been  
25 issued, seepage survey reports -- it's stipulated that

1 seepage survey reports be submitted within ninety (90)  
2 day reporting periods, so I think we'd still like to  
3 stick with that recommendation.

4           Item 43, again, there was discrepancies  
5 with referencing previous items, so that also needs to  
6 be corrected for the final.

7           And item 44, we asked the -- for the  
8 inclusion of measuring pH, and that be identified, and  
9 De Beers says -- or said that pH will be included in  
10 the SNP and the AEMP monitoring, so again, we're just  
11 happy to see that it's covered off.

12

13   (BRIEF PAUSE)

14

15           MR. MARC D'ENTREMONT: Let's see. In -  
16 - in Part I, Item 5, in terms of the reporting for the  
17 Aquatic Effects Monitoring. Going back to our -- our  
18 previous comment about timing, we feel that the -- a  
19 deadline date of March 31st is sufficient, and again,  
20 it's -- the rationale being it would be a better --  
21 it's ample -- I think it's ample time for getting a  
22 report together, and it's better time for the community  
23 to put some resources toward reviewing the reports.

24           And also provides the, you know, if the  
25 results of -- of these reports require, you know, that

1 input back into the whole adaptive management process,  
2 that that could then be implemented before the open  
3 water season, where additional monitoring would  
4 continue for that -- that upcoming year.

5

6 (BRIEF PAUSE)

7

8 MR. MARC D'ENTREMONT: And the final  
9 comment, again, is regarding timing, so I don't --  
10 don't have to reiterate that.

11 So just to close, I guess we believe  
12 that the good working relationship, the use of best  
13 scientific and technical -- technological practices,  
14 traditional knowledge, and clear recommendations,  
15 directions, monitoring, and inspection are reasonable  
16 expectations and commitments, but most importantly, as  
17 we've seen, open and transparent communication is  
18 critical.

19 And finally, I think the water licence  
20 and land use permit should provide a mechanism for the  
21 Proponent to comply with the proactive measures to  
22 protect the natural, social, and cultural environments  
23 of the project -- around the project, and so that  
24 concludes our intervention presentation, and thank you.

25

1 QUESTION PERIOD:

2 THE CHAIRPERSON: Thank you very much  
3 for that presentation, and so in order of questioning,  
4 then, we'll go to De Beers Canada.

5 MS. VERONICA CHISHOLM: Thank you, Mr.  
6 Chair. Veronica Chisholm, from De Beers. I'd like to  
7 thank the Deninu Kue for their presentation, and we --  
8 we appreciate that you've acknowledged our responses to  
9 your intervention in your presentation, so that was  
10 very helpful, but we have no questions. Thank you.

11 THE CHAIRPERSON: Okay. Thank you for  
12 that. Next is GNWT-ENR.

13 MR. SEAN WHITAKER: Thank you, Mr.  
14 Chair. Sean Whitaker, with ENR. I do have one (1)  
15 question for the DKFN, and it's a three (3) part  
16 question, and it's just trying to understand where  
17 you're coming from with the adaptive management.

18 So the first part is, how does the DKFN  
19 envision the development of a -- an Adaptive Management  
20 Plan? How would you like the triggers, and what action  
21 levels would you like established? And why would you  
22 like higher action levels, and specifically, the  
23 moderate and high established in the adaptive  
24 management framework?

25 I'm just trying to understand your

1 process so that we can move forward and incorporate  
2 the DK -- DKFN's comments.

3 THE CHAIRPERSON: Thank you for that.  
4 Over to DKFN.

5 MR. MARC D'ENTREMONT: Marc  
6 d'Entremont, with the DKFN. Thank you for the  
7 questions, Sean. So I'm going to answer the first one,  
8 and then I may have to ask you to restate the -- the  
9 next two (2), just so I'm clear.

10 I guess with regards to development of  
11 the Adaptive Management Plan, I think that needs to be  
12 done sort of in a open communicated process that --  
13 with involvement of sort of all parties that are here  
14 today. Again, so just so it's clear.

15 I think there are -- there are also sort  
16 of a lot of -- I mean, to date, there's been a lot of  
17 work done on adaptive management strategies, plans, and  
18 -- and processes, so I think there's stuff to build  
19 upon, and -- and De Beers has already taken several  
20 steps in -- in creating that sort of plans for -- for  
21 this project and other projects. So there's lots to  
22 build upon. So it's essentially, at this point, I  
23 think that's where we can go from.

24 So maybe you can ask the other two (2)  
25 questions again.



1 THE CHAIRPERSON: Okay. Thanks. Back  
2 to ENR.

3 MR. SEAN WHITAKER: Sean Whitaker,  
4 Environment and Natural Res -- Resources. Thank you,  
5 Mr. Chair. I'm just going to a follow-up just to that  
6 one.

7 So would you envision a working group  
8 similar to an AEMP working group for adaptive  
9 management so it's open, or would it be through the  
10 review of -- through the Board process, through  
11 preliminary screening?

12 I'm just trying to understand for the  
13 open communication, and whether it would be beneficial  
14 to have a working group just on adaptive management, or  
15 whether that it's sufficient through the Board process?  
16 Thank you.

17 THE CHAIRPERSON: Okay. Thanks for  
18 that. Over to DKFN.

19 MR. MARC D'ENTREMONT: Marc  
20 d'Entremont, from the DKFN. Yeah, I -- I don't -- I'm  
21 not sure if working groups are the best thing. I mean,  
22 there always seems to be a working group forum for  
23 specific issues and items. I -- I don't know if that's  
24 the best approach at this point, or if it can be done  
25 through the Board, or -- through the Board with input

1 from stakeholders.

2 I guess I'd be leaning towards that --  
3 that -- the latter at this point, but I think I'd also  
4 like to see what other -- other agencies would -- would  
5 be interested in doing.

6 I think that said, the DKFN would like  
7 to be involved with whatever would happen in terms of  
8 moving this -- this piece forward.

9 THE CHAIRPERSON: Thank you. Further  
10 from ENR?

11 MR. SEAN WHITAKER: Thank you, Mr.  
12 Chair. Sean Whitaker, from ENR. Thank you for that  
13 response. I was just trying to get where we were going  
14 and how you'd like to see it.

15 The second part of that question was:  
16 What triggers and action levels would you like  
17 developed. And the third part of that is: Why would  
18 you like those developed?

19 THE CHAIRPERSON: Thank you. Over to  
20 DKFN.

21

22 (BRIEF PAUSE)

23

24 MR. MARC D'ENTREMONT: Marc  
25 d'Entremont, from DKFN. I won't get into the specifics

1 of what triggers and action levels there are. I think  
2 it's more important just to at least have triggers and  
3 action levels, and -- and more so management responses  
4 identified from the get go, kind of building upon what  
5 Environment Canada said in their presentation. Let's -  
6 - let's set some targets.

7                   And obviously, the intent would be to --  
8 to keep effects low so that the targets are not reached  
9 at the lower level. But if we do have action levels,  
10 and again, particularly management responses  
11 identified, at least it's -- it's clear and it's open  
12 in terms of what those are.

13                   And again, throughout -- throughout the  
14 whole sort of monitoring and adaptive approach,  
15 potentially those can be modified as more information  
16 is gathered and, again, going back to lessons learned  
17 from projects and lessons learned from this project as  
18 it -- as it proceeds.

19                   So hopefully that answered your  
20 question.

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

22                   MR. SEAN WHITAKER: Thank you, Mr.  
23 Chair. The Department of Environment and Natural  
24 Resources has no further questions, but we really  
25 appreciate DKFN's presentation and written

1 intervention. Thank you.

2 THE CHAIRPERSON: Okay. Thank you for  
3 that. Any questioning from Environment Canada?

4 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey  
5 McMillan, with Environment Canada. Thank you for your  
6 presentation and clarifications. We have no questions.

7 THE CHAIRPERSON: Okay. Thank you for  
8 that then. And then we'll go to the Yellowknife Dene  
9 First Nation.

10 MR. TODD SLACK: Todd Slack, on behalf  
11 of the Yellowknives. No questions. Thanks.

12 THE CHAIRPERSON: Okay. Thank you.  
13 Over to North Slave Metis Alliance.

14 MR. MATT HOOVER: Thank you. Matt  
15 Hoover, North Slave Metis Alliance. No questions.  
16 Thank you.

17 THE CHAIRPERSON: I'll ask if there's  
18 any registered speakers that wish to speak. Anyone  
19 from the general public? Anyone on our teleconference  
20 line? So then we'll go over to Board staff and  
21 technical and legal.

22 MS. REBECCA CHOUINARD: Thank you, Mr.  
23 Chair. It's Rebecca Chouinard, for the Board. Thanks  
24 very much for your presentation. I've got the same  
25 question I had for everyone else.

1 Any thoughts on an appropriate water  
2 licence term and, if so, any rationale for that?

3 MR. MARC D'ENTREMONT: Marc  
4 d'Entremont, from DKFN. I'm very surprised by that  
5 question. No, just kidding.

6 I -- I'll just begin by saying I think  
7 we're a little uncomfortable with a twenty (20) year  
8 term. And I probably just agree with some of the other  
9 agencies, that maybe the best approach would be to have  
10 a term that -- that takes into consideration the  
11 various stages of the project.

12 I'm not -- like typical other ones we've  
13 seen in the past have either been five (5) years or  
14 eight (8) years or ten (10) years. I -- I think the  
15 five (5) year period is probably too low because, you  
16 know, it's going to cover construction and a couple  
17 years of operation. And at that point, there's  
18 probably really not a lot of information from -- and --  
19 and trends will be identified from the project.

20 So perhaps something that like would --  
21 would involve kind of review -- reviewing the whole  
22 water licence again closer to the end of the -- the  
23 project's operation period and as it sort of  
24 transitions to the closure and reclamation period. So,  
25 you know, eight (8) -- seven (7), eight (8), nine (9)

1 years, something like that.

2 THE CHAIRPERSON: Thank you. Further  
3 from Board staff? John Donihee...?

4 MR. JOHN DONIHEE: Thank you, Mr.  
5 Chairman. It's John Donihee. I'm Board counsel. And  
6 I just have a question about your slide and the  
7 difference of views, I guess, that you set out between  
8 DKFN and De Beers with respect to Ni Hadi Yati and in -  
9 - in particular the -- the recommendation that you're  
10 making essentially that the water licence not be issued  
11 until the agreement is -- is in place.

12 And I guess my question for you is:  
13 What would you suggest happens if there's never  
14 agreement between the First Nations and De Beers on  
15 this issue?

16 THE CHAIRPERSON: Thanks, John. Over  
17 to DKFN.

18

19 (BRIEF PAUSE)

20

21 MR. MARC D'ENTREMONT: Marc  
22 d'Entremont, with the DKFN. Thank you for that  
23 question. It -- yeah, I think it really touches on a -  
24 - on a really important subject. Just conferring with  
25 -- with Dave. So it's my understanding that there's

1 negotiations between all of the Aboriginal parties and  
2 De Beers are still kind of ongoing. And like I say,  
3 the -- the Ni Hadi Yati agreement's yet to be ratified.

4 I don't think, I guess -- when it comes  
5 down to it, to answer your question, I don't think this  
6 issue should kind of stop the project. So if there are  
7 no agreements ever reached, I -- obviously, I think the  
8 water licence needs to be issued.

9 I guess in the -- in the response to,  
10 like I say, I just really need to reiterate that it's -  
11 - I think the Ni Hadi Yati's an -- an important  
12 initiative and that hopefully it will -- the agreement  
13 will be achieved and it'll provide a mechanism for kind  
14 of overseeing the project as it -- as it moves forward.  
15 I did have another point, but -- you know, I guess to  
16 answer your question, John, it would be the permit will  
17 obviously have to proceed. Thanks.

18 MR. JOHN DONIHEE: Thank you, Mr.  
19 Chairman. It's John Donihee again. And thank you very  
20 much for that answer. I -- I certainly und --  
21 understand, you know, the Ni Hadi Yati was a very  
22 important topic discussed in front of the Impact Review  
23 panel and it's -- it's certainly -- you know, the  
24 concern, the desire to have this agreement satisfactory  
25 settled and resolved I guess is evident on the record

1 for this proceeding as well.

2 I guess the -- the follow-up for -- for  
3 me at the moment, though, is just to -- to remind you  
4 perhaps that the ultimate decision maker on a Type A  
5 water licence is -- is actually not the Board, but  
6 rather, in -- in this instance, the minister of  
7 Environment and Natural Resources.

8 And so I -- I'm wondering if, you know,  
9 if DKFN has made it -- it -- any of its views about the  
10 importance of Ni Hadi Yati available to the minister so  
11 that he can consider those things when ultimately he  
12 and his colleagues and cabinet sit down and decide  
13 whether this licence ought to be issued?

14 MR. MARC D'ENTREMONT: Marc  
15 d'Entremont, DKFN. Thanks, John. That's a very good  
16 comment. I don't -- I don't think we've made our  
17 approach to the ministry on this point and I think it's  
18 a -- this is a good point we'll bring back to Chief and  
19 Council. So thank you.

20 MR. JOHN DONIHEE: Thank you, Mr.  
21 Chairman. Those are my questions.

22 THE CHAIRPERSON: Okay. Thank you. Is  
23 there further from staff, technical? Then we will go  
24 to Joseph Mackenzie.

25 MR. JOE MACKENZIE: Joseph Mackenzie.



1 No, I have no questions.

2 MR. FLOYD ADLEM: Floyd Adlem. I have  
3 no questions.

4 MR. FRANK MCKAY: Frank McKay. I have  
5 no questions, Mr. Chair.

6 THE CHAIRPERSON: Okay. So thank you  
7 to the YKDFN (sic) for your presentation and que -- and  
8 answers. We will now go to the North Slave Metis  
9 Alliance.

10

11 (BRIEF PAUSE)

12

13 THE CHAIRPERSON: I just thought I'd  
14 trick you from yesterday. You did that to me, so.  
15 Yellowknife Dene First Nation...

16

17 PRESENTATION BY YELLOWKNIVES DENE FIRST NATION:

18 MR. TODD SLACK: Todd Slack on behalf  
19 of the Yellowknives. Turnabout is fair play. Mr.  
20 Chair, if it's okay, our presentation is quite simple,  
21 and it just eliminates the -- or reiterates the  
22 recommendations that we made in our intervention, so  
23 I'm just going to leave it with this picture. It's one  
24 that I really like.

25 And it -- it just -- it's very hopeful

1 to me, and that's what we're here today for. You know,  
2 this mine is going ahead. That's going to happen.  
3 We're -- what we're here today is to decide, well, How  
4 is this mine going ahead? And we're very hopeful that  
5 the highest standards of environmental stewardship will  
6 be applied, and it's -- we're -- the regulatory process  
7 is the instrument to do that.

8                   During our -- our presentation, and in  
9 our intervention, there's a number of things that are  
10 outside of your Board's scope, and we accept that.  
11 However, the voice of your Board is -- is -- would be  
12 important to seeing those things done, and any  
13 assistance that can be lent in terms of encouraging the  
14 minister to do that would be very -- very much  
15 appreciated, because these are essential things to  
16 happen.

17                   In our presentation, I'm going to talk  
18 about four (4) issues, and these are not the -- the  
19 whole -- like a holistic or exhaustive list of the  
20 concerns that we have, but rather, the ones that we  
21 think matter most, and the ones that we chose to  
22 allocate our resources to.

23                   And really what -- what we're -- we're  
24 trying to focus on is truth in language. Just what  
25 value is there in commitments, clarity on what those

1 commitments are, because different language means  
2 different things to different people, obviously. And  
3 then lastly, what the consequences of failure to adhere  
4 to those commitments and standards will actually mean.

5           Now, you -- you've heard me say this  
6 before, and the Yellowknives don't accept that  
7 commitments by themselves have a great deal of value,  
8 either by the developer or some of the commitments made  
9 by the regulators. So what we're here today is to try  
10 and ensure that these are -- have enforceability  
11 attached to them, and with that common understanding  
12 that hopefully we developed, possibly seeing these  
13 enshrines -- these commitments enshrined wherever  
14 possible as terms and conditions.

15           We're coming at this from the  
16 Yellowknives's perspective, and we accept that the  
17 project has their view, and GNWT has their view, but as  
18 -- as we said before, and we'll reiterate all -- all --  
19 many times, that as the guaranteed future land users of  
20 the Chief Drygeese Territory, it's the Yellowknives  
21 that are going to be most impacted by failed measures,  
22 or failed commitments, or weak standards being applied.

23           We have a lot of experience with diamond  
24 mining in the Chief Drygeese Territory. Ekati dates  
25 back to 1996, and we know that when it's done right, it

1 can have relatively low impact. This is both during  
2 operations, and we hope during -- or post-closure.  
3 However, when it's done wrong, we see issue after issue  
4 arising. We see warnings from the inspectors. We see  
5 emergency action, and uncontrolled releases.

6                   And unfortunately, that's what's been  
7 happening at another De Beers mine here in the  
8 Territory, and it's that past experience that helps  
9 colour our view of what these commitments mean. We  
10 take this project at their word, that they're going to  
11 try and ensure that they're applying high environmental  
12 standards, but we want to have that fallback position  
13 so that it's not optional, that they have very little  
14 leeway in terms of meeting those commitments.

15                   So what exactly is the future? Is it  
16 going to be operated and run in the way that we all  
17 hope it should be, or is it going to be similar to less  
18 well-run mines? And that's really where we're  
19 focussing our -- our presentation here, offering  
20 recommendations that will see the highest standard of  
21 environmental stewardship be the only option going  
22 forward.

23                   I'll just take a minute to introduce the  
24 measures -- or the issues that we're talking about.  
25 And we've been involved in this project since it was

1 introduced in -- in -- into the regulatory system in  
2 2005 -- thank you to our friends at De Beers for  
3 reminding me. It's a long time.

4           There's a lot of evidence on the -- on  
5 the registry. And ultimately, the Yellowknives'  
6 primary concern is with caribou. The caribou in the --  
7 and the Dene cannot be disconnected. The Elders have  
8 told the Company, they've told the regulators, they've  
9 told the Government mining operations have impacts on  
10 the well-being of the herd. When the caribou herds are  
11 suffering, the well-being of the Yellowknives Dene  
12 suffers.

13           We feel that the Environmental Impact  
14 Panel heard the Yellowknives' concerns on this and they  
15 put measures in place that require mitigations to  
16 reduce the impacts of mining. Unfortunately, a year  
17 and a half later, and we've told you this in the PLUP  
18 review, most of those measures either are unimplemented  
19 or there's a lot of distancing between the intent of  
20 the panel and what's actually being done. We'd like to  
21 see this corrected and to see that the current plans  
22 are no longer falling short.

23           So to that end, the federal and  
24 territori -- territorial ministers must be pressed to  
25 comply with the measures that they themselves signed

1 off on. We wish that there was a better mechanism to  
2 compel that action, but there's little that we can do  
3 except raise this issue in every venue that we have.

4           The framework that the GNWT and the  
5 project talked about has no -- sorry, pardon me, the  
6 cumulative effects framework that the GNWT and the  
7 project have talked about has no regulatory or  
8 legislative backing. It's a piece of paper. It's  
9 ideas. This is good, but it doesn't get to the heart  
10 of the measure.

11           The Yellowknives have fully participated  
12 in that cumulative effect effort. But at the end of  
13 the day, the outcome of the process that's currently --  
14 the initiative currently underway is going to be  
15 recommendations. Once we heard that, the Yellowknives  
16 are -- are participating in a much less intensive  
17 manner because we have recommendations for decades. We  
18 have recommendations from 2013. There was a number of  
19 workshops that started. The government has not  
20 accepted those. And the -- we're -- we're continuing  
21 to produce reports. Well, it's time that action  
22 happens.

23           Recommendations are not what the panel  
24 envisioned when they put their measure together.  
25 Obviously, I'm not part of the panel, but I read that

1 language, and it's very clear that they wanted to see  
2 something done. And unfortunately, there's nothing  
3 more we can do. We hope that your Board can lend some  
4 gravitas to this ask.

5 In terms of the other Board measures,  
6 the Yellowknives feel that the -- there is room for  
7 improvement. We acknowledge that De Beers has made  
8 steps towards achieving these measures, particularly  
9 developing Wildlife Effects Monitoring Program and the  
10 Wildlife Habitat Protection Program. And I'm going to  
11 refer to these as the WWHPP and the WEMP.

12 However, since that EA started, the  
13 caribou population, and we all know what's happened,  
14 it's declined at such a rate that it meets the  
15 qualifications set out within Species At Risk.

16 The review panel acknowledged the -- the  
17 critical role and the concerns around -- surrounding  
18 the caribou and require the project to develop a  
19 specific caribou protection plan. Recent documentation  
20 from the Company noted that this is found within the  
21 WEMP, but when you -- or within the WWHPP, pardon me.  
22 When you go to that WWHPP, it's a single paragraph.

23 There are other aspects scattered  
24 throughout documents, but this needs to be brought into  
25 a single protection plan that addresses the key concern

1 of the Yellowknives. The Review Board -- or pardon me,  
2 the review panel noted this concern. And they -- they  
3 designed this measure to address this particular issue.

4                   Again, I -- I think that we -- or I  
5 hesitate to use the word 'we' after the question I  
6 provided to the -- the Proponent earlier. I think that  
7 most people -- most reasonable people, on reviewing the  
8 available information, would agree that the measure has  
9 not been complied with; that the WWHPP and the WEMP are  
10 not going to avoid significant environmental impacts,  
11 which they're -- they're aimed to help do.

12                   Now, yesterday we heard about profound  
13 and deep engagements of the Company mentioned. Well,  
14 that is true. There has been an awful lot of  
15 engagement. But it takes two (2) parties to have  
16 profound engagement. Meaningful dialogue requires  
17 listening.

18                   The Yellowknives, for a long time, have  
19 told this project that they're in caribou territory.  
20 They didn't really believe us. We told the Company  
21 that they needed to be ready to respond and have the  
22 contingency plans and methodology in place for  
23 monitoring caribou.

24                   We have told the Company that the  
25 methods weren't as good as they could have been, but



1 they chose to do it their own way. And because they  
2 never thought that caribou would really be a problem  
3 for them, they were unprepared when the, unexpected in  
4 their mind, but wholly expected from the Yellowknives'  
5 perspective, when that happened and they had caribou  
6 incidents with their vehicles this winter.

7                   And, Mr. Chair, I -- I just want to be  
8 clear, the Yellowknives are not asking for anything  
9 onerous or unusual. The ask is based on the best  
10 practices developed at other sites. We're not looking  
11 to reinvent the wheel here. The message is -- the  
12 message is straightforward: Don't use the -- the  
13 processes and methodology that didn't work. Use the  
14 ones that exist now; use the ones that do work.

15                   And this message has -- has been  
16 provided to the Company for a number of years now and  
17 it's unfortunate that we're still here asking for these  
18 same -- same things. We're going to acknowledge that  
19 there has been progress, particularly in the WEMP  
20 development. But is it up -- up to the standards  
21 expected of a -- a large industrial operation here in  
22 this territory? I think, again, reasonable people  
23 would agree that it's not.

24                   Now, in terms of the -- the water  
25 quality standards that we've been talking about the

1 last few days, it's become clear to me that there's a  
2 stark difference in the approach. The project uses the  
3 word 'protective' oft -- very often. And I'm sorry  
4 that -- from the Yellowknives' perspective, simply not  
5 being destructive does not mean that you're being  
6 protective.

7                   And yesterday when I asked that  
8 question, it -- it had a purpose. It wasn't just  
9 semantics. The Yellowknives do not agree with the  
10 sense -- with the -- with the project's statement that  
11 they are minim -- the EQCs are minimizing the amount of  
12 change to the environment.

13                   And we're not sure how the project looks  
14 at the interventions that have been provided and how  
15 they arrive at this position in which there is  
16 consensus. When the project is depositing water that  
17 contains hundreds or thousands of times the values of  
18 the receiving environment, just as our word  
19 'protective' differs, it seems that our view to the  
20 word 'minimize' is quite different.

21                   And just to put a -- a sharp point on  
22 it, during the -- the EI -- environmental impact review  
23 hearing the Yellowknives asked a question and Mr.  
24 Faithful provided an answer that the steady-state  
25 change post-closure in Kennady Lake was going to -- for

1 uranium was going to be eleven thousand (11,000) times  
2 the level that it is now.

3 Well, we're not in a position to debate  
4 whether that's harmful to the environment. But to say  
5 that it's minimizing the amount of change, well, that  
6 seems like an awfully big number to me, and it doesn't  
7 seem like their minimizing the change when we all know  
8 that they could do better.

9 The water from this area, from Kennady  
10 Lake, it tastes good. The fish are healthy. They're  
11 very good to eat. And the project says that isn't  
12 going to change, at least downstream from the site.  
13 Kennady Lake, obviously, I mean, we're going to see  
14 some changes.

15 But the -- what the Yellowknives are  
16 saying is that the baseline or the current status, that  
17 really matters. And as we move away from that, we  
18 should be very careful in terms of how much change  
19 we're considering and how much is being permitted,  
20 because once Humpty Dumpty is broken, it doesn't  
21 matter; they can't put him back together.

22 Mr. Chair, you -- you know the phrase,  
23 the -- the devil is in the details. And nowhere in my  
24 experience has that been more true in closure  
25 commitments. This is why throughout the process, the

1 Yellowknives have been pushing to see this closure plan  
2 developed and advanced in a collaborative sense.

3                   Ultimately, I don't think that we have  
4 seen much progress on the closure plan either during  
5 the engagements, during the EIR, and now we're at this  
6 phase in which we're at the point of permitting the  
7 development, without really knowing what's going to  
8 happen after the mine.

9                   The areas that the project has committed  
10 to re-vegetate only really became semiclear to me --  
11 and I'm been pushing for this -- at the technical  
12 session a few weeks ago. We also learned at that  
13 technical sessions that the project was planning on  
14 burying much of the organic matter that would be  
15 required for a successful re-vegetation.

16                   I'm glad that the technical sessions  
17 served its -- its purpose and that these matters came  
18 to light. And now we -- the project has committed to  
19 make certain changes to keep closure options open. And  
20 that's the key of this stage, is that we're not making  
21 operational decisions that remove options from the  
22 table.

23                   And we heard yesterday about the -- the  
24 tall and steep rock piles. Well, that's another  
25 closure option that should be considered down the road,

1 not simply in a unilateral manner by the project  
2 saying, No, this is what we're going to do. We can't  
3 have re-vegetation there. That's a matter for  
4 discussion and decision in front of the regulatory  
5 system.

6 We all -- I, we, again I think all want  
7 to see this site returned to a productive state, and  
8 here in this area, that's -- it -- it's for caribou,  
9 it's for musk ox, it's for bears. And that's the  
10 assumption that we're all buying into here, is that  
11 this project will be able to do that.

12 Those folks, our friends at De Beers,  
13 they can go get the diamonds. They can make money.  
14 The people in the NWT benefit, and then the land is  
15 returned to the people in this -- in such a way that  
16 it's equally useful and -- and performs the same  
17 functions as it did before the mine.

18 But unfortunately right now, we don't  
19 know how or what the Company is going to do, because we  
20 haven't had real conversations, despite asking, to --  
21 to get towards that end. We're just not there yet.

22

23 (BRIEF PAUSE)

24

25 MR. TODD SLACK: And I -- I was

1 thinking about skipping over this, and I -- I can give  
2 an example as to why this is so important now. There's  
3 often the thought, Hey, we're just opening the mine  
4 now. Let us figure that part out, and then we'll get  
5 to closure.

6 Well, during these processes, and this  
7 is happening at Snap Lake's interim closure, and I'm  
8 not trying to just argue that fact, but they are  
9 continuously going back to the commitments that were  
10 made at the Environmental Assessment and Water  
11 Licensing, and that is the reference point that they're  
12 going back to.

13 So if we don't establish soon, now,  
14 what's going to be re-vegetated, and what the site is  
15 going to look like, and what the criteria that is going  
16 to represent success is, well, down the -- in ten (10)  
17 years, it's going to be an open question, and the case  
18 to have these things app -- or to apply a high  
19 environmental bar to these things is going to be much  
20 more difficult. We've learned from the past, and this  
21 is why we're seeking clarity now.

22 I'm going to speak to the measures a  
23 little more directly than the -- the overview I -- I  
24 just gave, and we -- the EA process was in -- in  
25 progress for a long time. At the end of all that

1 effort, the panel issued three (3) measures, a number  
2 of which I think are be -- before this Board, some of  
3 which aren't.

4                   These mitigations must be put in place  
5 to lower the significant environmental impacts that  
6 would have resulted if the project had proceeded as it  
7 -- as it was presented to the panel.

8                   Just a quick overview, measure 1  
9 addressed the zone of influence, a creation of a  
10 Protection Plan, and adaptive management. Measure 2  
11 focussed on the winter road, caribou, behaviour  
12 monitoring, and barriers to caribou movement. Measure  
13 3 required the development and implementation of a  
14 cumulative effects framework.

15                   The Yellowknives believe that much of  
16 Measure 1 and Measure 2 are firmly within this Board's  
17 mandate and -- and this Board's legislative authority.

18                   Coming back to Measure 1, it has a  
19 number of subparts. It required the project to  
20 minimize the impacts to caribou, that they must monitor  
21 their zone of influence. We acknowledge that the  
22 project has a plan -- has a plan to do this at the mine  
23 site, but they've used a different methodology than  
24 used at the other sites.

25                   However, the key issue for this Board is

1 that it's not being done on the winter road, which is  
2 part of the land use permit. This winter, the -- the  
3 project plan was to utilize track counts for  
4 distribution and habitat use along this winter road.

5                   This is the same method that Ekati used  
6 back in 2006, I think it was for their Misery Road. It  
7 didn't work then. We don't know why the project thinks  
8 it'll work now, and until we have that rationale, it  
9 seems silly to dispense with a different method that  
10 does work, aerial surveys, and apply this track survey  
11 method.

12                   The second part of this measure is to  
13 demonstrate that the zone of influence is being  
14 minimized. This will require the project to construct  
15 its operations in different methods so that they can  
16 see what works, what doesn't work. This is not being  
17 done.

18                   The measure requires the creation of a  
19 Wildlife Effects Monitoring Program and a Wildlife --  
20 and Wildlife Habitat Protection Plan, and it requires  
21 these plans to be linked with a response framework to  
22 be implemented, and we talked about this a bit  
23 yesterday. As it stands right now, I -- the -- this --  
24 this part of the measure has not been complied with.

25                   Together, all these matters will have



1 formed part of the Caribou Protection Plan, and this  
2 was a specific a requirement arising out of the panel  
3 decision. This project has not produced it, or much of  
4 the central foundation of that plan. And just so that  
5 we're clear, this was required prior to construction.

6           And while we don't have a clear  
7 definition as to when construction started from a  
8 Yellowknives's point of view, and we argued this during  
9 the PLUP, that started during this winter when the  
10 first of the major hauling was undertaken. The  
11 majority of this -- this measure falls within your  
12 authority, from a Yellowknives perspective.

13           Measure 2, require the Company to  
14 complete a number of winter road actions. They needed  
15 to demonstrate that the way the winter road was  
16 constructed and operated minimizes impacts to caribou  
17 movement, and how they use the habitat in and adjacent  
18 there. During the technical session, we -- we sought  
19 clarity as to if this had been achieved. It hasn't.

20           Without having these different  
21 mitigations in place, we can't know if it's working.  
22 It may well emerge that the current practice is the  
23 best practice, but right now, we don't know, and the  
24 natural reaction is, Well, we've had a winter road for  
25 an awfully long time, what do we know there? Well,

1 unfortunately because of the -- the time period that  
2 road came into being, it doesn't have the same  
3 requirements to lower its impact to the caribou herd,  
4 or to demonstrate that it's minimizing effects.

5           The Project was directed to monitor  
6 presence and behaviour of caribou along the winter  
7 road. Prior to the road opening, we had expressed  
8 significant concerns with the -- with the approach and  
9 the methodology that were going to be used, as well as  
10 the response plan. It -- this is -- behaviour  
11 monitoring wasn't optional from -- from the Panel's  
12 decision. It was -- it was required.

13           Now, once a caribou had been killed, we  
14 acknowledge that the project reacted. They put in  
15 place methodology. They were out there, and they were  
16 doing work. Unfortunately -- and they responded quite  
17 quickly, given the -- the situation, but these were  
18 things that we had identified as weaknesses previously.  
19 The methodology and response should have been in place  
20 prior to it. They're in caribou terr -- territory.  
21 They should have been ready.

22           And even if we look at the plan as its  
23 evolved, even right now, the behaviour monitoring is  
24 triggered if there's twenty (20) groups of twenty (20)  
25 caribou. That's a lot of caribou, considering the

1 current status of the herd, and the original measure  
2 wasn't optional. It -- we appreciate that we -- the  
3 project doesn't want to do it if there's one (1)  
4 caribou, and that makes sense, but the adaptive  
5 management framework that was discussed needs to be  
6 brought back and reconsidered, both in front of a --  
7 the regulatory process and the habitat use along the  
8 road, but also in collaboration with First Nations and  
9 government.

10 So this part of the measure has been  
11 partially imple -- implemented, and the final part of  
12 this measure requires the Caribou Protection Plan, the  
13 WEMP, and the WWHPP to address effects of caribou  
14 movement through the habitat along that winter road.  
15 We are not aware of a approach that will see this done.

16 And now lastly, and perhaps most  
17 significantly, Measure 3 required the Crown to develop  
18 accumulative effects monitoring and management  
19 framework. This is not done, and the current  
20 initiative will not see it done for years. AANDC's  
21 minister signed the decision, and then as far as we  
22 know, has done nothing.

23 And with respect to the -- the  
24 monitoring and management requirements, GNWT has  
25 undertaken an initiative. They've accepted funding

1 from the mines, but we don't have that monitoring  
2 framework, nor is there any reporting on what they did  
3 with that -- that money, or when we can expect  
4 deliverables to achieve this measure.

5           And just as -- as a final point to this,  
6 the -- the final part of that measure was annual  
7 reporting. Well, we're going on two (2) years since  
8 the -- the decision was accepted, and we don't have any  
9 reporting as from what the government's been doing;  
10 either of the governments, for that matte. So that  
11 hasn't been done either.

12           And I -- I understand that this is  
13 outside the -- the mandate of your Board. And the --  
14 the question that Mr. Nevitt asked earlier is -- in  
15 terms of consultation is important: Why am I bringing  
16 it up here? Well, it's not by choice. CanNor and the  
17 GNWT insists that this is the place to raise these  
18 issues. There is no other consultation issue.

19           Their recent letter on the registry  
20 makes it plain. For those matters within their  
21 mandates, the Government of Canada and the Government  
22 of the Northwest Territories will rely on the  
23 consultative processes of the Review Board and the  
24 MVLWB as the primary means for discharging any of their  
25 consul -- any of their potential consultation

1 obligations.

2           We have seen in other processes, other  
3 regulatory processes, where the Crown says, Well, just  
4 because that -- it's there, it doesn't mean that there  
5 won't be more consultation in the future. Mr. Chair, I  
6 -- I've been around a while now. I've been involved in  
7 a number of land use applications. I've been involved  
8 in court cases against, well, unfortunately, the -- the  
9 boards. There is no -- it never happens. There's  
10 never any subsequent consultation. So like it or not,  
11 this is it, and that's why we're bringing it up here.

12           Just to that end, and I'll wrap it up as  
13 quickly as I can here, it should go without saying how  
14 cumulative effects excess -- affects the exercise of  
15 the Yellowknives Dene treaty rights. The Elders have  
16 been clear. The Review Board has been clear. Action  
17 is required to ensure that envi -- that cumulative  
18 effects are properly managed and do not become  
19 significant. This is a Crown requirement, both in  
20 terms of accommodation of a constitutional right, but  
21 as a prerequisite for this project to proceed.

22           At this point, the Yellowknives are  
23 simply asking your Board to write to the minister. And  
24 under Section 132, which says:

25           "The responsible minister shall carry

1 out the decision under Section 135 to  
2 the extent of their respective  
3 authorities."

4 I accept that this is not your job.  
5 This is something the ministers should be doing on  
6 their own. However, we cannot persuade them to take  
7 these issues seriously and get the job done.

8 In terms of the -- the WEMP, we -- we  
9 had a discussion yesterday where we -- we heard that a  
10 MOU is being close to being completed. We simply  
11 encourage GNWT to expedite its final sign-offs and  
12 submit this to the registry prior to the final  
13 comments.

14 We're not familiar with the -- with the  
15 contents. We'll see it when you guys see it. But we  
16 hope that it will put in pra -- put in place best  
17 practices and a dispute resolution and provide some  
18 mechanism until the new Wildlife Act comes into act --  
19 or comes into place.

20 Similarly, we've talked about air  
21 quality. There's an MOU in progress on that. It's  
22 been a long time now. We'd like to see this completed  
23 to provide some sort of tool so that we don't have to  
24 bring this up again.

25

1 (BRIEF PAUSE)

2

3 MR. TODD SLACK: Accepting that there's  
4 action afoot on the -- the WEMP, we believe that the  
5 WWHPP, this is the Wildlife and Wildlife Habitat  
6 Protection Plan, can be significantly improved,  
7 particularly with respect to complying with the  
8 guidance that already been provide -- provided in terms  
9 of the measures and the follow-up programs that were in  
10 the Board -- the -- the panel decision. Forgive me for  
11 using those words interchangeably.

12 We don't want to belabour this point,  
13 and perhaps it's too late for that, but this WWHPP  
14 needs to be a systematic and thorough way to collect  
15 data and ensure that the habitat along the winter road  
16 and along the mine site are not per -- be not  
17 detrimental to caribou and other wildlife.

18 It will eventually give us the knowledge  
19 to operate the winter road according to best practices,  
20 with a clear and protective response framework and a  
21 clear understanding of what those impacts are. And the  
22 impacts -- the impacts to -- to habitat, you can't  
23 divorce the habitat from the animals. So the impacts  
24 to habitat are -- affect the -- the movement. They  
25 affect the health. They affect the distribution. All

1 of these are directly -- should be directly monitored  
2 and feed into that Management Program.

3 Now, Mr. Chair, we didn't -- the  
4 Yellowknives adopted a -- a for -- or recommendations  
5 that -- that weren't prescriptive in nature. We didn't  
6 want to say, Well, you must -- De Beers should do this.  
7 We've tried to provide a framework to develop that  
8 collaborative -- collaboratively with Board approval  
9 where -- wherever possible and wherever applicable.

10 Those recommendations are found in a  
11 working group again. And we believe that they should  
12 be formed relatively quickly after the licence. This  
13 working group should be -- the intent of this working  
14 group should be to fix the existing plan, providing  
15 clear language so that we can avoid disputes and  
16 interpretation. It should require the development and  
17 implementation of action levels, and it should be  
18 improving -- focussed on improving the methodology and  
19 tech -- techniques.

20 For example, to require the project to  
21 monitor their impacts to habitat beyond just the visual  
22 range, which is what they're doing now. So limit -- to  
23 the limit of their own asserted zone of influence.

24

25

(BRIEF PAUSE)



1 MR. TODD SLACK: Lastly, the  
2 Yellowknives believe that there's an opportunity to  
3 mesh the TK monitoring with a winter road in order to  
4 determine the community perspective with the impacts to  
5 caribou and caribou habitat.

6 Now, Mr. Chair, we're getting into a --  
7 an area that I'm less familiar with. I'm going to talk  
8 about the water quality. I'm not going to pretend I'm  
9 an expert. No one would believe me even if I was  
10 pretending. I fully confe -- confess there are parts  
11 of this stuff that I do not understand and I zone out  
12 when I hear it.

13 But I think the GNWT presentation  
14 provided a -- an important foundation fro the  
15 Yellowknives' perspective. They provided policy  
16 documents and references. Ultimately, clean water is  
17 important and degradation of that resource shouldn't be  
18 allowed when it isn't required.

19 Your staff and your experts talked about  
20 the mecha -- the mechanics of how to arrive at numbers  
21 and what those numbers mean. I can't and won't attest  
22 to -- to those levels. But what I do know, I -- I do  
23 the simple math and look at they want related versus  
24 what the background is. And it doesn't seem like you  
25 should be releasing proposed effluent with hundreds of

1 times the background concentration into a receiving  
2 water body and call that protective.

3           You can't exceed the CCME by orders of  
4 magnitude and call it protective. The CCMEs, well,  
5 that's protective from a pollution perspective. The  
6 background, that's protective from the Yellowknives'  
7 perspective. That's the way the Creator made the land  
8 and the water. The -- the Company's proposal, well,  
9 we're not sure what it's protective of, but it  
10 certainly is the easiest option.

11           Now, after the -- the technical sessions  
12 I was reviewing the proposed effluent criteria and I  
13 was -- I was quite surprised with how -- how much  
14 higher the actual EQCs being presented were, how much  
15 higher they were than the receiving environment. I --  
16 I asked the Proponent if I had it right. I -- I  
17 figured it was fifty (50) to seventy-five (75) times  
18 for two (2) of the key -- key contaminants of concern.  
19 Well, I -- I was pretty -- even simple math apparently  
20 alludes me, because it was hundreds of times higher.

21           And in terms of yesterday, when heard  
22 the minimizing change thing, again, it -- it comes back  
23 to, Well, we know they could do better. What that  
24 level should be, we can -- we don't have the expertise  
25 or the resources to bring someone in who can translate

1 the Yellowknives' perspective, so we're forced to rely  
2 on Board staff and the Waters folks.

3           It just seems like there's something  
4 amiss here. Now, the Yellowknives, we're -- they're  
5 not keen on dilution as the Water Treatment Plan,  
6 preferring to keep the clean water clean. But if we  
7 accept the -- the project's view that dilution is an  
8 important thi -- important part of this, well, then we  
9 start to look at what the level is at edge of the  
10 mixing zone that we heard yesterday.

11           And it -- again, it presumes that the  
12 predictions are right. And they're asking for your  
13 permission, for the minister's permission, to pollute  
14 the receiving environment to a level hundreds of times  
15 higher, not just in terms of effluent, but within that  
16 receiving environment.

17           I did the math and I'm sure De Beers  
18 will check. And I came up with it's two hundred (200)  
19 times higher for ammonia, a hundred and ti -- a hundred  
20 and twenty (120) times higher for nitrate. That's not  
21 protective of the environment. That's simply, at best,  
22 not destructive to the flora and fauna that live in  
23 that environment.

24           And for us, not destroying the  
25 environment is not good enough. It should be

1 protecting the water. And we ask -- we're asking the  
2 Board to take this vision and convert it into stringent  
3 EQCs, because we can't tell you what those numbers are  
4 going to be. Whether it's via the water strategy,  
5 Board guidelines, or the common sense of the  
6 Yellowknives Elders, degrading the water unnecessarily  
7 simply shouldn't be acceptable.

8                   Coming back to the -- the particulars of  
9 closure. And minimal development, it's all about  
10 balance. The benefits that are provided versus the  
11 impacts both during operations and after closure. Now,  
12 our skepticism of -- of the benefits is well noted in  
13 the -- in the panel transcripts. And we're not going  
14 to focus on the -- on -- on that.

15                   But we -- the assumption is that those  
16 benefits will outweigh the potential impacts. And it  
17 is impossible to evaluate the imp -- the full impacts  
18 at this point. We don't -- we -- we simply don't know  
19 if the -- the current closure initiative will overcome  
20 the not insignificant -- as the project noted there's a  
21 lot of challenge to getting this site back to wildlife  
22 habitat.

23                   And here in the NWT we don't have a  
24 tremendous history in terms of doing that. There's one  
25 (1) mine that is approaching closure -- successful

1 closure, and that's Con Mine. But we do, within the  
2 Chief Drygeese Territory alone, there's a hundred  
3 contaminated sites. So the Yellowknives are very  
4 focussed towards ensuring this end prod -- or this  
5 endpoint.

6                   It's been one (1) of the -- the  
7 Yellowknives' principle areas of focus. And -- and the  
8 Conceptual Plan, listen, it -- it corrects some of the  
9 -- the limitations that we -- we've seen at other  
10 sites. They're filling the pits to the degree  
11 possible. That's good. It's more of a phased  
12 approach. It's the first site where I think we're  
13 going to see, or hopefully see, real progressive recl -  
14 - reclamation. That's good that they can demonstrate  
15 success as they proceed.

16                   But however, the -- the closure approach  
17 is still missing critical measure -- matters. It's  
18 been vague about what their objectives will be. We  
19 don't know where the vege -- as I said, we don't know  
20 where the vegetation's going. The closure options are  
21 being unilaterally removed from the -- the table.

22                   And while I can't say that we would all  
23 agree that shorter fatter rock piles would be more  
24 suitable to the closure objectives, I think we would  
25 all agree that this should be an option to be

1 considered during the regular -- or during the closure  
2 discussion. That conversation has never been had  
3 despite the Yellowknives' concerns and significant  
4 desire to have this conversation.

5 In our intervention we talked about not  
6 wanting a gravel pad. You know, worst-case scenario is  
7 that this project walks away and we have gravel beside  
8 a -- a formerly nice lake and there's lake trout in it.  
9 And if we're not careful and very clear in our  
10 intentions and language at this point, if we don't set  
11 forth those objectives and requirements now, in fifteen  
12 (15) years when the project gets around to drafting up  
13 the final closure plan that might be what we get.

14 Again, the Snap Lake closure process  
15 provides some insight into the Company perspective.  
16 Nowhere in their closure objectives does they -- does  
17 it say they will re-vegetate anything.

18 Right now the site is productive land.  
19 It's supports caribou. It supports musk ox. It  
20 supports bears and the complete Northern ecosystem.  
21 And that ecosystem includes the Dene people. A closed  
22 mine site that has no vegetation provides no benefit,  
23 and the sustainable mining paradigm that we're being --  
24 that we're buying into, it just doesn't hold up.

25 And as previously said, not being a

1 detriment to the environment if this site becomes  
2 neutral, it doesn't harm wildlife, it doesn't harm the  
3 water, that's not good enough for the Yellowknives. It  
4 must return to its former state, where it provided  
5 value.

6                   Lastly -- or bringing this section to a  
7 close, this is an eleven (11) year mine life. It's not  
8 very long, especially considering the length of time  
9 that the other closure plans have taken. Now, we will  
10 benefit from efficiencies because we're good -- or we  
11 have good plans to follow, but waiting really isn't  
12 much of an option. Closure planning and research --  
13 and particularly closure research cannot start too  
14 soon.

15                   To achieve this, again, the Yellowknives  
16 have provided a recommendation framework. The Board  
17 should require the Company to prepare -- prepare a  
18 draft reclamation research plan to be completed within  
19 six (6) months of the issuance of this licence. This  
20 will allow the long-term research items, particularly  
21 vegetation trials including the ones on the rock pile  
22 that we were discussing the other day, to be comm --  
23 commenced immediately, and inform the closure planning  
24 process prior to be -- prior to be required -- prior to  
25 the required final closure plan. Pardon me.

1                   The Board should require a closure  
2 working group to be initiated immediately after the  
3 submission of this research reclamation plan. The  
4 Board should provide direction to parties that  
5 establishment of closure components and objectives  
6 should collaboratively be completed within one (1)  
7 year. These objectives should be aimed at ensuring  
8 that the current land use wildlife habitat be the end  
9 product.

10                   The closure plan for the fine PK  
11 storage, which we talked about at length during the  
12 technical session, does not currently reflect any  
13 vegetation or medium for vegetation growth. We don't  
14 want gravel pads. This isn't reflective of the  
15 surrounding environment, and it provides little  
16 benefit. The Board should reject this portion of the  
17 closure plan.

18                   An interim closure and reclamation plo -  
19 - plan conforming to the Board's published guidelines  
20 should be submitted for approval prior to commissioning  
21 of the mill. This is a critical issue that has not  
22 been adequately dealt with, and it's not for lack of  
23 trying. We understand that the project's trying to  
24 open the mine, but -- and there isn't a terr --  
25 terrific business case for them to consider how they're



1 going to close it at this early stage.

2                   But for the Yellowknives, that is the  
3 case. This project is going to go ahead. What do we  
4 do in the meantime? We hope that the Board agrees with  
5 the Yellowknives's perspective, and that they create  
6 the need for that project to devote real and  
7 substantial resources.

8                   Then, Mr. Chair, the final issue that  
9 I'm going to talk about is the closure water -- water  
10 quality. And in the same way that the closure plan for  
11 the -- the land components can be improved, we believe  
12 that the project should be required to do better with  
13 its post-closure water quality, as well.

14                   Potentially, we're -- we're going to see  
15 some real changes to the long-term water quality,  
16 doubling -- doubling, tripling, or more -- far more  
17 release of potential contaminates. The Yellowknives  
18 accept that the lake is going to change, but how much  
19 is the lake going to change?

20                   We've heard some say that the lake  
21 becoming more productive is a good thing. Well, the  
22 Creator made that way -- that lake in a particular way  
23 for a reason. The -- the Yellowknives have evolved in  
24 -- in concert with the lands. The ecosystem reflects  
25 the lands, and should we really be meddling with that,

1 or should we be aiming to do better?

2                   And we believe that the Company can do  
3 better. We hope that the Board identifies this as a  
4 closure priority, and that it -- as it seems that  
5 these, like, any changes to this out -- outcome will  
6 likely require operational considerations.

7                   Now, Mr. Chair, I just want to thank you  
8 for the opportunity to bring these concerns in -- in  
9 front of the Board, and I appreciate the Board's  
10 perspective that some of these things shouldn't be  
11 discussed here, but we're caught in a real Catch 22 on  
12 that.

13                   The Yellowknives certainly believe in  
14 the concept behind sustainable mining, and that's the  
15 goal here. Low impact, high benefits, and ultimately  
16 they believe in it because they have to. This is a  
17 site of almost -- or of the majority of the development  
18 in the NWT, and the mines are here to stay. We've got  
19 more on the way, and we're going to continue to work  
20 both with the Board, the project, and the regulators to  
21 find that balance to ensure well-being of the people  
22 and the land and the water they depend on.

23                   Now, that concludes my -- my  
24 presentation. But if I might, I'll just address the  
25 obvious questions that will come, and that's the water

1 -- water licence term. The Yellowknives think that a -  
2 - a term that looks towards the mid-mine life is  
3 appropriate. It allows the project to get up and  
4 running, yet doesn't run for the life, and it provides  
5 a life of project. It provides an important check and  
6 balance, both on the predictions and the operations  
7 that are being undertaken, and this is consistent with  
8 the Yellowknives's submission in the Snap Lake case, as  
9 well, if we're looking for precedent, where the  
10 Yellowknives asked for a term, either five (5) or eight  
11 (8) years, which would work in this case, as well.

12                   The -- the Company can make improvements  
13 to their environmental stewardship, and if we see that  
14 in -- in the midterm review, that's the time where you  
15 -- you provide a rest of the life project -- or rest of  
16 the life licence.

17                   And that concludes my comments. Thank  
18 you for listening to the concerns. I appreciate it.

19                   THE CHAIRPERSON: Well, thank you,  
20 Todd, and to the Yellowknives Dene First Nation well-  
21 thought-out presentation. When I first saw actually  
22 your official six (6) pages, I was surprised. I  
23 thought, That can't be Todd, so. I'm not surprised  
24 anymore, though. Thank you.

25                   Zabey, did you want to break for lunch,

1 or did you want to -- let's break for lunch. How about  
2 if we take an hour, and then we'll get to some  
3 questionings from De Beers Canada Inc? Thank you. One  
4 (1) hour fifteen (15). Okay, one (1) hour fifteen (15)  
5 to twenty (20).

6

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

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

9

10 QUESTION PERIOD:

11 THE CHAIRPERSON: So good afternoon to  
12 everyone. Thanks for being back and at the right time.  
13 And so we're going to be starting with order of  
14 questioning for YKDFN. And we start off with De Beers  
15 Canada.

16 MS. VERONICA CHISHOLM: Thank you, Mr.  
17 Chair. First I'd like to thank Mr. Slack for the  
18 presentation from the Yellowknives Dene. I thought it  
19 was a very good and thorough presentation, so it's much  
20 appreciated. And certainly from De Beers, we look  
21 forward -- and when I say, "we," I mean De Beers --  
22 looks forward to continuing to work with the  
23 Yellowknives Dene.

24 And I believe that we, De Beers,  
25 Yellowknives Dene, and all parties, share the common

1 goal of sound environmental stewardship for this mine.  
2 So we certainly continue to look forward -- we, De  
3 Beers, continue to look forward to any input that the  
4 Yellowknives Dene have on any of the monitoring and  
5 management plans. Thank you.

6 THE CHAIRPERSON: And thank you for  
7 that. Next up for questions -- do you want to respond  
8 to that at all, Todd, or...?

9 MR. TODD SLACK: No.

10 THE CHAIRPERSON: Next up for -- for  
11 questions then is the ENR-GNWT.

12 MR. ROBERT JENKINS: Thank you, Mr.  
13 Chair. It's Robert Jenkins, with ENR. I'd like to  
14 thank the YK Dene for their presentation and expressing  
15 their concerns. We have no questions.

16 THE CHAIRPERSON: Thank you, Robert.  
17 Then so next up is Environment Canada.

18 MS. SARAH-LACEY MCMILLAN: Hi. It's  
19 Sarah-Lacey McMillan, with Environment Canada. And we  
20 have no questions.

21 THE CHAIRPERSON: Okay. Thank you for  
22 that. Next up, Deninu K'ue First Nation.

23 MR. MARC D'ENTREMONT: It's Marc  
24 d'Entremont, for the DKFN. We have no questions for  
25 the Yellowknives Dene. Thanks.

1 THE CHAIRPERSON: Thank you. And North  
2 Slave Metis Alliance...?

3 MR. MATT HOOVER: Matt Hoover, for the  
4 North Slave Metis Alliance. We don't have any  
5 questions. Thank you.

6 THE CHAIRPERSON: Okay. Thank you.  
7 Any registered speakers? There's nobody on our  
8 teleconference line. Anyone from the general public?  
9 So we will go to Board staff, technical advisors, and  
10 legal.

11

12 (BRIEF PAUSE)

13

14 THE CHAIRPERSON: Go to the Board  
15 members. Joseph...?

16 MR. JOE MACKENZIE: Joe MacKenzie. No  
17 questions.

18 MR. FLOYD ADLEM: Floyd Adlem. No  
19 questions.

20 MR. FRANK MCKAY: Frank McKay. No  
21 questions.

22 THE CHAIRPERSON: Well, with that,  
23 Todd, thank you.

24 MR. TODD SLACK: Thank you.

25

1 (BRIEF PAUSE)

2

3 THE CHAIRPERSON: Sorry. Next up to  
4 make a Intervenor presentation is North Slave Metis  
5 Alliance.

6

7 PRESENTATION BY NORTH SLAVE METIS ALLIANCE:

8 MR. MATT HOOVER: Thank you, Mr. Chair.  
9 My name is Matt Hoover, with the North Slave Metis  
10 Alliance, Environment and Lands Department. Thank you  
11 on behalf of the NSMA, first of all, for having us here  
12 today to voice our concerns. Today's presentation will  
13 discuss the following in respect to the review and  
14 consideration of the Class A water licence and Class A  
15 land use permit for De Beers's proposed Gahcho Kue  
16 mine. Background, aquatic environment, wildlife  
17 management, environmental monitoring, and closure and  
18 reclamation.

19 So to begin with, the NSMA represents  
20 the Abor -- Aboriginal rights-bearing Metis of the  
21 North Slave area. The NSMA's mandate includes ensuring  
22 that the public and private sector organizations  
23 respect its members' Section 35 Aboriginal rights when  
24 developments are contemplated and/or operating on their  
25 traditional lands.

1                   The NSMA is vitally concerned with the  
2 protection, preservation, and sustainable use of its  
3 traditional lands and resources to the benefit of its  
4 members and their children for generations to come.

5                   So in regards to Gahcho Kue's location,  
6 the NSMA has been involved in De Beers's Gahcho Kue  
7 mine since the project entered the regulatory process.  
8 This project is of significant concern and interest to  
9 NSMA members because the land in and around the mine  
10 claim block area is going to be substantially impacted.

11                   With that in mind, we're going to talk  
12 about several different points today. And some of  
13 these may be on the periphery of what the Board is  
14 considering, but we believe that they're of interest  
15 and that the Board can provide, as well as De Beers can  
16 provide, a level of clarity in this permitting stage  
17 with terms and conditions that could be developed to  
18 mitigate potential harm to the aquatic environment  
19 specifically, as well as wildlife in the area.

20                   In that respect, the NSMA members'  
21 traditional land use of the area is well documented in  
22 the traditional knowledge and land use study that the  
23 NSMA undertook with funding for De Beers for this  
24 project -- from De Beers for this project. The study  
25 is entitled, 'Traditional Knowledge and Land Use Report



1 2012/2013: A Study for De Beers Canada Inc. Proposed  
2 Gahcho Kue Project'.

3                   This report is a product of research  
4 material and a community on-the-land camp that was held  
5 at Kirk Lake in the vicinity of Gahcho Kue. And that  
6 was -- that took place this past summer. And there's a  
7 photo of the camp which is not very visible on that  
8 screen. But that on-the-land camp, coupled with  
9 community interviews and research from historical  
10 documents, was the basis for the report.

11                   Now we'll touch on aquatic values. At  
12 the environmental impact review, the EIR hearings in  
13 December 2012, the NSMA voiced its concerns about the  
14 water quality challenges that De Beers is having at its  
15 Snap Lake mine.

16                   In that respect, De Beers does not  
17 appear to be able to maintain the water quality  
18 standards at Snap Lake as required under their Class A  
19 water licence. This situation is still ongoing, and  
20 understandably NSMA members are concerned about the  
21 possibility of a similar situation occurring as there  
22 was -- due to the Gahcho Kue Project operations.

23                   The NSMA is concerned about the  
24 Proponent's recently disclosed plans to discharge water  
25 during the winter season. This isn't something that's

1 been discussed yet in yesterday or today's discussions,  
2 but I believe it's important. It's still unknown what  
3 effects such a discharge may have on the water when  
4 paired with seasonal variability and spring freshet.

5           Essentially, our concern is that if  
6 water is discharged in the winter, it could have a  
7 number of different effects. And we don't believe that  
8 these effects or potential impacts to the aquatic  
9 environment have been fully discussed. One (1) example  
10 would be that winter discharge can change the retention  
11 capacity of downstream environments. And as we've seen  
12 at Giant mine and Baker Creek, often spring freshet and  
13 melt rates can have significant impacts on the  
14 surrounding landscape, depending on what happens in  
15 seasonal variability.

16           The NSMA believes that winter discharge  
17 could negatively impact fish and traditional harvesting  
18 downstream. It's the NSMA's understanding that De  
19 Beers has been directed by the Mackenzie Valley Land  
20 and Water Board to produce information respecting the  
21 Proponent's winter discharge plans to address these  
22 concerns as per -- as per Information Request 1, but  
23 has thus far been unable to provide this information as  
24 of the writing of this submission.

25           Given the time lines for the dewatering

1 and fish-out of Kennady Lake, there's little time left  
2 to review and consider the Proponent's proposed winter  
3 dewatering plan. The Proponent stated during the  
4 technical sessions there -- that there will not be a  
5 problem with winter discharge because of mitigation and  
6 monitoring being applied.

7           The NSMA is not comfortable with De  
8 Beers's wish to dewater Kennady Lake during the winter  
9 season without having first undertaken research into  
10 and explaining the possible effects of the following:  
11 how far downstream De Beers will monitor the effects of  
12 winter discharges for potential of the following:  
13 overtopping of banks; increase in erosion of banks,  
14 stream beds, et cetera; changes in retention of  
15 downstream environments; ice build up; spring ice melt;  
16 spring rainfall; increased snow pack melt; and changes  
17 in stream temperatures; as well, an analysis of how  
18 winter discharge could impact fish and fish habitat  
19 compared to discharging in other seasons; and finally,  
20 a description of the monitoring that will be required  
21 and how far downstream this monitoring will occur to  
22 determine if and when discharge should be stopped and  
23 the action levels and thresholds that will need to be  
24 developed in order to successfully mitigate effects  
25 when issues occur.



1 the health of wildlife in the zone of influence of the  
2 project. Of particular concern to the NSMA is the  
3 health and well-being of the Bathurst caribou herd.  
4 The Bathurst caribou face increased pressure from the  
5 Gahcho Kue mine, as its impacts will be felt on the  
6 herd's migration route.

7                   Consequently, all measures, especially  
8 Measure 1, should be implemented by De Beers in order  
9 to mitigate cumulative effects associated with the  
10 Gahcho Kue mine site. A link between the Wildlife  
11 Effects Monitoring Program, the WEMP, and the Wildlife  
12 and Wildlife Habitat Protection Plan, WWHPP, as it had  
13 been mentioned in prior discussion at these public  
14 hearings, will be a valuable monitoring and mitigation  
15 tool.

16                   The NSMA does not feel that this link  
17 was adequately addressed during the technical sessions  
18 other than to initiate further studies on caribou. We  
19 are pleased to hear that De Beers is willing to have  
20 further conversations in this light with the NSMA and  
21 other Aboriginal parties, as well as funding  
22 appropriately these discussions. And what this means  
23 exactly has yet to be determined. The NSMA looks  
24 forward to further involvement in this respect.

25                   In regards to environmental monitoring

1 based concerns, in December 2012 at the EIR the NSMA  
2 voiced support for the establishment of an organization  
3 to monitor the mine. The NSMA is pleased that Ni Hadi  
4 Yati is near ratification, although it is again unclear  
5 exactly what this mandate means and what funding will  
6 be attached to this at this time. But we are hopeful  
7 that it will provide a successful model for other  
8 projects. NSMA is working towards becoming a member of  
9 this organization at this time.

10                   And now in regards to closure and  
11 reclamation-based concerns, it was stated by the  
12 Proponent during the technical sessions that  
13 traditional knowledge reports would be used to inform  
14 the closure objectives. The NSMA submitted a  
15 traditional knowledge report that was referenced  
16 earlier in this presentation. The NSMA encourages the  
17 Proponent to continue to work with Aboriginal parties  
18 to consider the viewpoints and values of the NSMA.

19                   The NSMA believes that the water licence  
20 and land use permit are important components of  
21 ensuring that post-closure the environment at site and  
22 the surrounding lands are once again usable for  
23 traditional pra -- practices, including harvesting.

24                   The water licence and land use permit  
25 should ensure that by post-closure the environment of

1 the mine site and its surrounding area is once again  
2 usable for traditional practices, including harvesting,  
3 and that all technological means are available to be  
4 used to achieve this state in a proactive manner.

5           The NSMA believes the Proponent needs to  
6 clarify some aspects of its closure plans and commit to  
7 establishing an organization to oversee the mine's  
8 closure. This has been discussed yesterday and again  
9 today. We're pleased to be on track to create an  
10 organization working group of this kind and we believe  
11 that it should be made and implemented as soon as  
12 possible so we can take any opportunity we have along  
13 the way as this project is developed to successfully  
14 remediate the site and to leave it in a state that is  
15 usable for members as soon as possible.

16           We had several recommendations that were  
17 more broad, high level recommendations, but we believe  
18 it's still important to mention them. First of all,  
19 the NSMA wants the waters in and around Kennady Lake to  
20 remain clean and potable, as it's an important life  
21 force for the environment.

22           Second, the NSMA recommends that De  
23 Beers be required to install a water treatment plant.  
24 And I'll edit this statement to say that, when  
25 necessary, should effluent quality criteria fail to be

1 met at its proposed Gahcho Kue mine site.

2 Third, the NSMA wants proper waste  
3 incineration to be implemented at the Gahcho Kue mine  
4 site, whether this means further discussion and further  
5 research into the effects of sewage incineration or  
6 discussions of that kind. We're pleased by De Beers's  
7 response already to this -- to this request and their  
8 desire to implement the best waste incineration  
9 available.

10 4. The NSMA wants all steps available  
11 to be taken to ensure that the low number of Bathurst  
12 caribou does not experience additional impacts further  
13 prolonging harvest restrictions. These restrictions  
14 have impacted the NSMA, and any other impacts to the  
15 Bathurst caribou that could occur as the result of  
16 Gahcho Kue mine would greatly impact the cultural  
17 values and personal values of the NSMA members. As  
18 traditional harvesters of caribou in the region, the  
19 NSMA members are concerned about the well-being of  
20 these caribou that migrate through and around the  
21 project area.

22 Fifth, and finally, the NSMA wants De  
23 Beers to undertake the construction and operation of  
24 its proposed Gahcho Kue Mine in a sustainable way.

25 The above recommendations summarize what



1 the NSMA wishes to see the Mackenzie Valley Land and  
2 Water Board require of De Beers, respecting the  
3 latter's proposed Gahcho Kue diamond mine. It is, in  
4 addition, NSMA's wish that De Beers operates the Gahcho  
5 Kue Mine in a sustainable way and achieves a good  
6 return on its investment, while preserving the health  
7 of the land and water and the species that depend on  
8 it. Thank you.

9

10 QUESTION PERIOD:

11 THE CHAIRPERSON: Okay. And thank you  
12 to the MSMA for a very -- or NSMA for a very to the  
13 point, informative presentation. Thank you for that.  
14 So the order of questioning then for NSMA will be De  
15 Beers Canada.

16 MS. VERONICA CHISHOLM: Thank you, Mr.  
17 Chair. Veronica Chisholm, with De Beers. I just have  
18 a couple of questions, but first I'd like to say thank  
19 you for your presentation.

20 With -- with regard to the winter  
21 discharge, I'm wondering if -- if North Slave Metis  
22 have had an opportunity to review the response to IR  
23 Number 1, submitted onto to the registry on February  
24 24th, that provided detailed information around winter  
25 discharge, including baseline information on potential

1 effects and how that monitoring would be undertaken?

2 And -- and the mitigations that prescribed in this

3 eight (8) or ten (10) page Information Request.

4 MR. MATT HOOVER: Matt Hoover, North  
5 Slave Metis Alliance. We haven't -- we're not familiar  
6 with that response. We had, since that time, spoken  
7 with some folks who had voiced these similar concerns  
8 at the technical sessions that occurred prior to that,  
9 I believe. And they felt that many of these concerns  
10 were still unanswered.

11 So that was where we had based some of  
12 our concerns, as well as internal discussions. So  
13 perhaps that's something we can discuss with De Beers  
14 further just to clarify winter discharge and what it  
15 means and what it could potentially mean as far, as  
16 being more complicated than discharging in other  
17 seasons. Thank you.

18 THE CHAIRPERSON: Thank you. Further  
19 from De Beers?

20 MS. VERONICA CHISHOLM: Veronica  
21 Chisholm, with De Beers. Thanks. We'd be happy to  
22 provide you with this Information Request and see if  
23 there's any additional outstanding concerns. I'm also  
24 wondering if you're familiar with the commitment we  
25 made during the technical sessions to go out and do

1 some additional data collection this winter to look at  
2 the downstream that would help to enhance the -- the  
3 monitoring and mitigation plans that we are -- we -- we  
4 are suggesting for -- for winter discharge.

5 MR. MATT HOOVER: I'm partially  
6 familiar with -- sorry, Matt Hoover, North Slave Metis  
7 Alliance. I'm partially familiar with those, and we  
8 look forward to more information being provided, as  
9 long as the information's provided far enough in  
10 advance that it's able to be appropriately reviewed,  
11 and then plans can be modified as necessary to ensure  
12 that the environment's protected. Thank you.

13 MS. VERONICA CHISHOLM: Veronica  
14 Chisholm, with De Beers. Just one (1) last comment.  
15 So on that information, we're planning on providing  
16 another technical memo by the end of May that will  
17 fully describe that. Thank you.

18 MR. MATT HOOVER: Matt Hoover, North  
19 Slave Metis Alliance. Thanks, Veronica.

20 THE CHAIRPERSON: Okay. Thank you for  
21 your questions, and now we'll go to ENR-GNWT.

22 MR. ROBERT JENKINS: Thank you, Mr.  
23 Chair. It's Robert Jenkins, with ENR. I'd just like  
24 to thank the NSMA for its good presentation today, and  
25 for voicing its concerns. We have no questions at this

1 time.

2 THE CHAIRPERSON: Okay. Thank you.

3 I'll go to Environment Canada.

4 MS. SARAH-LACEY MCMILLAN: It's Sarah-  
5 Lacey McMillan, with Environment Canada. We have no  
6 questions.

7 THE CHAIRPERSON: The next order of  
8 questioning would be DKFN.

9 MR. MARC D'ENTREMONT: Thank you, Mr.  
10 Chair. Marc d'Entremont, for the DKFN. We have no  
11 questions for the North Slave Metis Alliance.

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

13 MR. TODD SLACK: Todd Slack, with the  
14 Yellowknives. We don't have any questions.

15 THE CHAIRPERSON: Thanks for that. I  
16 don't believe we have any registered speakers. I'll  
17 hear from the general public. No one on our  
18 teleconference line, and I'll go to the Board staff.

19 MS. REBECCA CHOUINARD: Thank you, Mr.  
20 Chair. It's Rebecca Chouinard, with Board staff. Just  
21 one (1) question. Interested if you have any thoughts  
22 on the water licence term and rationale?

23 MR. MATT HOOVER: Matt Hoover, North  
24 Slave Metis Alliance. Thank you. I kind of forgot  
25 about that. But I -- I agree what was -- with what was

1 suggested earlier by the DKFN, and Marc, in that it  
2 would be -- although we don't know exactly how many  
3 years specifically, we believe that it would be nice to  
4 have it set in a way that it allows for review in a --  
5 in a structured way related to the mine phases.

6           So whether that means slightly before  
7 closure activities begin, we're far enough in advance  
8 of closure activities that reviews could occur, and  
9 adjustments could occur if necessary. I think that's a  
10 reasonable timeline. Thank you.

11           DR. NEIL HUTCHINSON: Neil Hutchinson,  
12 for the Board. Thank you for your presentation, and  
13 you've raised some -- some interesting questions. Your  
14 request that the -- the -- for additional research to  
15 be conducted to demonstrate with certainty what effects  
16 winter dis -- discharge may have downstream, I  
17 understand you haven't seen the February 24th IR number  
18 1, but in it, De Beers proposes to start the winter  
19 pumping in November of this year.

20           Now, we can appreciate that this winter  
21 is finally over, so there's very little opportunity to  
22 do research between now and then. So I was wondering  
23 if your intent when you made that statement was that De  
24 Beers should do this research before any winter  
25 pumping, or you could see it being done as part of the

1 Aquatic Effects Monitoring Program and the Adaptive  
2 Management Program?

3 MR. MATT HOOVER: Matt Hoover, North  
4 Slave Metis Alliance. Thank you. I think it's obvious  
5 that any research should be done prior to potential  
6 harm occurring. It seems extremely unlikely that this  
7 is possible.

8 Ideally, De Beers would be able to  
9 somehow gather information and prove that this is a  
10 plan -- a discharge dewatering plan that would be able  
11 to be implemented and monitored in a -- and to develop  
12 a monitoring plan in advance of actually doing the  
13 dewatering, and that's up to you -- you more technical  
14 folks to determine the timelines and the research that  
15 would be necessary to make that happen, I think. Thank  
16 you.

17 THE CHAIRPERSON: Thank you. Further  
18 from staff?

19 DR. NEIL HUTCHINSON: Again, Neil  
20 Hutchinson, for the Board. No, thank you very much.  
21 In -- in De Beers's IR number 1, they also talk about  
22 developing indicator thresholds and where they would --  
23 if -- if certain things happened, they would cease  
24 pumping in the wintertime.

25 Do you think that these thresholds

1 should be developed and approved before any winter  
2 pumping is approved, or -- or do we have to discuss  
3 them at the time they occur?

4 MR. MATT HOOVER: Matt Hoover, North  
5 Slave Metis Alliance. I think all thresholds of that  
6 type should be developed before they could potentially  
7 occur. Thank you.

8 DR. NEIL HUTCHINSON: Thank you.  
9 That's all my questions.

10 THE CHAIRPERSON: Okay, thanks, Neil.  
11 Any further questions form staff, legal? Then I will  
12 go to the Board Members. Joseph...?

13 MR. JOE MACKENZIE: No question.  
14 Joseph.

15 MR. FLOYD ADLEM: Floyd Adlem. No  
16 questions.

17 MR. FRANK MCKAY: Frank McKay. I have  
18 no questions.

19 THE CHAIRPERSON: So that wraps up the  
20 question then for NSMA, and we -- we thank you for your  
21 participation. We're coming down here to the end. For  
22 the record, we'll ask if there's any -- anything to --  
23 final words from registered speakers? Anybody on our  
24 teleconference line that wishes to speak? Anyone from  
25 the general public?

1                   And with that, we will -- there's a  
2 section here, Final questions for clarification from  
3 the Board staff, technical advisors, or legal counsel  
4 who can ask any of the parties that presented and  
5 intervened, so we'll give them a five (5) minute break  
6 to get their questions, so a fast coffee.

7

8 --- Upon recessing at 1:44 p.m.

9 --- Upon resuming at 1:52 p.m.

10

11                   THE CHAIRPERSON:    Okay.  Thank you,  
12 everyone, for your patience.  Now we have some final  
13 questions for clarification from the Board staff  
14 technical and/or legal advisors.

15                   DR. NEIL HUTCHINSON:    Thank you, Mr.  
16 Chair.  Neil Hutchinson, for the Board.  This is just a  
17 follow-up to some information I had requested yesterday  
18 of De Beers on -- if there's any data on bacterial  
19 levels at Area 8 and Lake N11 from the baseline  
20 studies.

21                   MR. JOHN FAITHFUL:    Mr. Chair, it's  
22 John Faithful, Golder Associates.  Dr. Hutchinson, in -  
23 - as often as E. coli are often hard to find in the  
24 environment, we're -- we're just trying to track down  
25 the -- the sources of information that we have in our



1 database as well as the data that -- that De Beers have  
2 in their database set for their rural -- rural drinking  
3 water supply.

4 I did mention yesterday that E. coli in  
5 itself is not -- is -- we don't typically sample it in  
6 -- as -- on the baseline studies in the more -- more  
7 recent programs, so we're having to -- to go back into  
8 some of our earlier databases, and we'll -- we would  
9 like to take that as an undertaking to provide that  
10 information, Mr. Chair, and we will -- we can deliver a  
11 response.

12 So I think that's Undertaking number 8.

13 THE CHAIRPERSON: John, did you want to  
14 respond?

15 MR. JOHN FAITHFUL: Thank you.

16 MR. JOHN DONIHEE: Yes. Thank you, Mr.  
17 Chairman. It's John Donihee, and that's Undertaking  
18 number 8, and that'll be to provide the data that's  
19 available to De Beers on E. coli.

20

21 --- UNDERTAKING NO. 8: De Beers Canada Inc. to  
22 provide to the MVLWB any  
23 available data that is  
24 related to E. coli from  
25 existing baseline studies

1 for Lake N11 and Area 8 by  
2 May 15, 2014

3

4 THE CHAIRPERSON: Okay. Thank you for  
5 that. And further from Board staff?

6 MS. LINDSEY CYMBALISTY: Lindsey  
7 Cymbalusty, for Board staff. So what I've just been  
8 kind of thinking about is, in the updated EQC report,  
9 it seemed pretty clear that the assimilative capacity  
10 of Area 8 is quite small, so discharge to that area  
11 would be limited to year 1. I -- I think I understood  
12 that correctly. But following that, that water from  
13 Lake N11 could potentially still be drawn for flow  
14 mitigation and pumped to Area 8.

15 So what I'm wondering is where is the  
16 intake for that water in Lake 11 (sic) relative to the  
17 discharge point to Lake 11 (sic) and the mixing zone,  
18 if you can sort of see where I'm going here. I'm just  
19 wondering if there's been any consideration of the  
20 potential for -- for assimilation -- further reduction  
21 of the assimilative capacity to -- in Area 8 based on  
22 that additional input, albeit of -- of lower  
23 concentrations?

24 THE CHAIRPERSON: Okay. Thank you for  
25 that, Lindsey. Over to De Beers.

1

2

(BRIEF PAUSE)

3

4

MS. VERONICA CHISHOLM: Veronica

5

Chisholm, from De Beers. We would -- and correct me if

6

this will help or not. We'd be happy to provide you

7

with a map that shows exactly or precisely where we'd

8

be taking water from N11 and where -- which would be

9

outside any potential disturbance, and -- and where

10

exactly we would be taking the water over into Area 8.

11

If that would answer your question, we can provide that

12

map as a -- as an undertaking.

13

MS. LINDSEY CYMBALISTY: Lindsey

14

Cymbalsty, for the Board. So that -- and that would -

15

- that would be great.

16

That would definitely answer the

17

question, and that is -- hasn't been -- there's not

18

another map that shows that clearly that you could

19

reference already?

20

MS. VERONICA CHISHOLM: Veronica

21

Chisholm, from De Beers. There kind of is, but I think

22

we'll provide one (1) with a better scale, Lindsey --

23

Mr. Chair. We'll -- we'll provide one (1) that just

24

has a little bit of a better scale to it that shows

25

where our discharge point is and where we would taking

1 in water to help with the downstream flow mitigation,  
2 and where the discharge point would be in Area 8.

3 THE CHAIRPERSON: Okay. Thank you for  
4 that from De Beers. And, John, did you want to...

5 MR. JOHN DONIHEE: Yes, John Donihee.  
6 Thank you, Mr. Chairman. That will be Undertaking  
7 Number 9 to provide a map of appropriate scale to show  
8 the discharge points and intake -- intake and discharge  
9 points. All right. Thank you.

10

11 --- UNDERTAKING NO. 9: De Beers Canada Inc. to  
12 provide to the MVLWB a map,  
13 of appropriate scale, that  
14 shows where the discharge  
15 point and intake point are  
16 in Lake N11 by May 15, 2014

17

18 DR. KATHY RACHER: Kathy Racher, for  
19 the Board. I have two (2) questions. One (1) when --  
20 after ENR presented, I -- I just went back through  
21 their -- their intervention and the memo provided by  
22 one (1) of their consultants at Stantec, where they  
23 went through and -- and came up with a dilution factor  
24 of six (6) for -- for Lake N11.

25

And in that memo attached to the ENR

1 intervention, it's very clearly laid out what the  
2 assumptions were that the consultant made relative to  
3 inflows to Lake N11 and inflows and outflows and  
4 residence time, whatever, to come up with sort of a  
5 dilution -- a rough dilution factor of six (6).

6           And I -- I realize that in the  
7 assimilative model there were the mass balance  
8 simulation that you provided in your EQC report in  
9 Section 3.1.1. We'd -- I -- I don't have that  
10 information of what your -- what your assumptions were  
11 for inflows and -- and whatnot and how you came up with  
12 those numbers.

13           Because the numbers that you kind of  
14 came up with are -- are like a factor of two (2)  
15 different than what the AANDC consult -- oh, I did it;  
16 I was almost at the end of the hearing and I didn't  
17 make the mistake -- of what the ENR consultant came up  
18 with. I was so close. Anyway. So -- but I -- I'd  
19 like to see that, because those numbers should have  
20 been roughly equivalent and they were out by a factor  
21 of two (2).

22           So could you provide, basically, more  
23 information about how you came up with that -- that  
24 graph that's in Figure 3.1-1, which is -- which shows  
25 us steady-state concentrations predicted in Lake N11

1 over time?

2 THE CHAIRPERSON: Thank you for that,  
3 Dr. Racher. Are you looking a undertaking? Because  
4 you're going to smash all your records, you know that,  
5 eh, on this one (1).

6 MR. JOHN FAITHFUL: Mr. Chair, it's  
7 John Faithful. I'm going to try and not take any more  
8 undertakings from Dr. Racher, but we'll -- we'll see  
9 how this goes. Okay.

10 The -- the dilution ratio or the -- the  
11 -- that Dr. Huebert came up with -- with in -- for  
12 ENR's intervention did talk about a -- a six (6) fold  
13 dilution, I think, from a steady-state condition in  
14 Lake N11.

15 It's -- it's roughly appropriate. The -  
16 - the values that -- that ENR provided were based on  
17 some information we had provided at the technical  
18 session that -- that basically summarized the -- the  
19 water management pond discharge to Lake N11 being  
20 roughly 4 million cubic metres -- I'm going to call  
21 them million cubes, as I speak -- going into Lake N11  
22 that roughly has a volume of 20 million cubes.

23 And so that's roughly a five (5) fold  
24 dilution when you take into account that -- by -- that  
25 -- that's at mass balance. And so that -- that

1 dilution of five (5) or six (6) is -- is relatively  
2 appropriate. And -- and that is very similar to the  
3 mass balance that we used for Lake N11 in our -- our  
4 mass balance assessment that we -- that we considered  
5 in the EIS.

6                   With respect to the Figure 3.1-1, we --  
7 we look at the proportion of effluent or the proportion  
8 of the water management pond discharge in the area that  
9 we assess for the EQCs and determine over the period of  
10 time under the discharge that occurs over the three (3)  
11 years of -- of operational discharge how much of that  
12 discharge makes up the volume of Lake N11.

13                   And in the figure, it -- it increases  
14 with each ensuing period of -- of discharge during open  
15 water. During winter, when you have ice development  
16 and you have salt exclusion or under -- under the ice  
17 you, then get a -- a reconcentration of that discharge  
18 in -- in the lake. And it comes up with a -- a  
19 proportion that we use in our EQC development.

20                   And -- and the -- the piece that I guess  
21 when we did a cross-check with -- with ENR's dilution  
22 ratio, it was very apparent that they -- they don't  
23 particularly match for the information that we've  
24 provided in our EQC report compared to their dilution.  
25 And the reason is quite simple: The area that we --

1 that we have focussed on, in terms of the EQC report  
2 and the attenuation of the water management pond  
3 effluent, is really just focussing on the southern  
4 basin. And the southern basis dimensions, or  
5 characteristics, are a little different to the whole  
6 lake.

7                   So where I said that the volume of Lake  
8 N11 was 20 million cubes, the area that we've proposed  
9 for our EQCs is 10 million cubes. So it's -- it's a  
10 little bit more than that. It's roughly -- it's  
11 roughly 55 percent of the overall volume.

12                   The most important thing to also  
13 consider is -- is how we can -- what -- how -- what the  
14 difference in terms of water yield for those two (2)  
15 areas are. And again, the volume of Lake N11 is 22  
16 million cubes -- or it might be 18 million cubes. I --  
17 I -- yeah, I think it was 18 million cubes. The water  
18 yield is 22 million cubes. So that's the amount of  
19 water that moves through Lake N11 on a given year. So  
20 it roughly has a one (1) year retention time.

21                   With respect to the southern basin, I  
22 said it had 10 million cubes and it has a water yield  
23 of roughly 8 or 9 million cubes. So it's a lot -- it's  
24 a lot different. So the EQC deve -- development that  
25 we use didn't take into account some of the -- the



1 additional attenuation capacity that the rest of the  
2 lake offers.

3                   And when we transfer our equations to do  
4 that cross-check with -- with ENR's evaluation, the  
5 numbers come out almost -- almost the same. There's  
6 slight difference in the way it's -- it's derived, and  
7 we also used slightly different numbers in terms of --  
8 of the equation. But that -- that is where that  
9 difference actually originates from. Thank you.

10                   THE CHAIRPERSON: Thank you for that.  
11 Further from Board staff?

12

13   (BRIEF PAUSE)

14

15                   DR. KATHY RACHER: Kathy Racher, for  
16 the Board. I just -- I think I need to follow up on --  
17 on your explanation, which makes sense. So I'm just  
18 wondering, in terms of calculating EQC, using the  
19 methods that you used in the EQC report, so that --  
20 that proportion of -- of Lake N11 that will -- will be  
21 effluent, you're saying is -- is really just the south  
22 basin. That proportion was used in the calculations of  
23 -- it was 42 percent. And it pretty much drives the  
24 EQC values, the -- the forty (40) full dilution that  
25 you see from the diffuser itself really is immaterial

1 compared to that -- to the 42 percent in the -- in the  
2 equations, as -- as far as I could tell.

3                   So I'm just wondering why -- why you  
4 used the 42 percent if -- like I'm not sure exactly,  
5 are -- are the EQC calculations you did still  
6 appropriate, given what we just discussed?

7                   MR. JOHN FAITHFUL:     John Faithful,  
8 Golder Associates. I -- I'd like to just clarify, the  
9 -- the forty-two (42) that -- that we saw referenced in  
10 the -- in the ENR report doesn't -- it's not an -- an  
11 absolute direct relationship to -- to the -- to the  
12 overall dilution ratio in Lake N11.

13                   What -- what that forty-two (42) --  
14 sorry.

15                   DR. KATHY RACHER:     Sorry. Sorry, Mr.  
16 Chair. I just realized it's unfortunate that there's a  
17 forty (40) and a forty-two (42) in this conversation  
18 and they're different numbers. So when I said 42  
19 percent, I meant that maximum proportion in Figure 3.1-  
20 1. That's using the equation. The forty (40) full  
21 dilution from the diffuser is also using the equation.

22                   So just when you're -- when you're  
23 giving your answer, just make sure you differentiate.  
24 It's unfortunate that they happen to be very close.

25                   MR. JOHN FAITHFUL:     Mr. Chair, it's

1 John Faithful. So what I'd like Dr. Racher to do,  
2 would -- could she go back to her original question so  
3 that I don't waste anymore time from -- of the Boards?  
4 Thank you.

5 DR. KATHY RACHER: Kathy Racher, for  
6 the Board. And -- and then forty-two (42) is also the  
7 answer to the universe, which further confuses  
8 everything.

9 So my question is, in -- in the  
10 equations that you used for EQC there are two (2) --  
11 the -- the dilution factor at the diffuser of forty  
12 (40) is used. It's -- it's -- and -- and in your  
13 equations and the EQC report, it -- it's represented by  
14 the term 'DF', dilution factor.

15 The 42 percent, which is the maximum  
16 predicted proportion of effluent in Lake N11, I -- I  
17 think it's in the winter after year 3 of discharge, is  
18 also used in the calculation, but in a different way.  
19 It's -- it's used to -- to limit the available dilution  
20 volume in Lake N11, which -- which was a conservative  
21 thing to do. And so I'm saying that 42 percent, which  
22 is the assimilative capacity number, drives the EQC  
23 values that you get in those equations. That other  
24 dilution factor is pretty immaterial.

25 So I'm just wondering, based on what

1 you've just said about not using the full assimilative  
2 capacity of the Lake N11, if your EQC calculations --  
3 you -- you stand by them with that -- using that 42  
4 percent? That was still the appropriate thing to do?

5 MR. JOHN FAITHFUL: Mr. Chair, it's  
6 John Faithful. Thank you for -- for that  
7 clarification, Dr. Racher. So the -- you're right, the  
8 assimilative capacity of Lake N11 does increase  
9 markedly with the -- with the inclusion of all of Lake  
10 N11. I think the -- the maximum proportion ends up on  
11 -- on a rough estimate of -- of around 20 percent with  
12 inclusion of that northern part.

13 I think with -- with respect to -- to  
14 the EQC development, although we've been relatively  
15 conservative in just applying the -- the south basin to  
16 the EQC development, I think that they -- some  
17 questions were raised yesterday about the -- the  
18 appropriateness of -- of, say, ammonia or nitrate EQCs  
19 that were developed, and -- and I think that would --  
20 we're still providing a response in terms of the  
21 undertaking on that -- on that regard.

22 I think where we -- where we currently  
23 stood at that point in time, in submitting the EQC  
24 report, we get -- we get very -- we're very close with  
25 respect to the AML and DML for nitrate, based on our --

1 our assumptions of the -- the nitrate sourcing in -- in  
2 the southern basin, and the -- the additional  
3 attenuation in the north with the -- with the whole of  
4 Lake N11 would provide some flexibility on -- on that -  
5 - on that proposed AML/DML for nitrate. Thank you.

6 DR. KATHY RACHER: Kathy Racher, for  
7 the Board. Okay, thank you. I think I -- I think I've  
8 got it now.

9 And so I have one final question,  
10 because I just want to hold everyone hostage here at  
11 the hearing. I -- that's what I feel like. And it was  
12 -- it just made me -- the -- the presentation by the  
13 NSMA made me think of this question.

14 The -- the representative of the NSMA  
15 said they hadn't had a -- a chance to -- to look at IR  
16 1 -- IR Response 1 from February 24th regarding winter  
17 discharges, so they -- they had some outstanding  
18 concerns, but I can see from what you've submitted that  
19 you're pretty keen on winter discharge starting in  
20 November, according to the schedule in IR 1.

21 And -- and we brought up earlier how  
22 there's a lot of plans that need to be approved before  
23 you can start, right? It's like in the order of eight  
24 (8) or nine (9) plans, it looks like. And so the --  
25 the development of thresholds and a monitoring plan, et

1 cetera, we -- we can put that in the licence for the  
2 con -- a Construction Water Management Plan, but then  
3 getting it approved, and -- and for everyone to see it  
4 is another story, and we want, you know, to get that  
5 done as soon as possible.

6 My question is, you know, in the time  
7 bet -- while we're drafting the licence and then we're  
8 sending it to the minister, I mean, you've heard from  
9 the parties. Are you, this summer, before your licence  
10 is issued, are you going to be out there talking about  
11 these plans, and engaging with people on these plans so  
12 that there's a chance that they can be approved rapidly  
13 after water licence issuance? What's your plan for  
14 this summer?

15 MS. VERONICA CHISHOLM: Veronica  
16 Chisholm, with De Beers. That's absolutely our plan.  
17 We will be developing those plans pretty quickly, and  
18 finalizing them. I think that a number of the plans  
19 are -- are pretty close. We have some -- a few  
20 outstanding items in those plans, but -- and some  
21 clarification, but some are -- are -- we're certainly  
22 within the 80/85 percent.

23 And that it -- it will be our intention  
24 to engage parties on those plans as they get finalized  
25 so that we can submit them to the Board. I assume that

1 we can submit them to the Board at any point in time,  
2 and I'm not entirely sure when the clock starts to tick  
3 in terms of days for approval, if that -- if that can  
4 happen when the -- the draft water licence is issued to  
5 the minister, if it can happen beforehand, I don't  
6 know.

7                   But our intention from our point of view  
8 would be to engage parties as we develop each of the  
9 plans, to circulate those plans, and to -- to seek  
10 input and finalize those plans as quickly as possible.

11                   THE CHAIRPERSON: Thank you, De Beers.  
12 Further from Board staff?

13                   MR. ZABEY NEVITT: Thank you. Zabey  
14 Nevitt, with the Board. As you may recall, at the  
15 technical session we had some discussion on the -- the  
16 forward-looking engagement plan that was put forward in  
17 the application documents that came in, in November.  
18 And there was some comments brought up about the -- at  
19 the time, the eight (8) bullet points that were listed  
20 there as the go-forward plan.

21                   One (1) of the commitments that came out  
22 of that was a commitment to update the engagement plan.  
23 Not being such an expert undertaker-getter as Dr.  
24 Racher, I didn't manage to get the commitment of a date  
25 on that, as well. So at this time, we don't have one.

1 All three (3) of the Aboriginal groups  
2 that presented today presented the importance of  
3 ongoing engagement through the life of the project.  
4 And in issuing any permit or licence, the Board needs  
5 to be satisfied that not only has engagement happened,  
6 that needs to have happened but on a go-forward basis  
7 there will be engagement that will car -- be carried  
8 out in a meaningful way through the life of the  
9 project. To -- to quote a former Chief talking about a  
10 mine at some point, he -- he talked about how there was  
11 once a time when we were offered lobster, and now we're  
12 lucky to get Tim Hortons sandwiches.

13 So you've spoken a lot during this --  
14 this hearing about a variety of different forums: the  
15 Ni Yati Hadi -- Ni Hadi Yati, the working groups that  
16 were being formed for the AEMP and for the closure, and  
17 then some other mechanisms as well.

18 I guess what I'm looking for is can De  
19 Beers provide for the Board -- and I would probably  
20 request this as an undertaking -- a summary which will  
21 flesh out in some more detail -- I recognize that an  
22 engagement plan is coming forward, so I don't know the  
23 current status of that.

24 But can De Beers commit to providing to  
25 the Board a summary of the ongoing engagement



1 practices, some of which may have been fleshed out in  
2 these terms of reference, and some of the other  
3 proposals so the Board can see as they consider the  
4 approval of the licence the sort of more full suite of  
5 the -- the proposed engagement practices for the  
6 ongoing operations during the mine?

7 MS. VERONICA CHISHOLM: Veronica  
8 Chisholm, from De Beers. Yeah, we can certainly take  
9 that on as an undertaking. And certainly at least we  
10 can forecast where we are today, recognizing that --  
11 and this is how De Beers has always responded in terms  
12 of engagement; as issues arise, we development  
13 engagement around those, or as concerns are  
14 communicated to us we development engagement -- or  
15 specific engagement around those, so some may be  
16 difficult to predict.

17 But certainly we can provide a summary  
18 as -- as for the commitments that we've made to date  
19 regarding engagement and -- and carry that forward. So  
20 that's a pretty long undertaking, but I'm sure you can  
21 capture that. Thank you.

22 THE CHAIRPERSON: Okay. Thank you for  
23 that. John, do you have some -- number 10, some  
24 wording?

25 MR. ZABEY NEVITT: Okay, well, what

1 you've written down there. Zabey Nevitt, with the  
2 Board. A description of proposed engagement going  
3 forward over the course of the -- of the mine project.  
4 And just to comment on that, of course, you deal with  
5 engagement pra -- as issues come up, but it's always  
6 good to have a plan of what you'll do when something  
7 comes up. It's -- it's having a process in place so  
8 that if something sudden does appear, you know what  
9 you'll probably do there.

10                   And just for the record, that's my first  
11 engage -- undertaking.

12

13 --- UNDERTAKING NO. 10:       De Beers Canada Inc. to  
14                                   provide to the MVLWB an  
15                                   update on proposed forward  
16                                   looking Engagement  
17                                   activities, with a  
18                                   description of current and  
19                                   future plans by May 15,  
20                                   2014

21

22                   THE CHAIRPERSON:    Okay. Thank you,  
23 Zabey. Is there further from De Beers?

24                   MS. VERONICA CHISHOLM:    Veronica  
25 Chisholm, from De Beers. No, that's fine. We'll take

1 that on as -- as undertaking.

2 THE CHAIRPERSON: Great. Thank you.  
3 So further from Board staff, legal, technical? Okay,  
4 well, that brings that final question for -- questions  
5 for clarification to an end then. So now we're looking  
6 for closing remarks from registered Intervenor, and  
7 starting with GNWT-ENR.

8

9 (BRIEF PAUSE)

10

11 CLOSING COMMENTS BY GNWT-ENR:

12 MR. ROBERT JENKINS: Thank you, Mr.  
13 Chair. It's Robert Jenkins, with ENR. ENR thanks the  
14 Board for the opportunity to present its review and its  
15 recommendations on the Gahcho Kue project. Our review  
16 and the recommendations we've provided are made to  
17 ensure that the project is conducted in an  
18 environmentally responsible and sustainable manner.  
19 ENR would like to thank all Intervenor for their  
20 active participation within this process. We would  
21 like to thank De Beers for their continued willingness  
22 to work through issues, and to make improvements to the  
23 project.

24 Lastly, ENR would like to thank the  
25 Chair, Board members, Board staff and counsel, and

1 support staff for conducting a fair and thorough public  
2 hearing over the past several days. We look forward to  
3 reviewing the final draft of the water licence, and  
4 providing our written closing statements to the Board  
5 on this application. Thank you, Mr. Chair.

6 THE CHAIRPERSON: And thank you,  
7 Robert. So next up is Environment Canada.

8

9 CLOSING COMMENTS BY ENVIRONMENT CANADA:

10 MS. SARAH-LACEY MCMILLAN: Sarah-Lacey  
11 McMillan, with Environment Canada. I'll keep it quite  
12 simple. Environment Canada would like to thank the  
13 Board, staff, Intervenors and De Beers for their  
14 valuable participation in this process. We look  
15 forward to participating in the next phase of the  
16 regulatory review, and we hope that the technical  
17 comments and recommendations presented today were  
18 useful to the Board in their decision-making process.

19 THE CHAIRPERSON: Okay. Great. Thank  
20 you. Next would be DKFN.

21

22 (BRIEF PAUSE)

23

24 CLOSING COMMENTS BY DENINU K'UE FIRST NATION:

25 MR. MARC D'ENTREMONT: Thank you, Mr.

1 Chair. Marc d'Entremont, for the DKFN. So just in  
2 closing, we'd like to acknowledge the -- the good work  
3 that's been conducted to date on -- to get this project  
4 to where it's currently at, to this permitting stage,  
5 although we'd also like to acknowledge that we believe  
6 there's still much work to be done.

7           And then kind of going forward at the  
8 conclusion of this process, I guess De Beers will have  
9 its permits and move to the next stages of construction  
10 and operation, and we have to believe and trust them  
11 that they will be good stewards of the land.

12           And I just want to make a -- a comment  
13 that -- kind of one (1) of the -- the words that sticks  
14 in my mind that has come up from a number of  
15 discussions over the last couple days is 'clarity'. So  
16 with that, we're here to ensure that the water licence  
17 and land use permit provide the clarity, the guidance,  
18 and the conditions that will enable De Beers to -- to  
19 comply with the proactive measures so that the  
20 environment is not altered beyond unacceptable levels.

21           So again, in closing with that, I'd like  
22 to thank the Mackenzie Valley -- Valley Land and Water  
23 Board, De Beers, and all the Intervenors for the  
24 discussion, questions, and comments that we've had over  
25 the last two (2) days. Thank you.

1 THE CHAIRPERSON: Okay. Thank you for  
2 those closing remarks, and now we'll go to the  
3 Yellowknives Dene First Nation.

4

5 CLOSING COMMENTS BY YELLOWKNIVES DENE FIRST NATION:

6 MR. TODD SLACK: Thank you, Mr. Chair.  
7 Todd Slack, on behalf of the Yellowknives. We'd like  
8 to thank the Board, the -- and the staff, and the  
9 project for -- for this hearing. It's good to get  
10 these concerns on the record and out in the open.

11 And I just want to close by saying, you  
12 know, often we're viewed as giving industry a hard  
13 time. You know, we want this project to be successful.  
14 At this point, there's no turning back. It -- they've  
15 got to make money, otherwise we know what happens.  
16 We've got -- we can look across the bay, we can look  
17 over at Nunavut at the Tahera Project, the -- the  
18 Redfern Resources Project in Northern BC.

19 If they don't make money, it's bad for  
20 the environment. No one wants to see that happen.  
21 However, how they make their money, well, that's the  
22 frame that we're setting up right here. That is  
23 dependent on regulations. We're -- the Yellowknives  
24 are appreciative of the commitments. That counts for  
25 something, but in the end, it comes down -- it can come

1 down to a question of profit versus the environment.

2                   And we don't -- the Yellowknives don't  
3 ever want to see that choice be available to the  
4 Company. The highest level of environmental  
5 stewardship must be the principle core value here, and  
6 for that, regulations are essential.

7                   Lastly, the Yellowknives would ask the  
8 Board for a number of things -- or a num -- for its  
9 help in pursuing a number of matters that may be  
10 outside its mandate, and these -- these are the  
11 measures that are found within the EIS.

12                   Mr. Chair, we didn't go through that  
13 years' long process just to see this stuff not happen.  
14 These are critical mitigations that are necessary that  
15 must be in place to avoid the significant impacts that  
16 they saw.

17                   Now, we understand that you can't make  
18 that happen, but anything you can do to help it happen  
19 would be much appreciated. Thanks very much.

20                   THE CHAIRPERSON: And thank you to the  
21 Yellowknife Dene First Nation, and up next is the -- is  
22 NSMA.

23

24 CLOSING COMMENTS BY NORTH SLAVE METIS ALLIANCE:

25                   MR. MATT HOOVER: Thank you, Mr. Chair.

1 Matt Hoover, North Slave Metis Alliance. Thank you,  
2 Mr. Chair, the Board, and De Beers for allowing the  
3 NSMA to voice our concerns in regard to the proposed  
4 Gahcho Kue Mine.

5 We, the NSMA, look forward to continuing  
6 to participate in this process in order to achieve an  
7 end result that is a economically successful and  
8 environmentally sustainable mine operation. Thank you  
9 again.

10 THE CHAIRPERSON: Thank you for that.  
11 So now we'll ask for any registered speakers for the  
12 record? Is there any people on our teleconferencing  
13 line? Anyone from the general public? If not, then  
14 we'll go to any closing remarks from the Board staff,  
15 technical, or legal. Thank you, then we will go to De  
16 Beers for some closing remarks.

17 MS. VERONICA CHISHOLM: Veronica  
18 Chisholm, from De Beers. Glen Koropchuk, our chief  
19 operating officer, will provide our closing remarks.

20

21 CLOSING COMMENTS BY DE BEERS CANADA INC.:

22 MR. GLEN KOROPCHUK: Glen Koropchuk, De  
23 Beers. Mr. Chairman, we'd like to begin these closing  
24 remarks by thanking you, your fellow Board Members, the  
25 Board staff, and other people that were involved for



1 running a very fair, efficient, and transparent  
2 permitting process. We would also like to thank all  
3 the parties who participated in the process for all of  
4 their efforts that they made in order for this process  
5 to be successful.

6 De Beers acknowledges that through the  
7 participation of all the parties, licence and permit  
8 conditions will be arrived at that will enhance the  
9 sustainability of the Gahcho Kue Project.

10 Mr. Chairman, although we are near the  
11 conclusion of this permitting hearing process, we are  
12 still in the very early stages of this project. We  
13 look forward to working with this Board and all other  
14 stakeholders as we advance this project.

15 I can confirm that on or before May 9th,  
16 we will file with the Board our enhanced plan for  
17 identifying and managing the potentially acid-  
18 generating rock in a safe, responsible, and  
19 environmentally sound manner. In addition, by May  
20 15th, we will file all of our responses to the  
21 remaining ten (10) undertakings, I believe, given by De  
22 Beers during the course of this hearing. Is that  
23 confirmed number?

24 MR. JOHN DONIHEE: They weren't all  
25 yours, but --

1 MR. GLEN KOROPCHUK: Okay. Thank you.  
2 One (1) of these undertaking responses will set out in  
3 detail for the Board the critical path that De Beers is  
4 pursuing, and when management plans need to be in place  
5 to facilitate the development of this project, and  
6 ensure value is not eroded. I confirm that we will  
7 file -- finalize the development of these plans, and a  
8 stakeholder engagement program so that they can be  
9 considered timeously and approved efficiently.

10 This will clarify when certain steps  
11 must be taken so that De Beers and its partner,  
12 Mountain Province Diamonds, can make final investment  
13 decisions and proceed with the economic and technically  
14 feasible development of the Gahcho Kue Project.

15 The people of the Northwest Territories  
16 will derive significant economic benefits as a result  
17 of the timely construction and operation of the Gahcho  
18 Kue Mine. We know that that is something that people  
19 are looking forward to. We've heard some positive  
20 comments from various stakeholders, but we are  
21 committed to doing it right.

22 De Beers appreciates the efforts that  
23 the Board and its staff have made, and are continuing  
24 to make, to advance this permitting process. We will  
25 continue to work with the Board and all other

1 stakeholders to facilitate the preparation of a land  
2 use permit and a water licence that are both protective  
3 of the environment and are consistent with operational  
4 requirements and an appropriate development schedule.

5                   Mr. Chairman, in closing, we again thank  
6 the Board, its staff, and all the participants in this  
7 process for making it successful, efficient,  
8 transparent, and the best process that we can do in  
9 this type of an environment. It's very important, and  
10 we appreciate it. Thank you.

11                   THE CHAIRPERSON: And thank you to De  
12 Beers, and thank you all for your closing remarks. On  
13 behalf of the Board, I'd like to thank all of you for  
14 participating in this Type A water licence hearing.  
15 The Board does -- does appreciate all the efforts made  
16 by De Beers Canada Inc., the Intervenors, and the  
17 participants to prepare the application and all the  
18 evidence provided to help us make a water licencing  
19 decision.

20                   We must remind everyone that there's  
21 still a lot of work to be completed before a water  
22 licence can go to the Minister of Environment and --  
23 and Natural Resources. We ask you all to be diligent  
24 in reviewing the record, commenting on the draft  
25 licence, and assisting the Board to make a good

1 decision.

2                   And for the record, I'll pass it over to  
3 legal counsel, John Donihee, for further information on  
4 closing comments and a review of the undertakings that  
5 have come out of the hearing. This will be for the  
6 record.

7

8                   (BRIEF PAUSE)

9

10                   MR. JOHN DONIHEE: Mr. -- Mr. Chairman,  
11 it's John Donihee. The -- with the exception of the  
12 one (1) undertaking that was mentioned at the De Beers  
13 closing that's due on May the 9th, the rest are all due  
14 on the -- the date that's set out in the work plan,  
15 which is May the 15th, and so I -- I'm not sure if you  
16 -- your -- you would prefer me to read them the into  
17 the record. They're -- they're all -- they're all on  
18 the transcripts, as well.

19                   And what we will do is prepare the list,  
20 and we can put the list up on the website for everyone  
21 to double check against the actual language of the  
22 undertaking so that there's no missed steps. Perhaps  
23 that's the most efficient way to approach that, sir.

24                   THE CHAIRPERSON: Yeah, I see I -- I  
25 have the nod from the ED, so we'll go the efficient

1 way. Okay, then thank you for that, John, and your --  
2 and De Beers, would you like to confirm again for the  
3 record that you're comfortable with these undertakings  
4 and with the May 15th submission date -- May 15th  
5 submission date?

6 MS. VERONICA CHISHOLM: Veronica  
7 Chisholm, with De Beers. Yes, we're comfortable with  
8 the Thursday, May 15, 2014, submission date. Thank  
9 you.

10 THE CHAIRPERSON: Okay. Thank you both  
11 for that. And as you know, this is an application for  
12 a Type A water licence, that the final decision is made  
13 by the Minister of ENR-GNWT, and the -- this will  
14 actually be the very first actual water licence. I  
15 believe the rest of them were -- they were amendments,  
16 so that's very -- that's historic for the Northwest  
17 Territories, also.

18 Well, I can't say how -- what he's going  
19 to do with it, but anyway, the work plan for this  
20 proceedings -- the work plan for these proceedings were  
21 -- was distributed to all parties and is available on  
22 the public registry or from Board staff. The work plan  
23 outlines important dates for the remainder of this  
24 proceeding.

25 In summary, transcripts and undertakings

1 will be filed, and a draft water licence will be  
2 circulated for review, and closing arguments will be  
3 submitted to the Board by June 24th, 2014. For the  
4 review, the -- the Board will review the rec -- record  
5 and will make a decision on the final water licence,  
6 and the reasons for decisions will be sent to the  
7 minister of ENR for his decision. All parties will be  
8 provided with a copy of the draft licence and the  
9 Board's reasons at that time.

10 In closing, we'd like to thank all of  
11 the presenters and the participants. We'd also like to  
12 thank our interpreters, Ann Biscaye and Mary Rose  
13 Sundberg, for their patience for people like myself who  
14 talk too fast, and they still have to figure what we're  
15 saying. And I'm...

16

17 (BRIEF PAUSE)

18

19 THE CHAIRPERSON: We have a backup  
20 here. We always have a plan.

21 So let's see, now that you've thrown me  
22 off key here, where am I? Yes, the -- yeah, I'd like  
23 thank Pido, yeah, for their -- and -- yeah. So -- no,  
24 they do a great job, but occasionally -- this is one  
25 (1) of the few times. We've used them for years, so

1 no, a couple of complaints, but not many.

2                   And so thank you again to Ann Biscaye  
3 and Mary Rose Sundberg for their patience and hard work  
4 in the translating, and I'm hoping Ann -- Ann Biscaye  
5 will do the closing prayer. As you opened, it would be  
6 fitting for you to close it, and I would also like to  
7 thank our court transcriber, Bob, and the Pido  
8 technician, Cory. All your work for the hearing is  
9 much appreciated.

10                   And of course, as always, thanks to our  
11 staff, our technical people, consultants, legal  
12 counsel, and all -- and all of you for your respect and  
13 courtesy, your -- and respect you have shown for each  
14 other. And in particular, I'd like to thank the Board,  
15 of course, for their dedication and hard work. That  
16 makes everybody's job, and -- and particularly mine,  
17 and it's hard to make me look good, and my staff that  
18 seem to be able to do that.

19                   So thank you all, and we'll adjourn, and  
20 if Ann Biscaye could give us a closing prayer, it would  
21 be much appreciated.

22                   MS. ANN BISCAYE: Thank you very much  
23 for asking me to do the closing prayer again. We had a  
24 -- a good meeting here, understanding each other, and  
25 hopefully, we understand each other enough so that we

1 can come to some kind of conclusion that everybody is  
2 happy with, with the decisions that they have been  
3 making here so far.

4                   So with that, I'd like to do the Lord's  
5 Prayer in the -- the language, and I'm still a Elder-  
6 in-training, so I'm still impatient, so I'm not going  
7 to take half an hour like the old timers do. So I --  
8 so with that, I'll make it short and simple.

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10   (CLOSING PRAYER)

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12 --- Upon adjourning at 2:36 p.m.

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15 Certified correct,

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19 Bob Keelaghan, Mr.

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<hr/> \$ <b>§84</b> 9:14 <hr/> 1 <hr/> <b>1</b> 7:14 10:20 15:6 17:24 25:20 41:23 44:3 46:15 47:14 51:2 52:4 53:5,15 61:3,22 63:10 65:23 71:14 95:8,16,18 99:3 108:25 109:6 112:6 116:4 122:9,22 125:8 129:23 131:14 132:21 133:18 134:21 138:11 139:22,23 140:19,22 142:5 144:20 146:20 149:16,20 151:21 157:13 162:2 164:12 166:25 <b>1:19</b> 116:8 <b>1:44</b> 136:8 <b>1:52</b> 136:9 <b>10</b> 6:13 44:18,25 61:25 67:24 68:3 77:14 94:16 130:3	144:9,22 153:23 154:13 161:21 <b>10:07</b> 49:11 <b>10:23</b> 49:12 <b>100</b> 27:18 <b>11</b> 44:14 60:24 111:7 138:16,17 <b>11,000</b> 91:1 <b>11:58</b> 116:7 <b>116</b> 5:14 <b>119</b> 5:16 <b>12</b> 44:15 <b>120</b> 107:20 <b>129</b> 5:17 <b>132</b> 101:24 <b>135</b> 102:1 <b>136</b> 10:21 <b>137</b> 6:7 <b>140</b> 6:12 <b>15</b> 6:7,12,17 8:12 49:8 110:12 116:4 138:2 140:16 154:19 165:8 <b>154</b> 6:17 <b>155</b> 5:19 <b>156</b> 5:20,21 <b>157</b> 5:22 <b>159</b> 5:23 <b>15th</b> 161:20 164:15 165:4 <b>160</b> 5:24 <b>168</b> 5:25 <b>18</b> 144:16,17	<b>19</b> 61:9 <b>1996</b> 83:25 <b>1st</b> 11:23 60:4 <hr/> 2 <hr/> <b>2</b> 1:23 15:5 34:11 37:3 44:13 46:25 62:21 72:9,24 88:15 95:10,16 97:13 100:7 106:18 140:19 141:14,21 144:14 147:10 157:25 <b>2:36</b> 168:12 <b>20</b> 44:12 77:7 98:24 116:5 142:22 144:8 148:11 <b>200</b> 107:18 <b>2005</b> 85:2 <b>2006</b> 96:6 <b>2012</b> 121:13 126:1 <b>2012/2013</b> 121:1 <b>2013</b> 86:18 <b>2014</b> 1:22 6:7,12,17 138:2 140:16 154:20 165:8 166:3 <b>22</b> 5:7 114:11 144:15,18	<b>24th</b> 129:24 133:17 149:16 166:3 <b>25</b> 8:6 27:11 <b>28</b> 66:25 <hr/> 3 <hr/> <b>3</b> 13:4 44:20 71:15 95:1,13 99:17 143:10 147:17 152:1 <b>3.1</b> 146:19 <b>3.1.1</b> 141:9 <b>3.1-1</b> 141:24 143:6 <b>30</b> 67:13 <b>31</b> 67:17 <b>31st</b> 59:20 69:19 <b>32</b> 68:10 <b>35</b> 119:23 <b>36</b> 68:19 <b>3A</b> 61:9,12 <hr/> 4 <hr/> <b>4</b> 82:18 128:10 142:20 <b>40</b> 5:8 145:24 146:17,20 147:12 <b>42</b> 145:23 146:1,4,9, 13,17,18 147:6,15,2 1 148:3 <b>43</b> 69:4 <b>44</b> 69:7 <b>49</b> 5:10	<hr/> 5 <hr/> <b>5</b> 24:21 69:16 77:13,15 115:10 136:5 142:23 143:1 <b>50</b> 27:5,6 106:17 <b>55</b> 144:11 <hr/> 6 <hr/> <b>6</b> 5:3 62:21 111:19 115:22 140:24 141:5 142:12 143:1 <b>60</b> 52:15 <hr/> 7 <hr/> <b>7</b> 1:22 5:5 46:10 77:25 <b>71</b> 5:11 <b>75</b> 106:17 <hr/> 8 <hr/> <b>8</b> 6:3,7 8:11 32:25 33:2,12 62:4,5,8 77:14,25 115:11 130:3 136:19 137:12,18, 21 138:1,10,1 4,21 139:10 140:2 144:23 149:24 151:19 <b>8.3</b> 32:22
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