



COMMISSION OF INQUIRY
RESPECTING THE MUSKRAT FALLS PROJECT

Transcript | Phase 2

Volume 10

Commissioner: Honourable Justice Richard LeBlanc

Thursday

28 February 2019

CLERK (Mulrooney): This Commission of Inquiry is now open.

The Honourable Justice Richard LeBlanc presiding as Commissioner.

Please be seated.

THE COMMISSIONER: All right, good morning.

Mr. Collins.

MR. COLLINS: Good morning, Commissioner, Michael Collins for the Inquiry.

The first witnesses are Carl McLean and Rodd Laing.

THE COMMISSIONER: Okay and I'll ask them both to stand, please. Mr. McLean, do you wish to be sworn or affirmed?

MR. MCLEAN: Sworn is fine.

THE COMMISSIONER: Sworn, okay.

CLERK: Do you swear that the evidence you shall give to this Inquiry shall be the truth, the whole truth and nothing but the truth so help you God?

MR. MCLEAN: I do.

CLERK: Please state your name.

MR. MCLEAN: Carl McLean.

CLERK: Thank you.

THE COMMISSIONER: And, Mr. Laing, do you wish to be sworn or affirmed?

MR. LAING: Affirmed, please.

THE COMMISSIONER: Okay.

CLERK: Do you solemnly affirm that the evidence you shall give to this Inquiry shall be the truth, the whole truth and nothing but the truth?

MR. LAING: I do.

CLERK: Please state your name.

MR. LAING: Rodd Laing.

CLERK: Thank you.

THE COMMISSIONER: Mr. Collins, when you're ready.

MR. COLLINS: (Inaudible.)

THE COMMISSIONER: You're going to have to turn on your mic.

MR. COLLINS: There are no new exhibits for these witnesses, Commissioner.

THE COMMISSIONER: Okay, thank you.

MR. COLLINS: Thank you.

And, Mr. Laing and Mr. McLean, you've already introduced yourselves to the Commission so we can start straight in with the issues. And I will – I'll address my questions first to Mr. McLean and then to Mr. Laing. If you have any further comments you can add them then.

So first, in 2012, before the Muskrat Falls Project was sanctioned, the Nunatsiavut Government asked the province and Nalcor to help fund additional research on the methylmercury effects of the project. Why was that?

MR. MCLEAN: My recollection is that, you know, the panel – certainly, through the environmental assessment, the panel, you know, recognized that there was a lack of information on the downstream into Lake Melville and into the Labrador Inuit Settlement Area. And, certainly, through our interventions through the environmental assessment, we showed them and the panel agreed that there certainly would be impacts from the project into the Labrador Inuit Settlement Area and Lake Melville, and there was a need for a comprehensive assessment.

So the Nunatsiavut Government certainly didn't have the funds to do a comprehensive assessment. In the response to the panel report, the province simply required Nalcor to take some additional water samples, some samples of

I think fish, and seals. But it wasn't certainly what we deemed to be a comprehensive assessment so we saw the need to do additional work and we did not have our own funds to do that so, you know, we thought it was appropriate at that time at least to – for the province and Nalcor to assist us in getting that research completed.

MR. COLLINS: Mr. Laing.

MR. LAING: I mean that pretty much covers it for that portion.

MR. COLLINS: And what was the response to that request?

MR. MCLEAN: I can't remember any written response per se but I know certainly through discussions it was, well, we don't have – we haven't budgeted for that either. We'll deal with the province – from Nalcor certainly it was the province has asked us to take some additional water samples and some additional sampling of the fish and the seals and that's what we're going to do, so, we're going to do that assessment ourselves.

MR. COLLINS: And how did – how did the Nunatsiavut Government respond to having that source of funding dry up?

MR. MCLEAN: Well, we then – you know, around the same time, actually, we were – went out to see if we could secure outside funding to help us get this work done. And through our, I guess, connections through the research community and the universities we found some of our own internal funding which helped us leverage these outside sources and come up with an adequate plan to get that work done.

So, it was through ArcticNet, actually, which is a national research organization, that, you know, helped us look for those sources and secure them.

MR. LAING: Yeah and I think what's really important relative to this is this funding comes through academic channels that ensure that it's independent and peer reviewed for the publication of the results from this type of work.

MR. COLLINS: And so did ArcticNet fund the whole research or did the Nunatsiavut Government put in some of its own money?

MR. MCLEAN: No, we allotted – every year of this program, we allotted – we went back to our Executive Council and Assembly to get the initial year because it wasn't in our budget. The initial year we had to go back and seek approval to spend our own money, and each year after that we actually put it in our budget to make sure that we had some of our own money put in there. Not a lot, mind you, compared to the overall cost, but certainly some money but a lot of in kind too.

MR. COLLINS: And what, briefly, was the result of the research when the results came in?

MR. MCLEAN: Maybe I'll let Rodd speak to that.

MR. LAING: Well, I mean, there was – there was a whole Lake Melville research and monitoring study so there's different aspects to that and it's actually in one of the exhibits here. It's a 99-page report that spans all kinds of different pieces.

The thing most concerning related to Inuit health and well-being would be methylmercury and the bio-accumulation and bio-magnification of methylmercury through the ecosystem, but other key findings within that report were the actual structure of the Lake Melville ecosystem. It's actually a large brackish estuary. It's 135 kilometres long and one of the largest brackish estuaries in the world.

And the results of that is it's actually a stratified ecosystem where you're actually getting primary production of methylmercury within the system itself, but it also is an excellent producer unfortunately of taking organic carbon to actually 'methylize' mercury and put that into the food system.

So it's – the results of it were surprising to the point that the ecosystem is actually very, very efficient at creating methylmercury. And increasing organic carbon inputs into that system actually increases the levels of methylmercury substantially.

MR. COLLINS: How do those results compare to the results that were before the Joint Review Panel?

MR. LAING: I mean we had, I believe, 33 interventions into the Joint Review Panel related to this. There was concerns from community members already related to the Upper Churchill development and the impacts of methylmercury. And so that is why you saw those interventions into the Joint Review Panel and the recommendations that came from the Joint Review Panel which included this work. The work was not completed, which is why it required – put the burden on Labrador Inuit to go out and complete the work that was supposed to be done or was recommended to be done relative to this.

And so we were using the best available knowledge that we had at the time and now, through this study, more scientifically independent but scientifically rigour results came out that clearly showed that there was concern relative to Lake Melville, relative to methylmercury production. So not only did it, I guess, identify and provide evidence to the concerns that were being identified by people, but it actually provided peer-reviewed evidence that this also will be taking place.

MR. COLLINS: So when these research results started coming back, I believe the Nunatsiavut Government started its Make Muskrat Right campaign. Is that right?

MR. MCLEAN: Yeah, initially – like this was a multi-year research comprehensive program for Lake Melville. We were continuously gathering data. The initial report that came out after year one, I believe, was what we referred to as a Schartups study. That was the Lake Melville ecosystem basically showing the layering, the – like, what Rodd referred to as a brackish environment that was extremely efficient already at converting mercury to methylmercury, and the marine snow layer, which is a – the freshwater layer stretched right from the mouth of the Churchill River all the way out to the narrows at Rigolet, which was, I guess, the transport and the area where a lot of the activity took place in Lake Melville in the – for the food chain.

So we were extremely concerned about food security, but that was the Schartup study. So we released that, I believe, was in the fall of 2013 –

MR. LAING: I (inaudible) –

MR. MCLEAN: – or 2014. The first fall after the research we released that right away, even though the rest of the work wasn't done, because we wanted to get the information out to everybody as quickly as we could, once, certainly, it was developed to a point where we actually had some results. So that was the first result.

And then we continued on after that. I believe the Make Muskrat Right campaign – Rodd, do you have the dates there for sure – exactly when that started but –

MR. LAING: November 2015 is when the Make Muskrat Right campaign began, yeah, keeping in mind that three of those four pieces of our Make Muskrat Right campaign were actually recommendations of the Joint Review Panel.

MR. COLLINS: So, the Make Muskrat Right campaign isn't just a lobbying or scientific campaign. It's a broad-scale publicity campaign.

Is that fair?

MR. MCLEAN: Say that again?

MR. COLLINS: The Make Muskrat Right campaign isn't just a lobbying or a scientific campaign. It's a – it was a publicity campaign and a public relations exercise.

Is that fair?

MR. MCLEAN: Well, part of it was a public relations exercise. But I think we saw it important to make sure that the complete package of information was out there, available, explained. We felt we were being, not necessarily ignored, but we weren't taken – being taken as seriously as we thought we should've, that the – what the science was showing – by both the regulator and the proponent. And we needed to find a way to, I guess, increase, certainly, the public knowledge, which hopefully translated into more pressure on

the regulator to actually make changes to the project to minimize the impacts from methylmercury and minimize impacts to Labrador Inuit downstream from the project.

So, it – we – it was more than just a public relations campaign for us, for sure.

MR. LAING: Yeah. I think the reality of a Joint Review Panel recommendations or any scientific evidence is – needs to be put in a form that the community and, generally, the public can digest. That's a huge failing of a lot of scientific research as well as a lot of these megaprojects, is actually putting things in ways that the community can actually understand.

And we believe our campaign was very successful in doing that and making sure that this information got out to the public about the realities of the situation, about the interventions that were happening and about the pieces, based on scientific evidence, that were being recommended to both the provincial government as well as Nalcor.

MR. COLLINS: Now, if we go to, Madam Clerk, to P-01705, that's at tab 16.

MR. MCLEAN: Tab 15?

MR. COLLINS: Sixteen.

MR. MCLEAN: Sixteen.

MR. COLLINS: This is, I believe, a petition that was launched as part of the Make Muskrat Right campaign?

MR. MCLEAN: Okay.

MR. LAING: Yes.

MR. COLLINS: And if we go to the second page there are four demands: first, fully clear the Muskrat Falls reservoir; second, negotiate an impact management agreement with the Nunatsiavut Government; third, establish an Independent Expert Advisory Committee; and fourth, grant Inuit joint decision-making over downstream environmental monitoring and management.

So you said, Mr. Laing, earlier, that there were four demands. So these are the four demands you're referring to?

MR. LAING: Absolutely.

MR. MCLEAN: Yes, that's correct.

MR. COLLINS: And the response – the public response to this campaign, you thought, was supportive and the campaign was effective?

MR. MCLEAN: Well, you know, it certainly has not, to date, brought us the results that we want. It was certainly effective in our communities and certainly, I think, we tried to make sure that – like, there's a lot of myths out there, too, around this issue of methylmercury.

What we tried to do is, for example – I'll just give you an example – one of the things that we heard and still hear sometimes today is that, you know, if you're drinking the water it can cause you problems when, in fact, you can drink a swimming pool of Churchill River water and it really won't affect you. The problem is, once that water gets into the biota and the environment, it biomagnifies and bioaccumulates up through the food chain.

So there was a lot of – a lot of this is to address not only what we – what the panel recommended, because at least three of these four came out of the panel report in some form or another. And we felt that if these four things were done, it would certainly help minimize the impacts to Labrador Inuit and the downstream environment.

So we felt, through the campaign, if we could stress these four points and try to get some movement and some acceptance of them, it would certainly address the issue of minimizing impacts to the health of Labrador Inuit. So that's what we tried to do.

Still waiting. Certainly, the Independent Expert Advisory Committee has been done, but the other three, even though the government acknowledged two to three years that they'd quickly get back to us on these other three, we've had no movement on any of them – any of the other –

MR. LAING: Mm-hmm.

MR. MCLEAN: – three, really.

MR. LAING: Yeah, and I think – like I mentioned earlier, I think it’s absolutely imperative that people have a right to know what the impacts of this project are going to be on them. And I think that through this campaign, through these mechanisms of four very easily identifiable pieces, that we were able to communicate that effectively.

But to Carl’s point, there’s a lot of misinformation related to some of the things related to methylmercury and other aspects of the project and trying to have community-level information out there related to this would be imperative and I think it was very successful. At one point we were getting, you know, a hundred-thousand interactions on Facebook alone in a week on some of these campaign pieces relative to this.

So I think it’s really important that – getting the message out – I would say the traditional methods of getting results back from this project have not been very effective in communicating with the on-the-ground communities that are impacted by it.

MR. COLLINS: Okay.

In the year following the Make Muskrat Right campaign, there were a significant number of protests at Muskrat Falls. Do you think – was there – do you believe there was a connection between the campaign and those protests?

MR. MCLEAN: Part of our – initially when we – soon after, I think it was in the spring of – after the – November, we started this Make Muskrat Right campaign, we organized with the other Aboriginal groups because part of our – you know, part of our campaign and – you know, we always thought that, you know, it’s not only affecting Labrador Inuit, but it’s affecting all the other people that lived around Lake Melville, including the other two Aboriginal groups and the other people in the municipalities. You know, a lot of people fish and eat country food from Lake Melville so it wasn’t only an issue for us. So we tried to garner support and show that, you know, there’s other – you know, it’s not

only us that it’s going to impact, it’s the whole local population, really.

So we – as part of our Make Muskrat Right campaign we organized what we call the Rally in the Valley and I think Mr. Russell from NunatuKavut mentioned it yesterday where that was probably one of the initial efforts to bring everybody together that would be impacted by this. We planned that around when Premier Ball was going to be in town for Expo Labrador and MP Jones was also in town.

So that was kind of – and we had a lot of support; a lot of people came out to that. And that was on the grounds just outside the Royal Canadian Legion and there was quite a bit of publicity around that. So that was where we initially tried to get not only ourselves involved, but other groups involved to support our cause.

And with regards to the protests though, I think the information that was brought out in the science – the independent science that was being conducted – probably had a role in the protests, but our government, Nunatsiavut Government, you know, were quite clear that you know, we weren’t going out to per se shut the project down. We didn’t want to break the law. We were told we couldn’t break the law.

Individuals could go out and protest individually if they want but it was certainly not a position of the Nunatsiavut Government to go out and actually physically protest other than this Rally in the Valley where we had people get up and talk about the issues and try to, you know, show that, you know, everybody was on side, as many people as we could get, anyway, would support us.

MR. LAING: Yeah and I think in addition to this, one of the key things relative to this is the Make Muskrat Right campaign and the scientific evidence that were produced through the research study very clearly showed that the assumptions of Nalcor and the province relative to this project were incorrect. I think the Inquiry is also showing this quite well. And I think that the public became very clear that what was told to them is not being – is the reality of what probably will happen downstream in the environment.

And so I think when you present this kind of evidence to the general public and do it in a very transparent manner, of course the public is going to respond. I think that's just an inherent piece relative to this.

MR. COLLINS: The Rally in the Valley, as I understand it that was here in Happy Valley-Goose Bay, it wasn't at the Muskrat Falls site. And so it was – it would be effective in mobilizing public opinion, but it wouldn't directly interfere with construction activities. Is that correct?

MR. MCLEAN: Yeah, the Rally in the Valley took place just outside the Royal Canadian Legion here on Hamilton River Road, on the main street in Happy Valley portion of the town. So certainly, you know, we didn't block traffic or anything like that. We were on the side of the road, and people got up and spoke. And, you know, Premier Ball actually did come out and address the crowd, which I think was good.

And – so, you know, it was just another way we tried to garner support and get the message out that there needed to be changes to the project.

MR. COLLINS: We heard yesterday from Mr. Russell that the NunatuKavut Community Council was organizing protests at the Muskrat Falls site – or outside the Muskrat Falls site – and would provide food and would send – staff would participate. The Nunatsiavut Government didn't take that kind of a – didn't play that kind of a role?

MR. MCLEAN: No, not per se. But I believe we may have assisted some – if I'm not mistaken – may have assisted some people from Rigolet, our community out on the mouth of Lake Melville, to come to town for the rally and possibly some of the other events after that, but I can't be certain.

I know we did assist through airfare – or boat fare, I think, because the boat was still running – to get some – to assist the local community out there to bring some people in.

MR. COLLINS: Would that – again, that was only for the Rally in the Valley, not for any protests at the Muskrat Falls site?

MR. LAING: Yeah, I believe it was for the Rally in the –

MR. MCLEAN: Yeah, the Rally in the Valley as far as I know.

MR. LAING: Mm-hmm. There are many of our beneficiaries that were protesting. I mean, when I was in Goose Bay, I went up to the little protest map that was established for the legal area to visit our beneficiaries there – when we were in town.

MR. MCLEAN: Yeah, and I – like, many of us did that, too, like – but from a, you know, Executive Council or government point of view, we – you know, we supported the cause, certainly, because they had a lot of the same – certainly with regards to these four issues. But we didn't actually, you know, organize protests, other than the Rally in the Valley, really. Although a lot of us did go out and support these other events that were happening.

MR. COLLINS: You didn't take a firm – you didn't discourage people from attending the protests either?

MR. MCLEAN: No.

MR. COLLINS: And this was also true of the largest set of protests in October 2016 when Billy Gauthier went on his hunger strike?

MR. MCLEAN: Yeah, I think that's up at the – outside the gate, up on the Trans-Labrador Highway. That was – no, that was not organized by us, no.

MR. COLLINS: So the October 2016 protests ended after a long 12-hour meeting, which started on October 25 – this is my understanding – and ran into the early morning on October 26. What was the result of that meeting as you understand it?

MR. MCLEAN: My recollection was that there were several – the main result of that meeting was dealing with the issue of methylmercury. But there was also the issue of raising the initial impoundment of the reservoir, where the project said they needed to increase the levels of water to get the ice dam in – to increase it from around 18 metres, I think, up to a maximum of 25.

So, there was discussion – one of the results of that meeting was that the province agreed to direct Nalcor to – that they could increase up to, I think it was, 23 metres maximum. But in the spring – like, that was in the fall, and in the spring they would lower the levels back to where it was, around 18 metres.

And the agreement was that that would be done. But in the end, come spring, that was never – the water levels were raised in the winter, but they never did lower the water levels. So that result of the meeting was never – was not met.

The other result was to – for the Indigenous groups, the province and Nalcor to put together an Independent Expert Advisory Committee to – with the main goal of protecting the health of the local population and Indigenous populations that use the river, the reservoir area and downstream and minimize the impact for methylmercury. That was – I think, really, the outcome of the meeting –

MR. LAING: Mm-hmm.

MR. MCLEAN: – were those two factors.

MR. LAING: Yeah, and I think an important take-away from this is – I mean, the point of that meeting was a negotiation to move forward and resolve the occupation of the Muskrat Falls site and to move forward on the project. And it was a negotiation and a compromise of everyone in that meeting room to – number one, as Carl pointed out, to lower the water levels and, number two, to have this Independent Expert Advisory Committee that produced recommendations that the government would respond to.

So every compromise and negotiation that was laid out in that meeting has been failed to the people that were at that meeting. And so I think that that's something – and a really important take-away. The Independent Expert Advisory Committee was established, and the committee worked so hard and did the work they were supposed to on the timelines they were supposed to and we have yet to have a response on the recommendations from the IEAC. So establishing it, sure, but if you're not going to listen to the recommendations or even respond to them, then everything from that meeting so

far in terms of compromises has not been addressed.

MR. COLLINS: So let's go through that – the IEAC story a bit more slowly. So the first step, as I understand it, is that in the spring of 2017, the government issued the terms of reference for the IEAC. And they're at tab 8, and, Madam Clerk, that's P-01694.

MR. MCLEAN: Yeah, that's March 24, 2017.

MR. COLLINS: Did those –

MR. MCLEAN: That was after many of us, myself and Rodd included, spent from November through to March probably at least meeting every two weeks –

MR. LAING: Mm-hmm.

MR. MCLEAN: – with the other Indigenous organizations, government, Nalcor, federal government and provincial to agree on the terms of reference. So that was a challenge, actually. It was quite challenging to come up with this document that everybody could agree to. It was – there was a lot of debate on language, a lot of debate on the objectives, the make-up of the IEAC.

But in the end we all agreed that this would work. And it took longer than we had hoped because we – most of us certainly understood the urgency of getting this in place because, you know, in the end we were still trying to meet the work schedule of – that Nalcor had in place at the time to ensure that there was time to do mitigation if need be, if that was a result of this, you know, before the final flooding of the reservoir. And, you know, it's frustrating that – you know, that everybody agreed to the language in here – and there's some good language in here of what the objective is, what the goals are, how we get there, the structure, the responsibilities. And, you know, certainly coming out of that October meeting, you know, the compromises were made because we felt that the government, certainly Premier Ball, was sincere in understanding the urgency of this, understanding the – that it is the health of the local and Indigenous population, that is – that is the focus. And that the focus is to do what we can to minimize impacts from methylmercury.

That was certainly the tone of the meeting and the outcome of the meeting that we certainly understood as Nunatsiavut.

And – but certainly the actions since – I think the IEAC, once it was put together and the work they did, certainly worked to those objectives and those goals. But since that time, we've heard nothing other than: Yeah, it's still a priority, we're looking at it. You know, nothing's really happened.

MR. COLLINS: We'll keep going through this in –

MR. MCLEAN: Sure.

MR. COLLINS: – a bit of an order.

So you – the terms of reference of the IEAC, those faithfully represented the understanding you felt you had in October 2016?

MR. LAING: Yeah –

MR. MCLEAN: Yeah, for the most part certainly, yeah.

MR. LAING: And I mean, recognizing that you're in a negotiation with everyone that sits on this committee of – you've three Indigenous groups, the federal government, the provincial government, Nalcor. You're working to get to a point where you all agree on the terms of a reference for our committee. So it took some time to get there, but this is what we ended up with.

MR. COLLINS: And so in the following September, in September of 2017, the IEAC issued its first report. And that's at tab 9, and it's P-01695. And this report, if you scroll down a little, Madam Clerk, there are three recommendations. The first recommendation is that a feasibility study be undertaken for the removal of soil and vegetation. The second is that Nalcor implement the changes, various changes on the monitoring. And the third recommendation is that Nalcor expedite the finalization of their current methylmercury modelling project.

The Nunatsiavut government supported all these recommendations.

MR. MCLEAN: Yes.

MR. LAING: Yes.

MR. MCLEAN: Yes, we did.

MR. COLLINS: And what was the response to these recommendations?

MR. MCLEAN: I believe number 1 was completed. There was an estimate that came back on and some – certainly, a report by SNC-Lavalin, I believe, on the removal of soil and vegetation from the future reservoir area. I think that report certainly determined that there are areas within there that, you know, certainly partial clearing made more sense than full clearing, because there are areas for safety and other reasons that were pretty well impossible to do that work in.

Number 2 –

MR. LAING: Yeah, number 2 – they added some additional sites to the monitoring locations, and actually reduced the frequency in other ones based on – this is the important thing about this Independent Expert Advisory Committee is – you've been hiring experts that are saying that actually you're over-monitoring a certain area and not monitoring enough in other areas.

So the monitoring plan was actually adjusted to that and additional sites were added under recommendation 2 in terms of the current Nalcor monitoring plan.

MR. MCLEAN: And with regards to number 3, still not done as far as I know. That was to include Lake Melville in what we call the Nalcor methylmercury modelling. Through this whole thing, we all – a lot of discussion around two different models. One was what I'll call the Harvard model, some call it the Calder model, I think.

MR. LAING: Yeah.

MR. MCLEAN: The other was the Nalcor model that was done by Reid Harris, I believe his name was. And certainly, the Calder model was updated based on the discussion between all those experts on the IEAC.

But as far as I know, the Nalcor model has still not been done despite in every meeting, just about, we were told by Nalcor officials that they're providing whatever is needed to get that work done. There is no limit on – if Reed Harris needed more expertise or more help, that they'd made sure that was provided. But in the end, we've never seen –

MR. LAING: Mm-hmm.

MR. MCLEAN: – as far as I know, it's not been done.

MR. LAING: Yeah. And I think something also really important to – relative to the Independent Expert Advisory Committee and these recommendations, is that all evidence – scientific work was presented to the experts so they could all debate it, including any additional information, including any new science. And that was the point of the committee.

So, all of the Harvard work was presented to that committee. Anything else that was available was presented to that committee. Nalcor's model was supposed to be presented to that committee, so the experts could also present it and make changes as needed. And it was very clear that the nine experts made improvements to all evidence that was presented to them, based on either their knowledge of the area or their scientific expertise.

And unfortunately, that has not happened on the Nalcor piece because it was not provided. And that is what was agreed to for the whole purpose of establishing this Independent Expert Advisory Committee.

MR. COLLINS: So in the following spring, the IEAC released its second report – and that's at tab 9? No, tab – just give me a moment.

MR. LAING: No, tab 10.

MR. COLLINS: Tab 14.

MR. LAING: Tab 14.

MR. COLLINS: And if we go to page 2 and 3, there are four recommendations. Tab 14, Exhibit P-01702 –

MR. LAING: Yeah.

MR. MCLEAN: Yeah.

MR. COLLINS: So if we start at page 2 there are four recommendations, and I'll start with the three less controversial ones, the three unanimous recommendations.

Recommendation #5 is about monitoring and the scope of monitoring. Recommendation #6 is that Nalcor post an impact security fund in case any health consequences should arise. And Recommendation #7 is that Nalcor set up a system for managing human health, which might involve consumption advisories if necessary.

So the Nunatsiavut Government supported all three of these recommendations?

MR. MCLEAN: Yes.

MR. LAING: Yes.

MR. COLLINS: And all of these recommendations could have some cost to the project, particularly, is it fair – #6, posting an impact security fund, if any health consequences should materialize, that could have a significant cost?

MR. LAING: Absolutely.

I think that there's a huge financial cost; there's also a huge cost to not doing the recommendation number four so I think in terms of cost, everything is relative, huge financial cost perhaps. I think it depends on –

MR. COLLINS: I'm focusing on the financial cost to some extent because the Terms of Reference emphasize the financial cost.

MR. LAING: I recognize that.

MR. COLLINS: So – but in all three of these recommendations they were unanimously adopted. The remaining Recommendation #4, which is on page 2, at the top of page 2 – this recommendation is for partial soil removal and wetland capping. Nunatsiavut supported this recommendation.

MR. MCLEAN: Yes, we did, yeah.

MR. LAING: Yes, we did.

MR. COLLINS: But it wasn't unanimous.

MR. MCLEAN: No, that's correct.

MR. COLLINS: And in general on these, has there been any response from the province or from Nalcor on these recommendations? You've said no, but –

MR. MCLEAN: Other than from the province – I can speak to that before – up to the time I left in August, you know, between April when these were submitted to the province and August when I left, I know of probably two letters and certainly several discussions stressing the urgency to get them to make decisions on these recommendations and actually get some work started and recognizing the timelines of the project and, you know, I don't think anyone wants to delay the project anymore than it's been already delayed. Certainly most people in this room other than a few probably understand that. Certainly in our opinion, though, if there needed to be delay to mitigate methylmercury impacts, there should be delay to mitigate methylmercury impacts because the goal is to minimize those impacts before flooding. And I think we're still of that opinion, certainly.

MR. LAING: Absolutely.

MR. MCLEAN: But recognizing the urgency, certainly up to the time I left in August, there has been no response, and Rodd can speak to after that.

MR. LAING: Yeah.

I would say up to this point we're probably talking well over 20 phone calls, emails and three formal letters to the Premier relative to this asking for responses to the recommendations on this, so that includes ministers, deputy ministers and the Premier. And we have yet to hear. We've heard it's either imminent or immediately for – since the release of these results. And, I mean, the whole point – if you look at the structure of the Independent Expert Advisory Committee, there's three non-voting members. Those members are Nalcor, the provincial government and the federal government.

The reason for that – there's two very key reasons for that. One is Nalcor's presence was to make sure we had access to all the important information to make sure that Independent Expert Advisory Committee can make informed decisions. The second piece to that is, so that the province and Nalcor could be aware of what was going on in these discussions and these recommendations to make sure that in terms of a turnaround relative to the recommendations, a decision could be made quickly.

We are almost at a year since these recommendations have come out and we have yet to have a response other than the response that something is coming immediately or we're taking these concerns seriously. It's very frustrating, especially recognizing that also, related to this, and for this recommendation, it was suggested it should be done in the fall when the ground is frozen, but there's not snow cover, and the fact that this has not been done. The next fall is after what the current impoundment is suggested.

MR. COLLINS: When you say this, you mean the soil removal and wetland capping?

MR. LAING: Absolutely.

MR. MCLEAN: Yeah, for certain areas it's suggested that it be done in cold season –

MR. LAING: Mm-hmm.

MR. MCLEAN: – because it's – certainly engineering-wise it'll be easier that way. Certainly, some areas could be done in the warm months but, certainly, wetter areas or other areas – the experts suggest that doing it in cold season would be much more efficient, much more cost effective and could be done more – certainly easier.

MR. COLLINS: Now earlier you talked about cost and delay associated with these recommendations. When the IEAC report – when these recommendations first came out, was it your understanding that there was time to complete soil removal and wetland capping before impoundment?

MR. MCLEAN: Certainly, there – I think there is some correspondence or document in the

IEAC system for sure that says that – I think it's probably in the feasibility study – saying it's doable; it'll be difficult and it would be costly to do it in a short period of time like that, but certainly it could be done. Certainly, you know, that was the language I remember – certainly.

MR. LAING: Absolutely.

And I think it's also important to remember, this was a recommendation of the Joint Review Panel. So this is not something that is new or newly presented to Nalcor or the province. The concept of clearing has been pointed out as a mitigation measure to reducing methylmercury impacts since the beginning of this project.

MR. COLLINS: The concept of clearing is in the Joint Review Panel report but there is a difference in the scope of clearing in the IEAC report and in what was contemplated by the Joint Review Panel.

MR. LAING: Absolutely.

But I mean that is the reality of many other aspects of the Joint Review Panel that – relative to many other aspects of this project – that once that happens and you get into the details of the project you have to address that.

MR. COLLINS: The Joint Review Panel recommended clearing of vegetation and this is recommending clearing of soil.

MR. LAING: Yes, and this goes back to the assumptions and the science available at the time. A lot of the assumptions that are being used on this are either coming from Manitoba Hydro or other hydroelectric developments that are not working in a brackish estuary in the system that we are currently working in. And so I think that as the science came available, that is what should be responded to – not assumptions that were based on other projects that aren't actually based in the scientific evidence that has been presented on this ecosystem.

MR. COLLINS: If the province agreed now to implement the IEAC recommendations, so your understanding is that the cost of that would be significantly greater than it would have been had they decided to implement them a year ago?

MR. MCLEAN: Well, certainly, what we see in most developments is that things over time are more costlier. Like, if we did something five years ago, it certainly would be cheaper than doing it now. And, you know, mobilizing the necessary equipment and personnel in a quick fashion certainly would add costs. I think most developers would recognize that.

It's a challenge to – you know, this would – it's basically a large land-clearing exercise, really. So, you know, it takes a certain amount of equipment that may be difficult to find or, you know, who knows, there's a lot of issues. But until they actually get into that, you know, I think you can't fully understand what the full cost would be. But, you know, what I'm told – I'm not a construction guy or anything like that – but, you know, mobilizing time is a factor in cost, too. If you have more time to do something, you can plan better. But if you got to do it really quick, sometimes you can't – you're planning as you go, kind of thing, which probably would add cost.

MR. LAING: Yeah, and I think it's also important to recognize that this burden should not be put onto the Indigenous groups or the Nunatsiavut Government relative to this. This is a decision of the provincial government and Nalcor to not respond or address these issues.

Since the Joint Review Panel and moving forward, they've been presented with this information as it's become available. And I think that that's really important, relative to this, because for the scientific evidence – collecting the proper scientific evidence for the ecosystem, the burden was put on Labrador Inuit to collect. Relative to this, it was the lobbying and the Make Muskrat Right campaign to be – the burden has been put on this. And now, if clearing does not take place, the burden of the impacts are gonna be put on the Indigenous people downstream.

So I think that's something that's really important relative to these discussions. Yes, there is a cost and that cost may have increased because of the lack of response in the past year. I mean, Carl and I are definitely not experts on that, but in terms of we – through the discussions of the Independent Expert Advisory Committee, it went from full clearing to targeted

clearing because there's steep slopes, there's other things, there's safety concerns. So it was working to make sure that it could be done on an appropriate timeline to try to work within the timeline of the project. It is the failure of the response of the provincial government that the timelines are not being addressed.

MR. COLLINS: If you look at the Independent Experts Committee, in particular, there's a fair range of opinion among the various experts about whether the mitigation is a good idea or a bad idea; whether it would help or hurt it or do nothing.

Is it fair to say that there's a range of scientific uncertainty about the need for mitigation?

MR. MCLEAN: Oh, certainly, I think we all recognize, even when you talk about the increases to methylmercury, there's still a range in the models that – you know, is quite (inaudible). But, you know, I think the experts – I heard them say through the IEAC – is that really that range is very similar in the Nalcor model and the Calder model already in what that range is. There's still, you know, a low end and a high end that is a little ways apart. But, you know, I think for us it could be the high end, it could be the low end. Our preference would be the low end, always, because we want to minimize what the impacts will be so we can continue on with our way of life, our culture – our food security is important. We that live around Lake Melville depend on Lake Melville for our food security. Like, I'm down there ever week, since I retired certainly for sure, and, you know, I eat country food many times of the week. So this issue is extremely important to Labrador Inuit.

MR. LAING: Yeah, and I think, additionally, there is no disagreement with any scientific experts whether methylmercury will increase or not. It is the effectiveness of full clearing that there's a difference of opinion in. There will be an increase in methylmercury, both in the reservoir and downstream and in Lake Melville, and nobody is disputing that.

The discussion is around the effectiveness of the full clearing. And I think what's important relative to that is, in some of those dissenting opinions, there's also a comment about whether

the amount spent there could be better spent on health measures for the population, which – I mean, the estimates: the low end is around, what, \$425 million; the high end is \$742 million. I don't think you're gonna see the provincial government or Nalcor investing that into the health population of Labrador. So I think what's really important relative to that is putting those costs in the proportional costs of the project. At the low end, you're looking at 3.2 per cent of total project costs for that full clearing exercise; at the high end, you're looking at 5.8 per cent.

A very interesting thing relative to this whole project is, relative to this project as a whole, the costs have been lowballed for absolutely everything. When it comes to Indigenous concerns and environmental concerns, the costs presented to the public have always been the higher end of that. And the relative for that project, that really needs to be considered in this. When you're presenting something on a project, it needs to be presented equally, whether it's project costs for the building of a dam for the actual concrete costs or the environmental and cultural costs. And they need to be presented on the same level, and that hasn't happened with this project.

MR. MCLEAN: Yeah, when we're talking about the health of the local and Indigenous population I don't know how you can put a cost on that. If the priority of this methylmercury – and the agreement that was made with the Premier and the Indigenous leaders – the priority is to protect the health and to minimize methylmercury impacts. And the main way to minimize methylmercury impacts, we've heard through the IEAC, was targeted soil removal and capping of wetlands.

There was no science – some of the dissenting opinions talked about, well, we don't know what the impacts of removing that soil or capping is going to be, there could be other impacts that we're not aware of. That's true but the other – two of the experts that were dissenting also fell back on, well, consumption advisories will be adequate to protect the health.

That could be a half-true statement but, certainly, consumption advisories are not mitigation. We've always said that. And consumption advisories really don't do anything

– they actually are detrimental to protecting our food security, protecting our culture, our way of life. If we can't continue to practice harvesting country food to the level that we do currently, it certainly will have an impact. And that's what consumption advisories do and that's why we've never supported them.

That's – after you do mitigation – for example, targeted soil removal and capping – maybe we still will have to go to consumption advisories. Hopefully not but we need to – once you flood the reservoir, you know, you haven't – if you haven't done – have not done the number four, you really not – haven't been fair to the people that live around there, you haven't been fair to the objective of the IEAC and you have not done everything you can to minimize impacts from methylmercury, which was one of the goals and objectives of the agreement that was made.

MR. LAING: Yeah, and I think fundamentally saying consumption advisories are appropriate is directly stating that the communities and people downstream are going to be used as a research project, and if they exceed a certain level of Health Canada guidelines then we'll compensate them with money, and that is not appropriate. The community members, the Indigenous people downstream, have clearly said they are not okay with these impacts and people that are less or not affected are telling them that these impacts are all right.

I think relative to this, the IEAC also made – to try to reduce some of these impacts that might happen from soil removal, which is why the frozen ground piece is being identified because that disturbs the ground less when you're removing things. So there have been compromises or discussions relative to this considered, but when you're – if this were to take place, that there are ways to actually reduce some of the impacts relative to this too.

And I think when you're talking about a project of this size it's easy to say \$12.7 billion. If you say twelve thousand seven-hundred million dollars for a project and you say then it's \$425 million to clear the soil, that doesn't sound like quite as much of a number when you really are only talking about 3.2 per cent. The problem is that it's so easy just to toss around a number of \$12.7 billion without actually thinking about

what that actually means in terms of dollar amounts.

MR. COLLINS: Your position is that \$742 million is a – is not too much to pay to avoid consumption advisories.

MR. MCLEAN: No. We think, you know, the health of the local and Indigenous population of people that use Lake Melville – I don't know how you can put a cost on that even. Like, I can't put a cost on it. I don't know if anybody here could put a cost on that.

You know, if we can say at the end of this exercise that we've done everything we can to minimize methylmercury impacts that will allow – and in the end allows us to continue to practice eating country food and using Lake Melville like we do now, I think that's a reasonable and a fair price to pay to make sure that happens, especially looking at in relation to the full cost of this project.

MR. LAING: Yeah and I think, again, we should probably be talking about that \$425 million, we're – that's the upper limit of the model.

MR. MCLEAN: (Inaudible.)

MR. LAING: And I mean if we're doing that relative to the costs and things, the way it's presented with this project, I think that 425 should maybe even be – the number we should be talking about should be lower than that if we're talking in the same language that we've talked in the rest of this project and I think that's something to consider.

I mean we're spending a huge amount of money – we're spending \$23,400 per person living in this province on this project, so we need to think about – these numbers are large but the numbers that – I mean, where there's 7,400 beneficiaries in Nunatsiavut, not a single piece of that power is going to Nunatsiavut, but the impacts are gonna be substantial and huge on our beneficiaries in the region.

So here we are, they're not getting the benefits of the project and we're getting the impacts of the project. So I think that's something to remember relative to this too. The costs, yes,

those are big numbers, but the cost to the Inuit health and well-being and culture are huge.

MR. COLLINS: I have a few more questions just at the end, one is: The position of the Nunatsiavut Government has always been that the health impacts of this project should be mitigated, not that the project should be shut down. Is that right?

MR. MCLEAN: Yeah, we've always worked to ensure mitigation happened before flooding. Like, it's the methylmercury issue that we've stressed the most. There are other issues that we are concerned about, but with regards to methylmercury, you know, we've never said we want the project shut down. We've tried to make changes to the project through various means and we continue to do that through this process and we still hope that the mitigation can happen before flooding that – as recommended by the IEAC.

MR. LAING: Yeah.

MR. COLLINS: And the focus of all of this effort has been on the methylmercury issue and not on the North Spur or any other concerns.

MR. MCLEAN: Well, just speak to the North Spur just for a moment. We've – when we started this campaign it was to address impacts that would happen in the Labrador Inuit Settlement Area, the area that's covered by our constitutionally protected Land Claim Agreement.

The North Spur is outside of our land claim area; however, our president did write a letter to Premier Ball at one point requesting that he hold public meetings and workshops in both upper Lake Melville and Mud Lake to address the North Spur issue. We didn't want to be involved, we actually went and observed on one or two of those meetings, but that was the level I guess, of involvement we've had in the North Spur issue.

MR. COLLINS: If the government rejects or doesn't act on the IEAC recommendations before the reservoir is flooded, what's going to happen?

MR. MCLEAN: That's a good question. I don't work for the government anymore but, you know, I think that's the decision that would have to be made by the Executive Council and Nunatsiavut Assembly. Certainly Rodd, still working for NG, will have some input in that but, you know, I don't know if we can say right now on what that would be. But, you know, we've invested a lot of time, a lot of effort in making Muskrat right.

I'd be extremely pissed off and disappointed if there's no action taken –

MR. COLLINS: Mmm.

MR. MCLEAN: – on these IEAC recommendations because, to me, the spirit coming out of that October meeting was that, you know, decisions would be based on science, peer-reviewed science being the priority, using other science that could be used in collection with the peer-reviewed science. And that's what, I think, the IEAC did.

MR. LAING: Mm-hmm.

MR. MCLEAN: And, you know, we feel they've come up with some good recommendations based on science, and if you are – if the Premier is true to his word that, you know, it's the health of the local and Indigenous populations that's most important and we wanna do what we can to minimize impacts to methylmercury, you know – if he doesn't act on these recommendations, I – you know, I think those words were very hollow at the time, and that's my opinion here.

MR. LAING: And, I mean, on the scientific side, I can tell you that after that reservoir is impounded and flooded, organic carbon increases that flows down the stream into Lake Melville, the scientific peer-reviewed evidence has shown that that will be methalized and the levels of methylmercury will increase in the water column, then through the biota up into species that are consumed by people.

That is not gonna happen right away. The levels in water will increase right away, and they will make their way into the food system. It'll take a year or two until you actually start to see that in some of the biota that is consumed, but you are

looking at decades and decades of impacts from this if mitigation does not take place.

MR. COLLINS: Are there any other points you think that ought to be covered here?

MR. LAING: Yeah, I think one of the things is just this general lack of response to the environmental and Indigenous concerns. There was 33 interventions into the JRP from us. The JRP recommendations relative to the concerns that we had, for the most part, were not addressed or implemented. The request for money to conduct a study to address these concerns with the province was not granted by the province, so we had to secure independent money and some of our own money to do the study, then presented the results back to the government and Nalcor where they were dismissed, despite being peer-reviewed and independent.

So then we actually – based on additional scientific evidence, we asked for the altering of the Human Health Risk Assessment Plan, which was denied by the minister at the time based on the evidence, saying that the – Nalcor’s plan was appropriate, despite scientific evidence showing otherwise. And then on top of that, the community and beneficiaries came forward to present concerns, which have been dismissed. And then in August 4, 2016, we had a scientific meeting where the results from the Lake Melville research and monitoring study and other pieces were presented to many government officials, as well as the three Indigenous groups who were present as well as Nalcor and, again, nothing from there in terms of additional pieces.

The protests happened where some additional clearing was – happened relative to that before the larger October 16 – bigger protests in mid-October there to the point where – we actually got to the point where we agreed with the IEAC to develop recommendations in good faith with everyone at the table where those present recommendations, again, based on scientific experts have been presented to government in the presence of Nalcor, and there still is no response.

And, in general, any time additional scientific evidence has been presented back, they have deferred to Nalcor’s experts on this. And so it’s

very frustrating when you have independent experts and the government is making decisions not based on the best available knowledge on this project.

MR. MCLEAN: Yeah, and I think this Inquiry has certainly been an eye-opener for a lot of people. It certainly helps me understand, I think, why we’ve been getting some of the responses in all of these meetings regarding this issue. And it certainly appears that the provincial officials have done the same on this issue as they’ve done through a lot of the other project issues where they’ve deferred to Nalcor and the expertise that they saw there, rather than fully looking at the other sides on this issue for sure. So, you know, it’s – if nothing else, I’ve certainly seen that trend follow on this issue as we’ve seen through the other discussions on this Inquiry, which is interesting to me.

MR. LAING: Yeah, and I think the urgency piece is very interesting in the sense that when there’s an urgency to build the cofferdam and an urgency to do something for the physical building of the infrastructure, that urgency has always been met – and to the point where we established the IEAC through, you know, discussions around this issue to address things. I mean, if you look at Recommendation #7 of human health recommendations, it says there’s an urgent need to communicate that the food being consumed is healthy and the water is safe to drink. And that is an urgent recommendation, and we are a year, almost, since that recommendation came forward, and that has not been addressed.

So, I think, fundamentally, that the urgency around this project needs to apply to all aspects of the project – not just certain aspects to build the physical infrastructure.

MR. COLLINS: Thank you. Those are my questions.

THE COMMISSIONER: Province of Newfoundland and Labrador?

MR. RALPH: Microphone’s not working, I guess – (inaudible) – oh.

No questions, Commissioner.

THE COMMISSIONER: Okay.

Nalcor Energy?

MR. SIMMONS: Good morning, gentlemen.

Dan Simmons for Nalcor Energy. You may remember me from, I guess, last September when we were here. Just a couple things I wanted to ask you about.

On the screen right now, I think it's Exhibit 01702, and that's Recommendation #4 from the IEAC report that you've talked about, which is recommendations concerning mitigation measures. This is potential reservoir clearing, wetland capping and these sorts of things. And I note that since this report was delivered, the letters and the inquiries that you described making looking for a response to that recommendation have been directed to government and not to Nalcor.

And my question is has it been your understanding and expectation that that is a decision that Nalcor cannot make independently of government and that, hence, you'd be looking to government for a decision on that issue?

MR. MCLEAN: Well, I don't see why Nalcor couldn't make that decision on their own, but the terms of reference of the IEAC was that these recommendations would go to the regulators – in this case, certainly, the Government of Newfoundland and Labrador. And, you know, through this whole project, when we've engaged Nalcor, they've always said, we'll do what the government tells us.

MR. SIMMONS: Mm-hmm. Right.

MR. MCLEAN: And, you know, that's been the standard response, so – but, you know, in answer to your question, I don't see why Nalcor could not improve the project by agreeing to these recommendations without government direction.

MR. SIMMONS: Right.

And, of course, I think you've stated you understand that there will be costs associated with implementing any of these mitigation measures and that consequently Nalcor, of

course, will need to have the funding available, which would involve government in ensuring that that can be done. Is – would that be your understanding?

MR. MCLEAN: I'm not sure where the funds would come from. There's certainly costs involved, yes.

MR. SIMMONS: Okay. Good.

MR. LAING: Yeah, and I believe Minister Joyce actually spoke to that directly in a response last fall to the media when he said that he'd be reviewing the recommendations. It would be Nalcor's responsibility to figure out what –

MR. SIMMONS: To implement them.

MR. LAING: Exactly.

MR. SIMMONS: Yes. Yeah. Okay understood.

And there's a number of items that have been entered as exhibits. I don't want to go through them in any detail. They run from exhibits, Commissioner, P-02115 to 02120. Gentlemen, I don't know if you have them in your book or not, but they're a series of scientific reports that were commissioned on various issues for Nalcor during 2018. You're familiar with those?

MR. LAING: I – they're not –

MR. SIMMONS: Or, the (inaudible) –

MR. LAING: – presented here to us.

MR. SIMMONS: Okay, well maybe we can just pop up a couple on the screen so you can have a look. Maybe P-02116, please, Madam Clerk?

This one is an August 2018 report from W. F. Baird & Associates and it's to the attention of Reed Harris, who I think is someone that you're familiar with as having been involved in modelling in – of the Lake Melville system?

MR. LAING: I am familiar with Reed Harris. I am not familiar with this –

MR. SIMMONS: Okay.

MR. LAING: – document.

MR. SIMMONS: Well, I think this one is –

MR. MCLEAN: But I don't think Reed Harris has modelled the Lake Melville system. That was one of the recommendations from –

MR. SIMMONS: Right.

MR. MCLEAN: – the IEAC.

MR. SIMMONS: Right.

And –

MR. MCLEAN: His model was with regards to the reservoir and the river.

MR. SIMMONS: Right. And as far as the scientific content of this, I'm – that's a bit beyond my understanding at the moment. But my point here is just to point out that there's a number of reports like this that have been prepared in 2018 and are available, I believe, on the Nalcor website and have been there. This one says, "RE: Lake Melville Model Setup and Results."

So my question is, these various reports, while the Nunatsiavut Government may not agree with the outcome or the science or the content, do you acknowledge that there has been continuing work commissioned and done by Nalcor on issues such as the methylmercury production to be anticipated, the bioaccumulation in fish and seals and the effects of the stratification in Lake Melville?

MR. LAING: I mean, what has been presented to us relative to the modelling and the work done and what was presented to the IEAC? Those models, actually, in terms of standard error and variance –

MR. SIMMONS: Mm-hmm.

MR. LAING: – overlap. So, from a scientific statistical analysis standpoint, they are not considered significantly different. So I think that's something really important relative to this.

The other thing that's really important in this, though, is the agreement with the Independent

Expert Advisory Committee and everyone that was on it that any additional information would be put back to the committee and the committee members. This information has not been provided to the Independent Expert Advisory Committee.

MR. SIMMONS: And – so I'm not going to take you to the other studies, but there are six others that have been entered into evidence and that are on the record.

Okay. Thank you very much.

THE COMMISSIONER: Right. Thank you.

Concerned Citizens Coalition?

MR. BUDDEN: No questions, thank you, Mr. Commissioner.

THE COMMISSIONER: Edmund Martin?

MR. CONSTANTINE: No questions, Commissioner.

THE COMMISSIONER: Kathy Dunderdale?

MR. HEWITT: No questions, Commissioner.

THE COMMISSIONER: Former Provincial Government Officials 2003-2015?

Not present.

Julia Mullaley, Charles Bown?

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

THE COMMISSIONER: Not present either.

Robert Thompson is not present.

Consumer Advocate?

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

MR. HOGAN: Good morning.

My name is John Hogan, counsel for the Consumer Advocate. I just have one brief, I guess, topic to ask a couple of questions on.

Mr. McLean, you said you can't put a cost on health and lives. I guess I understand – I agree with what you're saying here – but you did put out some numbers – \$400 million, \$700 million, correct?

MR. LAING: Those are not our numbers. Those are numbers from the feasibility study.

MR. HOGAN: Okay, and just to be clear then, that's obviously numbers that would be dealing with this project post-construction, correct? I mean –

MR. MCLEAN: No, those numbers are the costs of –

MR. HOGAN: – ongoing construction, I should say.

MR. MCLEAN: – construction costs of targeted soil removal and capping of wetlands, is my understanding.

MR. HOGAN: And they're post-sanction numbers, obviously.

MR. MCLEAN: Oh, certainly post-sanction.

UNIDENTIFIED MALE SPEAKER: Yeah.

MR. MCLEAN: Yeah, those were numbers as per – one of the first two recommendations from the IEAC that were given in the fall was to do a feasibility study. That's where those numbers came from.

MR. HOGAN: And Mr. Laing, you put a per cent on it – the overall cost of this is small in comparison to the overall number of \$12 billion. I think you said it was around 3 per cent?

MR. LAING: Three-point-two per cent at the low end and you're looking at 5.8 per cent of total project cost at the high end.

MR. HOGAN: Those numbers would double; those percentages would've been double at the time of sanction when the estimate was about \$6.2 billion, correct?

MR. LAING: Yeah, I mean, but to be fair, the cost to do this, if it was planned ahead and in

advance probably would be lower as well, so I don't think that's necessarily a fair assumption.

MR. HOGAN: Okay, fair enough, but I guess the point of my question, at the end of the day, that it's your position that these numbers should've been included in the DG3 estimates. That's something that should've been considered and taken into account as the overall cost of the project?

MR. MCLEAN: Well, as Rodd mentioned earlier, a lot of this information has come to light after, you know, after the project has started, really, so these numbers have been – and the work detail has been developed, you know, certainly since DG3, I believe.

MR. LAING: Yeah, and I think, I mean, there was a decision made for partial clearing by Nalcor, after the Joint Review Panel came out. I think if the decision was made right after the Joint Review Panel to actually move forward with additional clearing – more than what was done – I think you would see a substantial reduction in the cost to do that at that time.

MR. HOGAN: There would've been a number that could've been calculated at that point –

MR. LAING: Absolutely.

MR. HOGAN: – in time, to be added to the estimate.

MR. LAING: I believe so. I mean, that is not my area of expertise.

MR. HOGAN: Okay, thank you.

That's all the questions I have.

THE COMMISSIONER: Nunatsiavut Government – or, I'm sorry that will be last, pardon me. The Innu Nation.

MR. LUK: No questions, Commissioner.

THE COMMISSIONER: NunatuKavut Community Council.

MR. RYAN: Good morning.

I just have a – one topic of questioning and it's with regards to the IEAC. Would you agree that all of the issues that the IEAC considered were known or ought to have been known by the government and by Nalcor pre-sanction?

MR. MCLEAN: I don't think the work was done (inaudible) –

MR. LAING: Yeah –

MR. MCLEAN: – per se –

MR. LAING: Yeah –

MR. MCLEAN: – there was no downstream assessment.

MR. LAING: Yeah, I think – I guess this – issues were – maybe known isn't the best word because of the impacts of – in the project description and where the projected impacts would be, that area has been shown to be incorrect. And so that – the area of projected impacts in the Joint Review Panel and in Nalcor's assumptions is actually different than what the scientific evidence says.

So, once that scientific evidence came to light, there – you know, understanding those impacts and the recommendations to address those impacts, you know, then you address them once you have the evidence.

MR. RYAN: Maybe I'll just reframe my question. The issue of methylmercury and whether it will be present in the water sufficient to cause impacts – that was something that was known to be at issue pre-sanction.

MR. MCLEAN: Yes, certainly it was – it was in the panel report that came out that there – certainly, our concerns around the methylmercury in the system and downstream.

MR. LAING: And it's something that exists with every single hydroelectric development. You will have an increase in methylmercury in the reservoir and unfortunately in this system, due to Lake Melville being the way it is structured, you have an increase downstream as well.

MR. RYAN: And so the work of the IEAC could have been done pre-sanction, could have been done years earlier than 2017-2018.

Is that correct?

MR. MCLEAN: Yes, I believe –

MR. LAING: Yeah.

MR. MCLEAN: I believe that's good – a correct statement. Yes.

MR. RYAN: And, do you believe that the work of the IEAC is almost a condition precedent for Nunatsiavut Government being comfortable with the project going ahead? Was – is the work of the IEAC necessary to be done before this project is finished?

MR. MCLEAN: Before the project is – the construction is completed. Is that what you mean?

MR. RYAN: Yes.

MR. LAING: Like before impoundment?

MR. RYAN: Yes.

MR. LAING: I mean, that was the whole point of establishing the Independent Expert Advisory Committee is to see what mitigation measures for – directly related in the terms of reference to protecting health and well-being of people in the downstream environment. I think that is the whole point of the Independent Expert Advisory Committee and those are the aspects that collectively around the table – those are the recommendations that were put to government from that to address those concerns. All of those concerns are pre-impoundment relative with the exception of the monitoring program.

MR. MCLEAN: Yes. You know, once you have impoundment – once the project is complete and you have full impoundment, it's – you're too late. You can't address minimizing methylmercury impacts other than – I think I heard, through IEAC, that there might be a way to put some kind of chemical in the water to address methylmercury, but that's certainly not proven. But the experts debated all that. They came up with the recommendations we see so.

You know, we're talking about pre-impoundment here, before the project was completed.

MR. RYAN: So I guess what I'm trying to get at is – it seems to me, and I'll put it to you, that the work of the IEAC was necessary for this project. And the fact that it took until 2017, 2018 for that work to be done is essentially the province and Nalcor delaying the inevitable. This work had to be done in order for the information to be known and in order to – in order for the recommendations to be acted upon. And there was – there's no magic to it being done in 2017, 2018. This work could have been done in 2012, beforehand or 2013.

Do you agree with that?

MR. MCLEAN: Yeah. I certainly agree that it could have been done earlier. But frankly, the project area should have been identified correctly from the beginning. That included the downstream, including Lake Melville. And, the comprehensive assessment of that downstream system should have been part of the original environmental assessment that should have been debated at that time.

But, because the project area was just the Goose Bay Narrows, there was no work done. So we've been playing catch up ever since.

So, yes, I agree. It should have been done much earlier and even as early as during the environment impact statement days.

MR. LAING: Yeah, and I think something else really important to our involvement in the research and the work is that we wanted to follow the appropriate steps for scientific rigor and peer review and relative pieces. That is really important when you're presenting these kind of studies and information to the general public.

If it does not go through peer review, you are missing a key step in the scientific process to ensure that it's valid and relevant to the system.

We did that with the data that was collected to this. Yes, it could have been done sooner. I mean, I believe it's recommendation 6.7 of the Joint Review Panel states that if there are

scientific evidence for impacts, that Nalcor needs to start doing that as soon as possible to address those.

So, I think it was on – in the view of the Joint Review Panel, you know, they were thinking about this. But the reality is you need baseline information and other data to actually start to produce the scientific information from this. And that was corrected through this work.

I think that that's something that's really important really to remember here is just that most of the assumptions that this is based on freshwater ecosystems that spill into a freshwater body. This is a unique system. You have a hydroelectric development that's going into a brackish – so salt water and fresh water in a stratified system that is completely different than all of what these assumptions are built on.

And I think, relative to this, that's what makes this so unique. And so, I think having these independent experts to actually review the actual data was critical for this. Yes, it could have been done sooner. But it took some kind of effort to even get the government to establish this committee.

MR. MCLEAN: And do you think that if Nalcor and the provincial government had undertaken some of this work sooner – I guess I'm asking you to speculate but – could the issues with the project area that you identified, could those have been caught earlier and rectified in terms of what the Joint Review Panel was looking at or what the environmental permit regulators were looking at.

MR. LAING: Partially, but it depends on what, I guess, what was identified in the scope of the environmental impact statement, like what the directions were to them. You know, in the end, it sounds like both levels of government agreed that Goose Bay Narrows was appropriate. And that's as far as, really, the initial work that was done by Nalcor went.

So right from day one, we've been pushing to increase that study area. And I think we've shown that, you know. We were right that the study area should've been larger from the start to address this issue.

MR. LAING: Yeah. And additionally, I think this again comes back to those assumptions, the assumptions that this is a system like other hydro systems that have happened that aren't taking place.

Something also important to keep in mind is that two of these Joint Review Panel members have come out, based on the evidence that was presented, and said that these need to be addressed since the panel report was released. So I think that's important to consider relative to this, too.

MR. RYAN: I guess just one last question – I don't know that it's necessary to put it up one screen. But in P-01694, which is the IEAC terms of reference, on the very last page, page 6, there's, I guess, it's – starts on page 5, but the table is on page 6.

And this is the budget for the IEAC. And it's just under \$700,000. So I guess I would take that to mean that there was money available from the government to fund this type of work. And that it took a significant amount of protestation from the Indigenous groups in Labrador to get, to free this money to do that – these types of studies.

Do you – and I'm not sure if you can answer this, but do you think that this is enough money? Has the IEAC been given a budget sufficient to meet your concerns?

MR. MCLEAN: You know, as members of the IEAC – I think there was a lot of discussion around what the appropriate budget should be and in the end, we all agreed to that amount. I'm not sure exactly where the money came from, whether it was the province or Nalcor. But, you know, that the IEAC – their own staff that monitored the budget and all of that. So – but in the end we agreed that, you know, we wanted more. We certainly pushed for more initially but, you know, looking at the timelines and all of that, we – you know, we agreed in the end, well, let's start with that and let's see where it goes. I think we all envisioned that the IEAC or some form of the IEAC would continue after this initial year, but it certainly hasn't happened yet.

MR. LAING: Yeah and I think you need to look at the amount of people involved. I would probably call that a shoestring budget in terms of

you have three staff members, plus nine experts, plus an Oversight Committee of that expert committee, all operating on \$770,000, including travel and meetings relative to that.

I think if you look at our Make Muskrat Right campaign pieces, relative to the Independent Expert Advisory Committee, it is very clear that in our scientific report that we released, as well as those recommendations that the Independent Expert Advisory Committee, we – our ideal situation with that was they would continue to review the scientific pieces and evaluate those. And right now we are not in that situation either.

MR. RYAN: Has there been any conversation about, I guess, restarting the IEAC in order to continue to monitor in the future?

MR. MCLEAN: Not that I'm aware of.

MR. LAING: No, not that I'm aware of. I think – I mean, really fundamentally if government is not going to listen or even acknowledge recommendations from a committee, I think we need to really discuss or we can continue to throw money at a committee that is not going to be used. I mean, if it's being operated in good faith and recommendations are being addressed, then I think it serves a very critical role. But I think that comes down to government responding to the recommendations of those (inaudible).

MR. RYAN: Those are my questions. Thank you.

THE COMMISSIONER: Thank you.

Grand Riverkeeper/Labrador Land Protectors?

MS. URQUHART: Good morning. Caitlin Urquhart and I'm representing the Grand Riverkeeper Labrador and Labrador Land Protectors, so two organizations I'm sure you're familiar with. But they're local citizen groups that are committed to protecting the Grand River, the traditional name of the Churchill River.

So I just wanted to clarify a little bit. We've been talking quite a bit about advisories and I wonder with – throughout your study of this issue, whether you've seen any indication of sort

of knock-on impacts of consumption advisories. So, obviously, folks who are directly impacted – say, if it was pregnant women aren't to consume certain X, Y, Z species, there's sort of the direct impact on those folks. But whether there are broader impacts or implications throughout the community of having these advisories in place.

MR. LAING: I mean there is a large scientific literature base relative to consumption advisory units and their impacts on the people that those consumption advisories are for.

I think there's the reality of the cultural impacts, the health impacts of not eating traditional wild foods which are incredibly healthy for our people, but there's also the reality of people also wanted to continue to consume this food. Not everyone is going to be listening to a consumption advisory because of the cultural importance or, you know, the relative importance to this.

And so there is a huge body of literature that exists relative to consumption advisories and it's very clear that they are not a mitigation tool. They are not a mitigation tool in any sense, that issuing a consumption advisory is telling someone not to eat a food that traditionally here for thousands of years that people have relied on. And there is a huge impact relative to that and so there is a lot of evidence base out there for that. Also, not my area of expertise, but there is a lot of evidence out there relative to the impacts of consumption advisories.

MR. MCLEAN: And I think certainly, indirectly or directly, it's a food security issue. If you can't eat what you currently eat, you got to find alternatives and what are those alternatives?

The other issue is around, you know, when I go to my cabin in the summer on Lake Melville, I want to put a net out. I want to eat what I catch. I only catch enough to eat. You know, that's my philosophy. You know, don't catch any more than you need, catch what you need and, to me, that's what I do.

If I can't do that, if I can't continue to do that, certainly mentally it will impact me. You know, if I don't have a net out, you know, my life has changed. You know, every time I go to the cabin

I want to have my net out. That's in the summer and the winter.

You know, the first thing I do is try to catch trout to hang up behind the stove to have for breakfast next morning. And I try to do that every day and, you know, often I'll take a few fish home. So if you can't continue to do that, certainly, culturally and mentally, things have changed.

MS. URQUHART: And is it not also an opportunity to pass cultural teachings on to other generations?

MR. MCLEAN: Certainly. Certainly. I try to do that, you know, whenever my kids or other people are with me, is this is what we've done and this is how we do it and this is why we do it. And it's certainly important to our way of life.

MS. URQUHART: And, Mr. Laing, you had also mentioned one of the challenges of sort of science communication. And so one of the things, I just wonder if you can elaborate a little bit on some of the challenges of if you have a consumption advisory, how that may be – and you kind of alluded to this – how it may be confusing. Some folks may not know whether or not it applies to them or whether all food – you know, what food specifically it applies to and how that could be impacted, particularly in communities here in Labrador.

MR. LAING: Yeah, I mean, relative to anything – consumption advisories or any other aspect of this project – communication is key. I mean scientific evidence – publishing something in a scientific journal is not communicating to the general public. A CBC news story is not going to communicate that to the general public to get into – in the weeds of what – this matter.

For consumption advisories, it's going to be the same thing. There is going to have to be an entire communication plan and other pieces. Our whole point in all of this and our interventions to this point are to hopefully get to a point where we can hopefully not have consumption advisories and actually mitigate something pre-impoundment to ensure the security of culturally appropriate and healthy food downstream.

Also remembering that the Nunatsiavut region has some of the highest food insecurity numbers in Canada and you're talking about a project that is going to further increase those numbers. And so, I mean, this is something that's – there's a huge component on the culture and health, but there's also a huge component relative to the actual, day-to-day consumption of food for people that live in this region.

MS. URQUHART: Those are all my questions. Thank you.

MR. LAING: Thanks.

THE COMMISSIONER: Former Nalcor Board Members?

MS. BUIS: No questions, Commissioner.

THE COMMISSIONER: All right.

Dwight Ball, Siobhan Coady?

MR. O'FLAHERTY: Good morning, gentlemen. I'm representing Mr. Ball and Ms. Coady at Phase 2 of the Inquiry. My name's Peter O'Flaherty. I've met you before, Mr. McLean, many times.

There's been some evidence today and yesterday – when weather issues prevented me from being here – about commitments that were made in 2016 by the Premier on behalf of the Province of Newfoundland and Labrador to certain Indigenous groups here in Labrador, specifically in response to the important concerns of those groups about potential adverse health effects of methylmercury. You've heard those – that evidence and you've given some of that evidence today, correct?

MR. MCLEAN: Can you remind us of what that evidence was?

MR. O'FLAHERTY: Well, you mentioned the Premier and how the Premier had made certain commitments and that sort of thing. That's really what I want –

MR. MCLEAN: In, well –

MR. O'FLAHERTY: – to focus in on.

MR. MCLEAN: – October 2016 meeting?

MR. O'FLAHERTY: Yeah, exactly.

MR. MCLEAN: Okay, yeah.

MR. O'FLAHERTY: That's where I'm going to start. Okay.

MR. MCLEAN: Yeah.

MR. O'FLAHERTY: So I want to first ask you some questions about what specific commitments were made by the Premier on behalf of the provincial government in October 2016. And the first exhibit in the record I'd like to turn to is the October 22, 2016, release entitled, Provincial Government and Indigenous Leaders Make Significant Progress. That's Exhibit P-02064, page 48, by my records. Sorry, that'll come up on your screen there.

THE COMMISSIONER: 02064, did you say?

MR. O'FLAHERTY: I have it as P-02064 at page 48. So that's –

THE COMMISSIONER: What tab is that in the book?

MR. O'FLAHERTY: It's not a tab in the book, sorry –

THE COMMISSIONER: I don't have a listing of the tab –

MR. O'FLAHERTY: – Justice LeBlanc, it's –

THE COMMISSIONER: – in my book here.

MR. LAING: That's okay I found it. It's – what page is it?

THE COMMISSIONER: It's tab 17?

MR. MCLEAN: (Inaudible.)

MR. O'FLAHERTY: Oh, I'm sorry, it is. Okay.

MR. LAING: Sorry, which page is that?

THE COMMISSIONER: Page 48, I believe he said.

MR. O'FLAHERTY: Sorry about that, Commissioner –

UNIDENTIFIED MALE SPEAKER: No problem.

MR. O'FLAHERTY: – gentlemen.

MR. LAING: Yeah, we have it.

MR. O'FLAHERTY: So this deals with the – what's been described as the agreement between the leaders of the three Indigenous groups and the leader of the Government of Newfoundland and Labrador arising out of what's been described as a marathon meeting at Confederation Building in St. John's on October 25 going into the morning of October 26, 2016.

Were either of you at that particular meeting?

MR. MCLEAN: Both of us were actually.

MR. O'FLAHERTY: Okay.

MR. MCLEAN: Rodd on the outskirts for part of it, but inside – I was inside for the whole meeting.

MR. O'FLAHERTY: Thank you, Mr. McLean, that's helpful.

So was this a release, this release, was this a document that the NG had a chance to review before it was sent out?

MR. MCLEAN: Not to my knowledge. This is –

MR. LAING: Oh, this is the (inaudible). This is not the (inaudible).

MR. MCLEAN: Like – I'm looking at this page 48, and then there's a page 49. Is this all one document, or is page – it's the same –

MR. O'FLAHERTY: No, 49 is a different document.

MR. MCLEAN: It's a different document, okay.

MR. O'FLAHERTY: Page 48 only. Sorry, Mr. McLean.

MR. MCLEAN: Let me just remind myself of this –

MR. O'FLAHERTY: Sure.

MR. MCLEAN: Yes, I believe this is a document that came from the Nunatsiavut Government, if I'm not mistaken.

It's hard to tell here but –

MR. O'FLAHERTY: Sorry, it's a press release issued by the –

MR. MCLEAN: A joint release, is it?

MR. O'FLAHERTY: – by the Executive Council. I'm asking you that question, was this something that was reviewed and approved by the Nunatsiavut Government before it was released? Or do you recall?

MR. MCLEAN: Yes. Like, if this was the release that came out directly after the meeting, that was spoken to, like, in that scrum, media scrum, at the end –

MR. O'FLAHERTY: Correct.

MR. MCLEAN: – yes, our people in the meeting did – we were part of the discussion or the language –

MR. O'FLAHERTY: The discussion around this document – sorry to interrupt you. Okay.

MR. MCLEAN: Yes.

MR. O'FLAHERTY: So we're making the same point that the NG had an opportunity to review this before it was released and agreed with its contents, correct?

MR. MCLEAN: Yes. In the end we did, yeah. There was a lot of debate on the contents, yes.

MR. O'FLAHERTY: Okay. And so were there any other further agreements or commitments that were made by the Premier on behalf of the government that are not contained in the document?

MR. LAING: (Inaudible.)

MR. MCLEAN: It's hard to see in our book – the language, but if – yeah, okay, the same thing on the screen. Just give me a moment, please.

MR. LAING: We had discussions around most of this, but there were other asks that aren't identified there.

MR. MCLEAN: Release is there, and IEAC is there –

MR. LAING: And our other three asks aren't there, which we also discussed.

MR. MCLEAN: So this addresses the impoundment – initial impoundment – and then the release in the spring, and then it addresses the establishment of the IEAC. In the meeting, we also talked about our other three asks that are in our Make Muskrat Right campaign. And the Premier, at that time, certainly said that, yeah, he'll address that in a separate forum – those other three asks in a separate forum – he'll discuss those separately from us.

MR. O'FLAHERTY: So they weren't the subject of specific commitments that were made by the Premier on behalf of the government at that time, correct?

MR. MCLEAN: Say that again.

MR. O'FLAHERTY: I said they were not the subject of specific commitments made by the Premier on behalf of the government at that time, correct?

MR. MCLEAN: Well, in the meeting, the – those additional asks were brought up, and –

MR. O'FLAHERTY: Mm-hmm.

MR. MCLEAN: – the Premier said he'd address them outside of this actual meeting in a separate forum.

MR. O'FLAHERTY: Thank you.

So let's deal first, just briefly, with the issue of the impoundment – you've called it the impoundment issue. And the commitment that was made there was in the context of transparency, I believe, around there being

reports provided with respect to the need for the raising of the water, correct?

MR. MCLEAN: Correct, yeah.

MR. O'FLAHERTY: And those reports were provided, I take it?

MR. MCLEAN: That's correct.

MR. O'FLAHERTY: Right. And then, I understood from reading – and I wasn't here the last time you testified – I believe it was in October 4, 2018, you said that there was an issue in the spring with respect to the lowering of the water, correct?

MR. MCLEAN: Correct.

MR. O'FLAHERTY: Right. And at that time you said that you acknowledged that there had been reports provided, again to the Indigenous groups by, I believe you said, SNC-Lavalin, which explained, from a technical or engineering perspective, why it was necessary not to be able to lower the water as quickly as they had previously hoped to, correct?

MR. MCLEAN: Correct.

MR. O'FLAHERTY: And you were disappointed with that, but you were provided with the transparency of the technical information, right?

MR. MCLEAN: That's correct.

MR. O'FLAHERTY: Okay. So I want to just look at the last three paragraphs because this is the main issue I want to focus on, is the IEAC.

So in the last three paragraphs here, these deal, gentlemen, with the IEAC itself. So first just let's deal with the IEAC establishment which I understand from your evidence is something that you've been asking for since the JRP, correct?

MR. MCLEAN: Correct.

MR. O'FLAHERTY: Okay. So this commitment was in fact honoured. We've just looked at the budget; it was established, correct?

MR. MCLEAN: It was established finally in July – June-July 2017.

MR. O’FLAHERTY: Right. But we do agree, though, that the commitment made by the Premier was in fact honoured, correct?

MR. MCLEAN: Yes. The IEAC was established, yes.

MR. O’FLAHERTY: Thank you. And the second part of what is on the paper there is the composition of the committee which would say it had – it would have representatives of the Innu Nation, the Nunatsiavut Government, and the NunatuKavut Community Council and the federal, provincial and municipal governments, I take it?

MR. MCLEAN: That’s correct.

MR. O’FLAHERTY: And is that in fact what happened? That was the composition?

MR. MCLEAN: Yes. And also Nalcor, I believe, was –

MR. LAING: Nalcor (inaudible) –

MR. MCLEAN: – part of the IEAC. Nalcor was (inaudible) –

MR. O’FLAHERTY: Okay. And as the mandate evolved, the governance structure of the IEAC, as set out in the terms of reference, that we looked at briefly, that provided that only the three Indigenous groups and a municipal representative would be voting members of the IEAC, correct?

MR. MCLEAN: I believe that’s correct.

MR. LAING: Correct.

MR. MCLEAN: Yeah.

MR. O’FLAHERTY: Okay, thank you.

MR. MCLEAN: It’s specified in the terms of reference.

MR. LAING: Right.

MR. O’FLAHERTY: So the third thing I want to turn to now is the purpose as it related to methylmercury mitigation measures. And it states that: “The IEAC will be mandated to seek an independent, evidence-based approach that will determine and recommend options for mitigating human health concerns relating to methylmercury throughout the reservoir as well as in the Lake Melville ecosystem.” Right?

MR. MCLEAN: Yeah.

MR. O’FLAHERTY: So this was an important purpose, obviously, of the IEAC, correct?

MR. MCLEAN: Well, that was, you know, certainly one of the primary objectives of the IEAC.

MR. O’FLAHERTY: Right. And I take it it was understood then, from the outset in the discussions and the commitments that were made, that the recommendations from the IEAC were to be presented to the responsible ministers of the federal and provincial government, correct?

MR. MCLEAN: Correct.

MR. O’FLAHERTY: So in fact what was committed to and agreed to in October 2016 was the IEAC would be, as the name suggests, an advisory body, correct?

MR. MCLEAN: There was some discussion around that, certainly, and everybody acknowledged that in the end the decision-maker is the regulator, which, depending what issue you’re dealing with, could be the provincial and/or federal government.

MR. LAING: Yeah, and I think something to add relative to that is we recognize that we cannot change the authority of a minister and an independent body cannot make a decision on behalf of a minister. But we were assured that the recommendations would be responded to.

MR. O’FLAHERTY: Okay.

So the recommendations of – on methylmercury would then feed into, in this case as you say, the provincial responsible minister’s decision-making process, correct?

MR. MCLEAN: I guess so.

MR. LAING: Yeah, they were provided –

MR. O’FLAHERTY: Isn’t that what was agreed to?

MR. MCLEAN: They were provided to the minister –

MR. LAING: Right.

MR. MCLEAN: – so I would hope that’s –

MR. O’FLAHERTY: Okay.

MR. LAING: They were also provided to additional federal ministers as well.

MR. O’FLAHERTY: Sure, but the provincial minister is the one who would have the jurisdiction with respect to the issues that you’re looking at in methylmercury in terms of – I should rephrase that. Not in terms of the Department of Fisheries and Oceans work and that sort of thing, but in terms of human health generally, it would be the provincial minister, correct?

MR. MCLEAN: Yeah, when you’re talking about Indigenous groups, though, there may be some responsibility of federal health – Health Canada, I guess, that –

MR. O’FLAHERTY: Yeah.

MR. MCLEAN: – you know –

MR. LAING: And I think also that the authorizations the federal government holds relative to this project that, you know, methylmercury will have an impact on species. So there are some relevant contributions, which is why they were being included –

MR. O’FLAHERTY: Fair enough, gentlemen.

MR. LAING: – on (inaudible) –

MR. O’FLAHERTY: And that may have been a bit of an unfocused question because, really, my issue here is about the commitments made by the Premier on behalf of the provincial

government, okay? So that’s what I want to focus on.

So just to be clear then, there was no agreement or commitment made on behalf on the Premier – sorry, by the Premier on behalf of the provincial government that the government would follow the recommendations of the IEAC on methylmercury mitigation measures, correct?

MR. MCLEAN: Partially correct. The Premier did say in the meeting that, you know, decisions should be based on science and Indigenous knowledge. And he did say that, you know, respecting the fact that they have the final decision, these are recommendations; if the recommendations are based on good science and Indigenous knowledge, he’d have, you know, he’d have a hard time not accepting the recommendations. You know –

MR. O’FLAHERTY: I –

MR. MCLEAN: – I don’t know if that’s exactly the language but that’s what I took from it.

MR. O’FLAHERTY: I don’t think that’s any different from the information that generally is in the public on the matter. But the point is – you’ve got into the second point about what the science and the Indigenous knowledge points to. But the fundamental question I was asking was that at the end of the day, the Premier did not commit that the provincial government would follow, necessarily, the recommendations, correct?

MR. MCLEAN: I think that’s correct, yes.

MR. O’FLAHERTY: Okay.

MR. LAING: But I think it’s, again, important to point out that they did commit – the Premier did commit to responding to the recommendations, which has not happened.

MR. O’FLAHERTY: I’m sorry, can you say that again, please?

MR. LAING: The Premier committed to responding to the recommendations –

MR. O’FLAHERTY: Yeah, right.

MR. LAING: – of the report, which has not happened.

MR. O’FLAHERTY: Right, okay.

So, in making the commitment, then, we’re clear that the Premier reserved the authority of the responsible minister to make the final decisions on what mitigation measures were appropriate, correct?

MR. MCLEAN: Yes.

MR. O’FLAHERTY: Okay. Thank you.

And the NG clearly understood that to be the case at that time.

MR. MCLEAN: Yes.

MR. LAING: Right.

MR. O’FLAHERTY: And that’s what was publicly reported at that time, correct?

MR. MCLEAN: As far as I know.

MR. O’FLAHERTY: Okay.

MR. MCLEAN: As far as I can remember –

MR. O’FLAHERTY: Okay, thanks.

And so finally all the parties agreed, in this document that we were looking at, that these were new and significant commitments, what are described in this document, correct?

MR. LAING: Which document?

MR. O’FLAHERTY: The one here on the screen –

MR. LAING: Okay.

MR. O’FLAHERTY: – that you have. If you look at the last line.

MR. MCLEAN: They’re what, new and significant?

MR. O’FLAHERTY: Yes.

MR. MCLEAN: At that time.

MR. O’FLAHERTY: Correct.

Okay, thank you.

So I wanna turn now, briefly, to the terms of reference, and I think in your evidence, in chief, what you had said was that you looked at the terms of reference and what I had recorded you to say was that you both agreed with Commission counsel that these were consistent with the agreement that was reached in October 2016.

Is that your evidence?

MR. LAING: What we responded to in terms of questioning relative to that was that there was a multitude of groups that we negotiated the terms of reference to, to best address everyone’s concerns relative to the terms of reference for this committee.

MR. O’FLAHERTY: Okay, so are the terms of reference consistent with what was agreed to in October of 2016?

MR. MCLEAN: Well, the terms of reference certainly don’t include anything on the first couple of commitments. But with regards to the IEAC, you know, there was some members, including ourselves, that would’ve wanted to see different – some different language in some areas. But in the end, we all, in the end, had felt we had to agree to the final terms of reference by all the members of the IEAC. So this is what we agreed to in the end.

MR. O’FLAHERTY: Okay.

Well, I’ll move on then. So the – you know, you went through how long it took, and I understood from reading your previous testimony that you both reflected on the fact that it took too long to arrive at the terms of reference, unfortunately –

MR. MCLEAN: It took a long time, we were from November right through ’til June, I guess.

MR. O’FLAHERTY: But it might also be said that it was – certainly the members of the IEAC were very thorough in the way they approached the terms of reference, because that’s a critical aspect as to how the work would go forward, isn’t it?

MR. MCLEAN: Yeah, we wanted to make sure that we got something that would work for everybody.

MR. O'FLAHERTY: Okay. So –

MR. LAING: And everyone at the table wanted to make sure their key pieces were addressed in that terms of reference, and that's the reality of a negotiation –

MR. O'FLAHERTY: Right.

MR. LAING: – when you have this many people at the table.

MR. O'FLAHERTY: So I just want to briefly move through the timeline with you, just so that the Commissioner has the timelines as accurately as possible.

So October 26, the announcement, and then on March 24, 2017, the terms of reference, correct?

MR. MCLEAN: Sounds right.

MR. LAING: Correct.

MR. O'FLAHERTY: Subsequent to that, then, there was the appointment of a municipal representative. I believe it was Mayor Jamie Snook of Happy Valley-Goose Bay, correct?

MR. LAING: Yes, at the beginning.

MR. MCLEAN: At the beginning it was Jamie Snook, yes.

MR. O'FLAHERTY: Well, the documentation that – the information I have is that happened in May of 2017. There was a time frame in which a municipal representative for all of the communities had to be appointed, and that turned out to be Mayor Jamie Snook. Is that consistent with your understanding?

MR. MCLEAN: That's my understanding. It's my understanding –

MR. O'FLAHERTY: Okay.

MR. MCLEAN: – the three or four municipalities got together and decided who would be the representative.

MR. O'FLAHERTY: So that took a little bit of time as well, took some, you know, to deal with that issue. But then the Oversight Committee itself, one of the two subcommittees of the IEAC had to appoint an independent chair, correct?

MR. MCLEAN: Yes –

MR. LAING: Yes, right.

MR. MCLEAN: – we all had to agree who that would be.

MR. O'FLAHERTY: And each of the voting members had the ability to nominate persons to become the chair, correct? That's in the terms –

MR. MCLEAN: Yeah, well –

MR. O'FLAHERTY: – of reference.

MR. MCLEAN: – it wasn't a formal nomination. We got together and had a –

MR. O'FLAHERTY: Yeah.

MR. MCLEAN: – discussion and said who do we think can do this work and –

MR. O'FLAHERTY: So then the chair was appointed in August of 2017, correct?

MR. MCLEAN: I believe, yes.

MR. LAING: Yeah. And the delay in the appointment of the chair was because the chair wanted to ensure the financial independence of the IEAC from all other entities to make sure that it was actually independent, which is why that delay existed, in terms of the establishment of the chair. So ...

MR. O'FLAHERTY: So all these process pieces were in play, and as it worked through, it ended up taking, you know, a significant period of time. It looks like something in the range of 10 months to get the chair appointed and the actual substantive work of the IEAC to commence, correct?

MR. MCLEAN: Yes.

MR. LAING: Yes.

MR. O'FLAHERTY: Okay.

Okay. And then the initial recommendations were released in September of 2017 and were almost immediately accepted by the provincial government, correct?

MR. MCLEAN: Yeah, it was a very short time when, I believe, they were accepted.

MR. O'FLAHERTY: Okay. Thank you.

So –

MR. LAING: Accepted, but not all have been addressed.

MR. O'FLAHERTY: No, but they – but the Government of Newfoundland and Labrador accepted the three recommendations, correct?

MR. MCLEAN: Yeah, but the problem is who's going to enforce the compliance of them?

MR. O'FLAHERTY: I'm sorry, Mr. McLean, I can't – didn't hear what you said.

MR. MCLEAN: The complication was we now know they have not all been addressed. Certainly number 1 has, number 2 partially, I think, and number 3 that – as far as I know the model is still not complete. So even though they were accepted, the recommendations have not been fully complied with.

MR. O'FLAHERTY: Okay. Thank you.

So perhaps then, at this stage now I just want to turn to the issue of the – the final recommendations of the committee were released in April of 2018 I think the evidence was, correct?

MR. LAING: April 10.

MR. O'FLAHERTY: Yeah.

And what document reference do you have there for everybody else?

MR. LAING: P-01702.

MR. O'FLAHERTY: Thank you very much, Mr. Laing.

THE COMMISSIONER: That's tab –

MR. O'FLAHERTY: So –

THE COMMISSIONER: Tab –

MR. O'FLAHERTY: – the four recommendations themselves, just in brief, they – one of them deals with future monitoring, correct?

MR. MCLEAN: (Inaudible) future and – monitoring?

MR. O'FLAHERTY: Yeah, monitoring program.

MR. LAING: I mean it's a combination. There's ongoing monitoring that exists and then there's monitoring of impacts after impoundment.

MR. O'FLAHERTY: Sure.

And I'll get to the current monitoring in a moment, but the second one was with respect to the management of human health, correct?

MR. LAING: Yeah, Recommendation 7, the very last recommendation.

MR. O'FLAHERTY: Good.

And then the other two were the ones which had – although you've acknowledged that they all have financial implications, the other two had serious financial implications; one is the \$250 million impact bond, correct, on Nalcor?

MR. MCLEAN: Number 6 –

MR. LAING: Number –

MR. MCLEAN: I can't remember the amount but ... I can confirm the amount if you just give me a minute. I think it's in tab –

MR. O'FLAHERTY: My understanding is it was for – it was recommended for a minimum of \$250 million.

MR. MCLEAN: It sounds right but –

MR. O'FLAHERTY: Okay.

MR. MCLEAN: – it should say in the actual recommendation.

MR. LAING: And while he looks for that, I think it's also just important under Recommendation 7 there that the discussion at the IEAC and the agreement there was the urgent need, which is identified there, for that to be responded to immediately.

MR. O'FLAHERTY: Thank you.

Just wait for Mr. McLean –

MR. MCLEAN: I don't see that one here, number 6. No. There's the first one.

MR. LAING: (Inaudible.)

MR. MCLEAN: Not there, eh?

That figure sounds right, Mr. O'Flaherty, but I can't be certain on the exact –

MR. O'FLAHERTY: That's fine, Mr. McLean. It's a fact which is in the document so I won't take any more time about that.

But – so there have been questions that have been raised by the Nunatsiavut Government about the delay to respond to the final recommendations. And there has been some other evidence about whether or not this calls into question whether or not the provincial government – where my client was serious about addressing these concerns. And I have some questions about that, the delay, okay?

MR. MCLEAN: Sure.

MR. O'FLAHERTY: So first I think we can agree that as a matter of public record that there was an unplanned change of responsible ministers almost immediately after the release of the recommendations. Correct?

Mr. Joyce was no longer the minister and a new minister came in.

MR. MCLEAN: You got to remind me who the new minister was after that.

MR. O'FLAHERTY: Parsons.

MR. MCLEAN: Was it Andrew parsons was acting?

MR. O'FLAHERTY: Right.

MR. MCLEAN: Okay.

MR. O'FLAHERTY: So that happened, right, almost immediately after the recommendations were provided. Correct?

MR. MCLEAN: Yeah.

MR. O'FLAHERTY: Okay.

So, secondly then – and this gets to, really – and I fully appreciate that the Nunatsiavut Government sees the issue of financial costs as being secondary, but would the Nunatsiavut Government agree that the – two of the recommendations, and in particular the one with respect to the removal of the soil, would require the project proponent to carry out extensive work in the project reservoir costing hundreds of millions of dollars?

MR. MCLEAN: Extensive work and the estimate that was – that went through the IEAC through one of the initial two – three recommendations, I believe, was, as we mentioned earlier, \$400-plus million to \$700-plus million.

MR. O'FLAHERTY: Okay.

And it's not my intention to debate the numbers with you because – but my point is that it's a significant financial commitment, correct?

MR. MCLEAN: It's a lot of money and its 3 to 5 per cent of the project cost, yeah.

MR. O'FLAHERTY: And I think maybe our sensibilities, our normal sensibilities about talking about hundreds of millions of dollars, may be a little dulled by the numbers being thrown around in the context of this project, but we're dealing right here in the here and now with 2019.

MR. MCLEAN: Correct.

MR. O'FLAHERTY: That's when we would be talking about spending this money.

MR. MCLEAN: Yes.

MR. O'FLAHERTY: Okay.

MR. MCLEAN: It could have been done earlier, as we acknowledged earlier, but what I'd like to say though is that when we developed the terms of reference and the membership of the IEAC – as Rodd mentioned earlier – was that having Nalcor and provincial representatives on the IEAC we would've – the intent was that part of having them on the IEAC was that they'd be in continuous communication with their people on where things were at.

And that – you know, that information was known, I believe, probably early in 2018 on what those costs could be. So I would have hoped that the membership of the provincial and federal membership of the IEAC and Nalcor would have had – it was not new information – seeing the recommendation on some of that.

MR. O'FLAHERTY: I understand your point. But the Nunatsiavut Government is in the business of government so it would understand that unless there were other provincial revenue sources available, then the money would need to be taken from existing programming or would need to be borrowed. Correct?

MR. MCLEAN: Yeah or you go back to – in our system, and I can only speak to my familiarity with the Nunatsiavut system, if you wanted money that's not identified in the budget, you move it around within or you go back to the powers that be – in our case the Nunatsiavut Assembly – to get approval to spend additional dollars.

MR. O'FLAHERTY: But I think you're –

MR. MCLEAN: So I don't know if that's similar –

MR. O'FLAHERTY: I think you and I are aligned on this. You're saying that if you have to move money around within the existing budgetary system, then you're now involved in a fairly significant public policy decision that engages other departments besides this particular line department which is responsible for environment. Correct?

MR. MCLEAN: Well, you know the provincial system better than I do, so I can't speak to their system.

MR. O'FLAHERTY: Do you agree that that's a fair characterization of the system?

MR. MCLEAN: Possibly, if it's similar to the system Nunatsiavut –

MR. O'FLAHERTY: Yeah.

MR. MCLEAN: – Government has, yes.

MR. LAING: But relative to this project, these pieces were identified in the Joint Review Panel and other pieces and there was a decision to not address them. And relative to a big development, there is the need to address environmental and Indigenous peoples' concerns in addition to project capital costs.

MR. O'FLAHERTY: And I understand your evidence, Mr. Laing, totally but I'm really focusing in on why there's been a delay. That was the context of the question. So I just wanted to – the point I'm trying to make is that this is a big decision. This is a big recommendation, correct?

MR. LAING: Absolutely.

MR. O'FLAHERTY: Okay. So and it was also a recommendation to clear soil from land that was not supported by the sole Indigenous group with a land claim accepted for negotiation in this area. Correct?

MR. LAING: If you're referring to Innu Nation, Innu Nation did not support the full clearing and capping of wetlands.

MR. O'FLAHERTY: Right.

MR. LAING: They supported the capping of wetlands.

MR. O'FLAHERTY: So there are some additional complexities, as well, on top of the financial component and the issue of where the money comes from within the budgetary system. Correct?

MR. LAING: The reality of a megaproject.

MR. O'FLAHERTY: Okay.

And isn't it fair to say then that the NG would accept that all these factors would need to be considered by the government in coming to a decision on these particular monetary recommendations.

MCLEAN: Yeah. And I would hope that the fact that we have a constitutionally protected signed land claim agreement by both the Government of Canada and the Province of Newfoundland and Labrador will be considered also.

MR. LAING: Yeah, and the realities of the purpose for that Recommendation 4 is to reduce the impacts in the Lake Melville environment, which is the constitutionally protected land claim area of Labrador Inuit.

MR. O'FLAHERTY: Thank you, gentlemen. I understand your evidence on that.

And finally on this particular point, the NG is also aware – because it's in the recommendation document itself – that the recommendation to clear a part of the reservoir of soil was descended from by the lead representative of the provincial government in a minority opinion. Correct?

MR. MCLEAN: I'm not going to use that language, but there was a minority opinion by the provincial representative, yes.

MR. LAING: And I think for clarity for this discussion is: there are nine independent experts that produce a recommendation for the overseeing committee of the IEAC. The recommendations came from the experts of that option. It is the Independent Expert Advisory Committee, the Oversight Committee that made that voting decision, not the experts.

MR. O'FLAHERTY: And again, the Commissioner has already stated that he won't be deciding the question of who is right or who is wrong about methylmercury. So I didn't really want to get into that. I'm just trying to make the point that, in fact, there was a minority opinion, which was issued by the provincial government lead representative. Correct?

MR. MCLEAN: Yeah, the evidence is in the exhibits.

MR. O'FLAHERTY: Right. And in issuing that opinion, he cited the lack, in his view, of scientific evidence-based grounds proving that this was a necessary and appropriate measure or even would be an effective measure. Correct?

THE COMMISSIONER: Let me try to understand this just a little bit.

MR. MCLEAN: It's my –

THE COMMISSIONER: Just so I can understand this a little bit more, sorry.

So, do I understand that these nine independent science individuals, basically, made a recommendation and then this recommendation then went to your committee, the –

MR. MCLEAN: The Oversight Committee.

THE COMMISSIONER: – the Oversight Committee.

MR. MCLEAN: Yes. So we were – I was a member and Rodd was an alternate member.

THE COMMISSIONER: Right. And the provincial government was a member?

MR. LAING: Correct.

MR. MCLEAN: Yes.

THE COMMISSIONER: It was the provincial government representative on that committee that –

MR. MCLEAN: On the Oversight Committee.

THE COMMISSIONER: – on the Oversight Committee – so he's not the scientist who was reviewing this.

MR. MCLEAN: That's correct.

THE COMMISSIONER: This was a representative from the provincial government on the Oversight Committee.

MR. MCLEAN: That's correct.

THE COMMISSIONER: Okay, gotcha.

MR. MCLEAN: Similar to, like our – we’re not scientist either. Rodd is more of a scientist than I am.

THE COMMISSIONER: But the nine individuals were independent individuals. Correct? They didn’t have an allegiance to government, to any government, to any group –?

MR. LAING: There – well, there’s six scientific experts and three traditional knowledge holders. So –

THE COMMISSIONER: Groups – okay.

MR. LAING: – one representing each Indigenous group and then three scientific experts.

THE COMMISSIONER: Okay, good. Thanks.

MR. O’FLAHERTY: So, I guess the other point that was being made by the provincial government representative was that in the context of the scientific information that was provided, that he felt that the provincial monitoring and testing program results should be given a high degree of consideration.

Do you recall that?

MR. MCLEAN: Like, the monitoring that was happening up ’til now, you mean?

MR. O’FLAHERTY: The monitoring that’s happened from October 2016 right up until, well, today and is ongoing today – the monitoring in Lake Melville, in the river and in the reservoir area itself.

MR. MCLEAN: Yeah. And I would think that the experts considered all of that in making their recommendations to the Oversight Committee.

MR. O’FLAHERTY: Right. So –

MR. LAING: And that was the structure of the committee. And the purpose of the committee is all these data and evidence were to – be presented to those nine experts to discuss, to present these recommendations.

MR. O’FLAHERTY: I’m fully with you on that. I’m just – what I’m saying is that just – as a matter of fact, that was the point that was made by the provincial government representative. Correct?

MR. LAING: I mean, the provincial government representative is representing the provincial government monitoring program, yes, you are correct.

MR. O’FLAHERTY: Okay.

Thank you.

Thank you.

So, I want to turn then – maybe it’s a good time then, just to leave aside the issue of the scientific studies Mr. Simmons brought you to. And he said in the record: There’s a number of scientific studies that were done – commissioned by third party subject matter experts by Nalcor. Correct?

MR. MCLEAN: I haven’t seen them, but if it’s done since the IEAC, since August –

MR. O’FLAHERTY: Mm-hmm.

MR. MCLEAN: – I’m not familiar with any studies.

MR. O’FLAHERTY: So you’re not familiar with – the NG is not familiar with the reports that have been issued by Nalcor that deal with the specific issue of methylmercury?

MR. MCLEAN: Since which time?

MR. LAING: Since the release of the recommendations of the IEAC?

MR. O’FLAHERTY: Right.

MR. LAING: That’s the question?

MR. O’FLAHERTY: Yes, that is the question. Yeah.

MR. LAING: I – as far as I’m aware, the process was not followed, if those studies exist, to present those studies to the IEAC or the memberships of the group of the IEAC as

requested when the IEAC was established. I do not believe that that has happened.

MR. O'FLAHERTY: Perhaps we're talking a little bit at cross-purposes, Mr. Laing. I'm talking about the NG itself. The NG, surely, being concerned about the issue of methylmercury, must know of the existence and contents of these reports. Correct?

MR. LAING: Whether – are you asking whether Nalcor has sent the reports to us?

MR. O'FLAHERTY: No. I'm asking whether or not the NG is aware of the existence and contents of the reports that Mr. Simmons pointed out to you that exist.

MR. LAING: As far as I'm aware, Nalcor has not provided the Nunatsiavut Government with those reports.

MR. O'FLAHERTY: The NG is aware of their existence and contents, is it not, Mr. Laing?

MR. LAING: I am not aware of whether the –

MR. O'FLAHERTY: Are you the individual who is responsible for the methylmercury file for the Nunatsiavut Government?

MR. LAING: There's a lot of us that are working on this file, but there is a – through a relationship with Nalcor and pieces relative to the Independent Expert Advisory Committee, it was agreed that this information, any information that became available would be provided to the Nunatsiavut Government relative to this.

MR. O'FLAHERTY: Okay.

So, until you came here today, were you personally aware of the existence of the six reports referred to by Mr. Simmons?

MR. LAING: The six reports, I am not aware of their existence (inaudible) –

MR. O'FLAHERTY: Any of the six reports?

MR. MCLEAN: He brought up one report that was dated August, 2018.

MR. O'FLAHERTY: Yeah.

MR. MACLEAN: So, there are other reports?

MR. O'FLAHERTY: They're in the record, yeah.

MR. MCLEAN: What are the date of those reports?

MR. O'FLAHERTY: Mr. MacLean, I don't know the date of them. I'm not – I'm just simply trying to find out if – it seems to me that the Nunatsiavut Government is monitoring this issue quite closely. It must have been aware that these reports existed. Or didn't it?

MR. MCLEAN: I wasn't even aware there was further work being done.

MR. O'FLAHERTY: Yeah.

MR. LAING: Yeah, there's – we were not aware that that was happening?

MR. O'FLAHERTY: You were not aware of that, Mr. Laing?

MR. LAING: I – no, and I was not informed by Nalcor that this work was taking place.

MR. O'FLAHERTY: Were you aware that – and again, the Commissioner is not deciding on whose reports are correct, and we don't have the expertise here in this body to do that, but were you not aware that some of those reports have called into question by other subject matter experts the reliability of the report that –

THE COMMISSIONER: It would be hard for these individuals to comment on that if they have never seen the report or they've never been given the report.

My understanding here – and this is starting to cause me a little bit of concern – so my understanding, based on what I heard so far, is there was some sort of an agreement that if there was further work to be done, the work was going to be shared with the Nunatsiavut Government and, I assume, to other participants in the process.

They – sounds to me like that hasn't happened. So how can you ask them to comment on work they haven't seen?

MR. O'FLAHERTY: I don't – I don't know what information flow has gone between Nalcor and –

THE COMMISSIONER: Well, you've been told now that they didn't get these reports.

MR. O'FLAHERTY: Okay.

THE COMMISSIONER: So, if they haven't got the reports, how can they comment on them?

MR. O'FLAHERTY: Well, yeah, but that's fine. Then I guess they can't comment on them. It just seems to me that this is – if such a matter of public concern to the people of Nunatsiavut that – it seems unusual that the government would not be aware of the existence of the reports. They're in the record of this proceeding.

THE COMMISSIONER: Yeah. I think what would be more unusual for me sitting back, looking at this – we have a government, the Nunatsiavut Government. We have the Innu Nation, it is a government.

MR. O'FLAHERTY: Mm-hmm.

THE COMMISSIONER: We have other groups who are part of this process. There was a commitment made, as I understand it, that if there was new work to be done, it would be provided to the government.

So are you suggesting that we'll skip that, and somehow there's another obligation on the Nunatsiavut Government who were trying to run a government that just doesn't manage methylmercury, just like the provincial government, but they're supposed to go out and try to search for it and to try to figure out what's going on with the other people. I would have thought, in a situation like this, there would have been a dialogue, and I'm hopeful Mr. Simmons might be able to help us with regards to what that dialogue was.

MR. SIMMONS: We can certainly gather the evidence necessary to answer the question. The information available to me was certainly for

five of the six reports – I don't know about the sixth – but for five of those six the information available to me is that they were provided to all three Indigenous groups and have been available for some time on the Nalcor website. But we'll verify that for the Commission and get the precise –

THE COMMISSIONER: Right.

MR. SIMMONS: – information about the manner –

THE COMMISSIONER: So –

MR. SIMMONS: – of communication of those.

THE COMMISSIONER: So you've heard what Mr. Simmons has had to say. Have you received –?

MR. LAING: I am not aware.

THE COMMISSIONER: Okay.

MR. O'FLAHERTY: With the greatest respect to Mr. Commissioner, as well, the point I was getting at was the delay – this was a question of why it's taking so long, and one of the issues is that there does appear to be a dispute with respect to the scientific evidence. So that was simply my point. But you're not personally aware of there being a dispute with respect to scientific evidence, are you?

MR. LAING: I believe the Expert Advisory Committee took the evidence that was presented to them and produced recommendations from that, and that was the plan for the establishment of the committee. And the – related to the agreement that came out of that October 26 meeting and other pieces, is that it would work to protect the health and well-being of people in the downstream environment related to methylmercury. And that is my understanding (inaudible) –

MR. O'FLAHERTY: So Mr. Laing, I'm asking –

MR. MCLEAN: We're aware of the dissenting opinions; they're part of the evidence in the IEAC recommendations. So if that's what you're

talking about, we're certainly aware of those dissenting opinions.

MR. O'FLAHERTY: Mm-hmm.

MR. MCLEAN: There was a lot of debate we heard through the IEAC through those eight months that there is – on the methylmercury issue – there's differences in opinion on what the impacts – on what the levels of methylmercury will be into each of the systems and there's differences in the models. And because a lot of the evidence is relied on – is – looks at modelling, the IEAC asked Nalcor to redo their model to include Lake Melville because it was lacking in the initial model. It only included the upstream part and down to the mouth of the river. That's still not been done as far as I know. And we were not aware that there was additional work being commissioned by Nalcor or the province to do more science on the issue. We –

MR. O'FLAHERTY: So gentlemen, I'm not talking –

MR. MCLEAN: And Rodd's confirmed that. I was not aware – Rodd was not aware – that there was additional work being done. So, you know, I would say that certainly Nunatsiavut Government would have looked at those reports if they were aware of them –

MR. O'FLAHERTY: (Inaudible.)

MR. MCLEAN: – and Mr. Simmons is gonna check to see if –

MR. LAING: And I –

MR. MCLEAN: – they were provided and – but to our knowledge they were not provided to us.

MR. LAING: And the ideal situation is those reports go to that Independent Expert Advisory Committee relative to the discussion of methylmercury impacts.

MR. O'FLAHERTY: I understand both of your points, and I just want to focus right in on the topic we were talking about, which is the delay after the recommendations were provided. That's what we're talking about.

We now know that there were reports issued afterwards that the provincial government has to take into account in making its final decision, in its view.

Would you not agree that that is something that the provincial government needs to look at as well – the ongoing scientific work that's being done?

MR. MCLEAN: I would suggest that if there's more scientific work that has been done or is being done, that should be vetted back through the independent experts that were part of the IEAC. It should not be looked at independently, because the terms of reference of the IEAC say you look at the peer-reviewed science and, in addition, you look at any other science that's relevant.

So, I would hope that – I would suggest that the recommendations made by the IEAC were based on that premise, and that – what was done through those eight months. If there's additional science that's been done, I'm not sure why it was done, other than surmising that they didn't like what they were seeing and they needed to find a way to counteract that; that's my opinion, that's not the NG opinion. I would suggest that if there's additional science and reports, that needs to be vetted back through the IEAC.

But I would hope that if that's gonna be done, the IEAC is reconvened, the experts look at any new relevant science, and then decide whether things change or not. And if that's not done, I would suggest – and I would suggest if that's being done, that would require a delay in the timelines that were looking at impoundment.

MR. O'FLAHERTY: So, we'll leave aside, now, the issue of the scientific studies for now, gentlemen.

So, the NG is obviously aware, is it not, that the provincial government has from October 2016 up to date been operating an ongoing methylmercury monitoring program at locations in the river, in the estuary and in the location of the impoundment reservoir, correct?

MR. LAING: Yes, and we've had some discussions with the contractor on that.

MR. O'FLAHERTY: But you're aware that that program is ongoing. It's testing the water and the sediments, correct?

MR. LAING: Yes.

MR. O'FLAHERTY: Okay.

And you're also aware that all the reports of the lab-tested samples are published online by the provincial government?

MR. LAING: Yes.

MR. O'FLAHERTY: And does the NG agree that the monitoring program results are also relevant information to the – for the provincial government to take into account in determining what measures may be appropriate for methylmercury mitigation?

MR. LAING: Yes, but, I mean, recognizing that levels in water that will be observed will be very small because of bioaccumulation – biomagnification is where the concerns lie with methylmercury. So even right at impoundment you're going to have minimal levels.

MR. O'FLAHERTY: This –

MR. MCLEAN: And I can tell you that –

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

MR. MCLEAN: – the experts – we agreed that they could rise the level up to 23 metres.

UNIDENTIFIED MALE SPEAKER: Mm-hmm.

MR. MCLEAN: And the reason we agreed to that is because we're talking about land that's already been flooded through spring freshet and other storm events and that there's minimal impact from – experts say there would be minimal methylmercury impacts because it's previously flooded land.

So I don't think you can transfer that knowledge to say that the same thing's gonna happen when you fully impound the reservoir because you're talking about soils, then, that have not been previously inundated during spring freshet.

And that was the discussion through the experts and IEAC that I understand. So I would hope that they're not modelling based on the results of the flooding up to 23 metres because it's not relevant.

MR. O'FLAHERTY: Okay.

And, Mr. McLean, I wasn't specifically –

MR. MCLEAN: That's why it needs to go back –

MR. O'FLAHERTY: – dealing with how – yeah, I just –

MR. MCLEAN: – that's why this stuff needs to go back to the –

MR. O'FLAHERTY: I understand.

MR. MCLEAN: – to the appropriate (inaudible).

MR. O'FLAHERTY: But I wasn't trying to bring it into what – where this particular information would be fed back into studies. I'm just talking about the existence of a provincial monitoring program for now.

And this program also covers the time period before and after the initial impoundment of the reservoir, correct?

MR. LAING: Yes.

MR. O'FLAHERTY: Okay.

So, when I last reviewed the website – and I'm almost finished now – it showed that there were 1,136 samples taken from 13 sampling locations in the river, in the estuary and in the location of the reservoir. Do you agree with – that that's the approximate number?

MR. LAING: I don't know the exact number. It seems reasonable.

MR. O'FLAHERTY: Okay. And all of these results were then lab tested?

MR. LAING: Yes.

Pointing out, though, that you'll see through many of our interventions about the detection limit at the lab and the Nunatsiavut Government's concern about the detection limit with the lab being used.

MR. O'FLAHERTY: So – but is the NG questioning the accuracy of the lab testing of the monitoring program?

MR. LAING: We're questioning the error involved in terms of these minute amounts. You need very specialized equipment, mostly available at academic institutions and not at private labs, in terms of these.

And this again comes back to that bioaccumulation and biomagnification. Once it gets up into the high-level trophic levels you're looking at, you know, millions of times of magnification based on that water level.

So that's why that is relevant.

MR. O'FLAHERTY: All right. No, that's fine. And the results, though, that have been lab tested do not support, do they, the predicted spike in methylmercury in the reservoir, river and the estuary coincident with the creation of the reservoir, correct?

MR. LAING: Well, there's two points on that. One that Mr. McLean just pointed out is that in good faith we agreed to that water level to increase because those are seasonally flooded areas, recognizing that there would be less of a methylmercury peak relative to that. Secondly, if you look at the results from those test results, the amount of standard error and variance in those samples is you don't have a thousand samples back on the thousands that you gave, due to those errors and variance. When you have a variance that exceeds a certain amount, especially at those minute levels, you do not actually have that many samples.

MR. O'FLAHERTY: And the monitoring program will continue to monitor any changes in methylmercury in the water and the sediment, correct?

MR. LAING: Yes.

MR. O'FLAHERTY: Okay. Thank you.

So finally, one of the unanimous recommendations – and this is where I'll conclude my questions, I appreciate your patience – and that's on the – on one of the recommendations which is around the management of human health. And this ties into the current practices of gathering and harvesting in this, in the Upper Lake Melville area; if we could bring that up on the screen.

So in this particular recommendation, it says: "It is imperative that standard advice is provided to pregnant women and the community at large that it is important and safe to eat country foods, including fish and seal, and to choose those that are high in important nutrients and low in methylmercury such as salmon, brook trout and smelt." Correct?

MR. LAING: Correct.

MR. MCLEAN: (Inaudible.)

MR. O'FLAHERTY: So one of these recommendations – and this one was actually, as I read it, in the opinion that was offered by the provincial government's representative, this was strongly supported by the provincial government – was that it was important to communicate to the people of the region that the current practices relating to eating country food are in fact safe. Do you agree with that?

MR. MCLEAN: Yes.

MR. LAING: Yes, absolutely.

MR. MCLEAN: We agreed to the recommendation.

MR. O'FLAHERTY: Right. And so at the current date – and I'm just going to ask Mr. McLean, but by all means, Mr. Laing, you can help me with this, but you would know more on the ground.

Are the current practices – has there been any appreciable change to the practices that you've observed in Mulligan and in the areas that you are practicing traditional harvesting? Are people still putting out the nets and still doing the things that you talked about?

MR. MCLEAN: Yes.

MR. O'FLAHERTY: Okay. So then the information is good news, that the current practices of eating the country food are safe right now.

MR. MCLEAN: Well, there's different messages I'm hearing out there, being living around the area. There are certainly still concerns –

MR. O'FLAHERTY: Mmm.

MR. MCLEAN: – of people that they feel they should not be eating the fish and the seal, and in some cases, drinking the water, I've heard, so.

MR. O'FLAHERTY: Right.

MR. MCLEAN: You know, so to say that everybody understands that – I don't think that's correct. I think there's still some work that needs to be done to ensure that the right messages are being communicated and that's why we thought that this recommendation is certainly important because there's different thoughts out there on this issue.

MR. LAING: Yeah, and I think what's also important and related to this line of questioning is that water level impacts – saying that there's not impacts on the minute level is not what we're concerned about. We are concerned about bioaccumulation and biomagnification into the ecosystem. So even at those nanogram levels in the water, any change in that matters. But it doesn't matter in the immediate future. People can still drink that water. But it's the public communication around this that is critical. And that is why this recommendation exists, is that there's been a large amount of misinformation that has made its way out publicly, relative to whether you can drink the water or not; whether it's going to be safe relative to consumption. The cultural practices of eating country food are incredibly important on a cultural level and a health level. And that is the purpose for this. This was a unanimous decision at the IEAC –

MR. MCLEAN: Mmm.

MR. LAING: – and strongly supported; which has not been implemented. And it's to address the misinformation related to the Muskrat Falls Project.

MR. O'FLAHERTY: I understand, Mr. Laing.

There's a couple of points in what you've said, though. I just want to follow up and I don't want to, sort of, keep going over and over this material. But, fundamentally, on the scientific part that you'd mentioned about the biomass and how methylmercury accumulates up through the ecosystem. It has to be in the water first for it to enter the food chain, doesn't it?

MR. LAING: Well, if you review the scientific report in the Schartup paper you'll actually see that Lake Melville itself is an efficient system at producing methylmercury. But it's also – it's not just the methylmercury coming from the river, it's the organic carbon coming from the impoundment of the reservoir that is transporting that organic carbon into the system that is already excellent at methylating mercury into the system.

So the problem isn't just mercury. The problem is the organic carbon that's been liberated from the reservoir making its way into the Lake Melville system. You are not going to see that organic carbon peak in the methylmercury levels in the river you are monitoring.

MR. O'FLAHERTY: But do you agree with the proposition – the more simplistic one that I've put to you – that it has to be in the water first before it can enter the good chain?

MR. LAING: The water in general, if you're factoring Lake Melville in, absolutely.

MR. O'FLAHERTY: Okay. Thank you.

So – and secondly, then, this recommendation that we just looked at – which is to let people know that the current practices of eating country food are safe. Correct? That's what it says. Correct?

MR. MCLEAN: That was in April. Yes.

MR. O'FLAHERTY: All right. That does align with the information that is being obtained through the monitoring program, isn't it?

MR. LAING: The monitoring program is looking at sediments and methylmercury levels in water at nanogram levels. It is not looking at

the levels of methylmercury in fish and seals right now.

MR. O'FLAHERTY: Okay. So let's put it another way, then, Mr. Laing.

If the monitoring program showed that there was the predicted spike or increase or rise, whatever word you wish to use, in methylmercury in the sediments and in the water, which was predicted to come from impoundment –

MR. LAING: Hmm.

MR. O'FLAHERTY: – then that would not be consistent with telling people, necessarily, it was safe to eat country food, would it be?

MR. LAING: Again this is – understanding that there's two systems you're talking about here. The reservoir system, immediately upon impoundment there will be a spike in methylmercury. In the river observations you're going to see that spike. In the fish and the seals, you are not going to have to be concerned about that spike immediately. It has to make its way through the ecosystem, through the algae, all the way up. There is going to be a delay of a year or two, and once that hits it's going to be there for decades. And those are two different systems. And there's a separate system related to methylmercury production in Lake Melville.

So most of what the assumptions based on this project are on the impoundment of reservoirs and the known fact that there will be consumption advisories in the reservoir, the realities of the downstream environment is something that generally has not been concerned – considered in the development of hydroelectric projects. This is a unique system and the scientific evidence shows that the production of this organic carbon feeding into this estuary is going to have huge implications, long term, for methylmercury production. Which is different than just the methylmercury spike you're going to see in the river as a result of impoundment into the system; you also have to be concerned about that. But these are two different pieces relative to this.

MR. O'FLAHERTY: I understand.

But am I wrong in saying that the recommendation is to tell people in the Upper Lake Melville region that the eating of country food in accordance with current practices is safe?

MR. LAING: Absolutely it's safe –

MR. O'FLAHERTY: Okay, let's just –

MR. LAING: – and they should continue to consume –

MR. O'FLAHERTY: That's –

MR. LAING: – those foods.

MR. O'FLAHERTY: That's fine. So we have that.

And then secondly you've looked at the numbers, the samples, okay?

MR. LAING: Mm-hmm.

MR. O'FLAHERTY: You've looked at all the monitoring –

MR. LAING: I have.

MR. O'FLAHERTY: – the 1,136.

MR. LAING: Yeah.

MR. O'FLAHERTY: Do you agree that they do not show the predicted spike or rise? For whatever reason, whether there'd be scientific explanations for it, they do not currently show that, do they?

MR. LAING: No, I disagree actually.

I agree that the information provided to us, to agree to the first level of impoundment, that there would not be the methylmercury spike as anticipated would happen. I agree that we do see some of that in the monitoring data; however, I think there's a huge caveat here recognizing that there aren't a thousand samples. There's a thousand samples that have gone to the lab; the amount that meet the variance requirements based on the detection limit of the lab reduces that sample substantially.

MR. O'FLAHERTY: Okay.

So I'll just end by saying, then, Mr. McLean you're expecting to go down to Mulligan soon to look for some ringers.

MR. MCLEAN: As much as I can.

MR. O'FLAHERTY: Okay. Well, good luck.

MR. MCLEAN: Since I've been retired.

MR. O'FLAHERTY: Thank you both for your patience this morning, I appreciate it.

MR. MCLEAN: Thank you.

THE COMMISSIONER: All right.

The Nunatsiavut Government.

MR. GILLETTE: Commissioner, I don't have any questions other than what's already been covered.

Thank you very much.

THE COMMISSIONER: Okay. All right.

Redirect?

MR. COLLINS: I have two points.

THE COMMISSIONER: And I apologize to everyone, I forgot about the break. So I apologize, we will take a break very shortly.

MR. COLLINS: Because there's been a fair bit of discussion about the experts committee and how it deals with – interacts with the Oversight Committee, I'd like to go to P-01701, which is tab 13.

MR. MCLEAN: Tab 15?

MR. COLLINS: Tab 13.

MR. MCLEAN: Thirteen.

MR. COLLINS: And these are the Independent Expert Committee's opinions on the mitigation option. And I'm going to summarize these opinions that there were six scientific experts and three traditional knowledge experts. And of

the six scientific experts: three supported no further mitigation, one supported the capping of wetlands but not the removal of soil and two supported the capping of wetlands and the removal of soil. And of the three traditional knowledge experts, all three supported the capping of wetlands and the removal of soil.

Is that your understanding?

MR. LAING: Yeah, I agree. I think we need to be careful about disassociating traditional knowledge holders as not being scientists or experts in the six scientists because, in my opinion, there's nine experts sitting at those tables. I mean, if you are someone that's lived on the land your entire life and your family's lived there for generations, you are collecting data non-stop the entire time.

So I think – I recognize that that was just for the purpose of identifying things, but I think pressing that out like that does not represent the reality of the knowledge that is held with those knowledge holders.

MR. MCLEAN: And all nine participated in all the meetings, whether it's Western science they were talking about or Indigenous knowledge they were talking about. That's my understanding of how the proceedings went at the IEAC.

MR. LAING: And there were adjustments to models and things made based on the interventions of those knowledge holders. So things were improved on every front by having them there.

MR. COLLINS: I appreciate those points. Thank you.

And I was also going to go to – turn to tab 14, which is P-01702, which is the IEAC report, and at page 7 we have the opinions of the Oversight Committee members and of the other – I was going to summarize that of the voting members the NunatuKavut Community Council, Nunatsiavut Government and the affected municipalities supported removal of soil and capping of wetlands. The Innu Nation supported no further mitigation.

And of the non-voting members, the Government of Newfoundland and Labrador supported no further mitigation, Nalcor Energy supported no further mitigation and the Government of Canada supported a consensus recommendation. Is that your understanding?

MR. LAING: Sorry, what was the Government of Canada's –?

MR. COLLINS: The Government of Canada supported – indicated that they believe that the decision should be made by consensus.

MR. LAING: Yes.

MR. COLLINS: Is that your understanding?

MR. MCLEAN: Yes, I believe that's correct. Yeah.

MR. COLLINS: Thank you very much.

THE COMMISSIONER: So I was going to ask about the issue of the – of any reports that were done after the IEAC report, but I think I've got that clear in my mind and Mr. Simmons is going to assist us with that.

I just want to go back, just quickly, to what knowledge, if any, Nalcor Energy and/or the Government of Newfoundland and Labrador would have had related to your government's position on – on environmental issues prior to sanction. So sanction occurred in December 2012 and – so I know there was a – the Joint Review Panel was in place and there was the Environmental Impact Statement. There was – you know, you could – there were interventions by yourselves, I'm aware of all of that.

Once that report came out, what, if any, notice was provided to or knowledge that the – that Nalcor or the Government of Newfoundland and Labrador might have had with regards to the position of the Nunatsiavut Government once they had responded to the JRP report?

MR. MCLEAN: My recollection is – like, we made 33 interventions to the environmental assessment process, that's to the panel. The panel came out with their report and I believe it's the same for everybody, that you had an opportunity to respond to the report.

And we responded to the report within the required time frame, acknowledging the panel's work and that we talked about specific recommendations on whether we supported them or partially supported them. You know, in – certainly in the record of that environmental assessment, all that's there.

And we gave some rationale on why we supported the recommendations or specific recommendations. So that was – but up to sanctioning, I don't think any of our science work was done prior to that, eh?

MR. LAING: No, most of our science work started in about 2013.

MR. MCLEAN: Yeah, that's what I'd remember.

THE COMMISSIONER: Started when?

MR. LAING: 2013.

THE COMMISSIONER: Thank you.

MR. LAING: It took a bit. We had to secure funding in other pieces, and in the academic world that takes some time.

THE COMMISSIONER: So was that generally known or publicly known that you were continuing on to do scientific work – extra scientific work?

MR. MCLEAN: Certainly Nalcor and the province were aware.

MR. LAING: Yeah and –

MR. MCLEAN: I'm not sure about all the general public, but certainly our beneficiaries were aware.

MR. LAING: Yeah, we –

MR. MCLEAN: Is that –

MR. LAING: We held community sessions regularly in Upper Lake Melville, including Mud Lake and North West River, as well as in Rigolet regarding the work we were doing.

THE COMMISSIONER: So once the science work started in 2013, how long did it take to complete that science work?

MR. LAING: I guess it's a combination of depending on what science work. We still do ongoing monitoring in the work that we're doing. The –

THE COMMISSIONER: I'm just trying to – I'm just trying to – just so you understand, I'm trying to get a feel for what knowledge would have existed on the part of Nalcor, or could have existed on the part of Nalcor and the government with regards to your position, what you were doing, whether you agreed with the approach or disagreed with it. I'm just trying to get a feel for what they would have known.

MR. LAING: Yeah, from the time that the data collection happened to the first publication of the Schartup report, I believe that that would have been at least – probably 16 months or 18 months from the time the data was collected.

But, again, that's to go through the appropriate peer-review mechanisms for all of these studies and such. I think – there are people that have a lot of expertise, but the peer-review process and the rigour related to that is incredibly important for something as critically – especially if you're spending public money to this level.

MR. MCLEAN: Yeah. And I know that was the Schartup report waited for the peer review, but the human health risk assessment –

MR. LAING: Mm-hmm.

MR. MCLEAN: – that we did and the dietary studies, that work – we communicated that to, I believe it was Minister Trimper who was minister of Environment at the time. We communicated that within two weeks of us receiving a draft from the scientists because we thought that was critical to get that information to the province as soon as it was available.

MR. LAING: Mm-hmm.

MR. MCLEAN: So the initial data that came out of that around the human health risk assessment and impacts to human health in – for the people around Lake Melville and Rigolet, we

communicated that within two weeks of receiving it.

Now, I'm trying to think of the exact date of that. I can get that –

THE COMMISSIONER: Just try –

MR. MCLEAN: – for you.

THE COMMISSIONER: Just even approximately when that might have been.

MR. LAING: Which one?

MR. MCLEAN: The human health risk assessment. The data, not the peer review.

MR. LAING: Oh, the data was collected over 2014. So we're talking probably into 2015.

MR. MCLEAN: Probably 2015.

MR. LAING: But I think that's something really important relative to all the work we've done, is we've been trying to be transparent and provide it as soon as possible to the mechanisms that exist within these different structures relative to this, including when we published our scientific report – our full scientific report. We also produced sub-reports for – summaries for policy-makers as well as community members.

THE COMMISSIONER: So are you telling me – and I don't wanna put words in your mouth, but I'm just trying to figure – so from the time of the JRP report and the response by government, are you telling me that you believe that government and Nalcor would have known that you were not satisfied and that you were doing additional work to – on the issue of methylmercury in particular?

MR. MCLEAN: I actually remember meetings myself and Rodd's predecessor, Tom Sheldon, had with Nalcor officials – Gilbert Bennett, mainly, and their environmental people. We talked to them early about the data collection and the work we wanted to do in Lake Melville. That was very early on in that process.

THE COMMISSIONER: Okay.

And then, after that, it was what you've explained in your evidence today related to the 2015 – the Rally in the Valley and, you know, involvement in the –

MR. MCLEAN: Yeah, I think we had press conferences in St. John's, I remember, when the initial human health data came out, I remember. We – you know, we tried to be as transparent as we could on the data. We had some challenges around releasing data before the scientists were ready for it to be released. But, you know, we pushed hard all the time to try to get it out quickly so everybody could see the results of this data collection.

THE COMMISSIONER: Okay.

MR. MCLEAN: And now we continue to do that today.

THE COMMISSIONER: Mr. McLean, do you – are you aware of whether there was any correspondence going back between your leadership to the leadership of the provincial government, for instance with regards to the concerns related to methylmercury in that sanction period and post-sanction?

MR. MCLEAN: Oh, I remember there was a – quite a few pieces of correspondence between our leadership and the various ministers back – I remember even, my minister at the time was Minister Shiwak, meeting with Minister Kennedy. So that puts a little bit of a timeline on the – hearing from Minister Dalley yesterday. He was 2013 so, I think, Minister Kennedy was probably before that, I believe.

THE COMMISSIONER: (Inaudible.)

MR. MCLEAN: We actually met with Minister Kennedy and – I can't remember who the Environment minister at the time was – but also the Environment minister of that government on our concerns around methylmercury, with both minister level and their senior staff, like myself, and their senior staff in the meeting.

THE COMMISSIONER: Okay.

All right. Thank you very much. Those are all the questions I have, thank you.

MR. COLLINS: Commissioner, if I could correct a misstatement. If you go to P-01702, the Innu Nation – a member on the Oversight Committee voted to cap wetlands but not to remove soil.

THE COMMISSIONER: Correct.

MR. MCLEAN: Repeat that please?

MR. COLLINS: I'd like to correct a misstatement. I indicated that the Innu Nation supported no further mitigation, but P-01702, page 16, indicates that the Innu Nation representative on the Oversight Committee supported wetland capping but not soil removal.

MR. MCLEAN: That's correct, yes.

THE COMMISSIONER: All right.

Thank you gentleman for your time. I appreciate it.

We'll adjourn now for 10 minutes and come back. And I assume we'll start with the Innu Nation.

CLERK: All rise.

Recess

CLERK: Please be seated.

THE COMMISSIONER: Okay, I just want to also just reiterate my apology.

I didn't realize it was late – as late this morning as what it was. When I looked at my watch I was actually quite startled. So, I will try to make sure we get our breaks on time.

Mr. Collins.

MR. COLLINS: Our next witnesses are Anastasia Qupee and Clementine Kuyper.

And – okay.

THE COMMISSIONER: Could I ask you to – both to stand, please?

And, Ms. Qupee, do you wish to be sworn or do you wish to affirm?

S. QUPEE: (Inaudible.)

THE COMMISSIONER: Either one is equally acceptable.

MR. COLLINS: Ms. Qupee, I believe you – if you could press the button on your microphone to activate it?

THE COMMISSIONER: It's already done.

MR. COLLINS: They're on now. All is well.

MS. QUPEE: Okay.

THE COMMISSIONER: Do you wish to be sworn or do you wish to affirm?

Either one is equally acceptable. One has a religious connotation; the other one doesn't.

MS. QUPEE: Sworn (inaudible)?

MR. LUK: (Inaudible.)

MS. QUPEE: Sworn.

THE COMMISSIONER: Sworn? Okay.

CLERK: Take the Bible in your right hand, please.

Do you swear that the evidence you shall give to this Inquiry shall be the truth, the whole truth and nothing but the truth, so help you God?

MS. QUPEE: Yes.

CLERK: State your name, please.

MS. QUPEE: Anastasia Qupee.

CLERK: Thank you.

THE COMMISSIONER: Thank you.

And for yourself – you wish to be sworn?

Okay.

MS. KUYPER: Yeah.

CLERK: Do you swear that the evidence you shall give to this Inquiry shall be the truth, the

whole truth and nothing but the truth, so help you God?

MS. KUYPER: Yes.

CLERK: Please state your name.

MS. KUYPER: Clementine Kuyper.

CLERK: Thank you.

THE COMMISSIONER: Okay, and you'll both be seated now, thank you very much.

Just ask you to speak up the best you can; the microphone's in front of you.

Go ahead, Mr. Collins.

MR. COLLINS: Commissioner, before we start, could I ask you to enter Exhibits P-02067 to P-02074, and Exhibit P-02110, and also Exhibits P-02122 and P-02123?

THE COMMISSIONER: Right, those exhibits will be marked as numbered.

MR. COLLINS: And I'll observe that P – Exhibits P-02122 and P-02123 are individual chapters from the Impact Benefits Agreement, which was already entered as Exhibit P-00300.

These two chapters – in preparation for today's evidence, the Innu Nation and Nalcor Energy and Commission counsel agreed to un-redact certain portions that had been redacted in Phase 1. So those – that's the purpose of those two exhibits, and I'd also observe that in Phase 1 we entered a summary of the IBA, which was P-00298, and we – Commission counsel are working to prepare a corresponding set of un-redacted – to withdraw some of the redactions from P-00298 and enter a new exhibit. That has not yet been done but it will be entered later.

So, I will be asking my questions – some of them to one of you and some of them to both of you, but you should both feel free to answer either question as you – any question as you see fit.

So, my first question is for you Ms. Qupee: Where do you live?

MS. QUPEE: I live in Sheshatshiu.

MR. COLLINS: And how long have you lived there?

MS. QUPEE: All my life. Yeah.

MR. COLLINS: And I understand you were the Grand Chief of the Innu Nation and that's the primary reason you're going to be testifying?

MS. QUPEE: Ask me that again, please?

MR. COLLINS: I understand that you were at one point the Grand Chief of the Innu Nation –

MS. QUPEE: Yes.

MR. COLLINS: – and that is one of the reasons – the primary reason you'll be testifying here today?

MS. QUPEE: Mm-hmm.

MR. COLLINS: Could you describe for me the role of the Grand Chief of the Innu Nation?

MS. QUPEE: The role of the Grand Chief is a representative of both communities of Sheshatshiu to Natuashish. We negotiate the Impact Benefits Agreement, self-government and working with both communities at the leadership level with the two chiefs and their councils on common issues in the community and support them at their roles.

MR. COLLINS: And when you say the two chiefs and the two communities – there's a Mushuau Innu Nation and a Sheshatshiu Innu Nation.

MS. QUPEE: Mm-hmm.

MR. COLLINS: And the Innu Nation as a whole comprises both those – includes both those communities.

MS. QUPEE: Yup.

MR. COLLINS: And so the Grand Chief has a – is the role – a sort of high-level political role?

MS. QUPEE: It's a high-level political position, yeah. And the Grand Chief is also the political representative to government.

MR. COLLINS: You mean the Government of Newfoundland and Labrador?

MS. QUPEE: Mm-hmm, yup.

MR. COLLINS: And when did you serve as Grand Chief?

MS. QUPEE: I served as Grand Chief from August 2014 to August 2017.

MR. COLLINS: And so when you started your term as Grand Chief, the land claims agreement in principle and the IBA were already negotiated. Is that correct?

MS. QUPEE: I was part of the negotiations for the IBA, yeah.

MR. COLLINS: You were part of the negotiations?

MS. QUPEE: Yes, yup.

MR. COLLINS: And in what role? How –

MS. QUPEE: When it first started I was the Chief of my community of Sheshatshiu.

MR. COLLINS: Yeah.

So you were the Chief of the Sheshatshiu Innu Nation while that was being negotiated but you were not the Grand Chief at that time.

When you started as Grand Chief –

MS. QUPEE: Chief – yeah, I was the Chief of Sheshatshiu.

MR. COLLINS: Thank you.

And while you were the Grand Chief, what was your role in making the IBA work?

MS. QUPEE: My role was to make sure that the Impact Benefits Agreement that was negotiated was being implemented – to make sure that it was being implemented.

MR. COLLINS: And so would you bring up issues you heard about with people in the Government of Newfoundland and Labrador or Nalcor Energy? Is that your –?

MS. QUPEE: Yeah, if there were issues around any breaches with our IBA, I would make that known to government.

MR. COLLINS: And who would you make that known to in the government?

MS. QUPEE: Well, the IBA was with Nalcor, and I would make it known to Nalcor CEO and some of the executives of the corporation and also to the premier at times.

MR. COLLINS: So you would only be involved in the highest level issues, is that right?

MS. QUPEE: At the high-level issues. But however, there would be times when I would be involved at levels where people from my community or from Natuashish would bring their concerns, if there were concerns around work that was happening at Muskrat Falls.

MR. COLLINS: Thank you very much.

Ms. Kuyper, where do you live?

MS. KUYPER: I live in Sheshatshiu.

MR. COLLINS: And how long have you lived there?

MS. KUYPER: All my life as well.

MR. COLLINS: All your life. And I understand that you work at the Innu Business Centre, is that right?

MS. KUYPER: Yeah.

MR. COLLINS: How long have you worked there?

MS. KUYPER: I've been with the Innu Business Centre for – this will be my 15th year in June.

MR. COLLINS: So since 2014 – 2004, sorry?

MS. KUYPER: Yeah, 2004. Yeah.

MR. COLLINS: And what role did you start in, and what role do you occupy now?

MS. KUYPER: I started as a receptionist back in 2004.

MR. COLLINS: Mm-hmm.

MS. KUYPER: But I went, like, on my way – then I became administrative assistant for almost, probably, 10 years. Then I became a business manager about two years ago.

MR. COLLINS: What, generally, is the purpose of the Innu Business Centre?

MS. KUYPER: We – like, we're – at the centre, we're the ones that get contracts from the IBA companies that we have with.

MR. COLLINS: Mm-hmm.

MS. KUYPER: So we get direct contracts that comes out and we also, like, register companies for the Innu business registry.

MR. COLLINS: So when you started in 2004, the Muskrat Falls Project was a long ways away.

MS. KUYPER: (Inaudible.)

MR. COLLINS: So what IBAs did you deal with then?

MS. KUYPER: I was dealing with – a lot with Voisey's Bay when it started.

MR. COLLINS: So the Voisey's Bay IBA has been in place for a long time?

MS. KUYPER: Yeah.

MR. COLLINS: And is it similar, in general, to the Muskrat Falls IBA?

MS. KUYPER: I find it to be more – like, Voisey's Bay was more – how would I say it – to be more – they (inaudible) so active, like, the – like, for contract-wise? Like, they would look at everyday contracts and – but I found that it was less with Muskrat. And in hiring, too.

MR. COLLINS: So the Voisey's Bay IBA, like the Muskrat Falls IBA, gives Innu businesses

and Innu workers the rights to work on the site, but it doesn't – you don't feel the – it's – they haven't been implemented in a similar way?

MS. KUYPER: Like, I felt – I feel and I've seen it at Muskrat Falls where, like, Innu would get hired but I – and like, I think, that I will get only few job requests. I didn't get all of them. Like, it felt like it was set asides for the hiring, too, for – at the Muskrat Falls. And I feel that there was a lot of name hires going on. Like, I would get direct contact with the Innu workers, and they would let me know what's going on, and I said, how come this person was hired? And, like, I didn't see the job requests that came out for that position.

MR. COLLINS: Before we get onto those issues with the Muskrat Falls IBA, the Voisey's Bay –

MS. KUYPER: Can you repeat that again, please?

MR. COLLINS: Before we address the Muskrat Falls IBA, before we talk about that, can we – while you were implementing the Voisey's Bay IBA, lots of Innu businesses working on the Voisey's Bay site would have had experience with construction projects. Is that accurate?

MS. KUYPER: Can you say – can't really hear you.

MR. COLLINS: Would the Voisey's Bay IBA have given many Innu businesses experience with construction projects?

MS. KUYPER: Was –

MR. COLLINS: Did many Innu businesses get experience with construction projects through the Voisey's Bay IBA?

MS. KUYPER: Yeah.

MR. COLLINS: And many Innu workers, also?

MS. KUYPER: Many workers were hired during Voisey's Bay in the construction phase, yeah.

MR. COLLINS: Okay.

MS. KUYPER: 'Cause I was working in the recruitment also, yeah.

MR. COLLINS: Many Innu workers would have experience with trade labour as operators or as carpenters?

MS. KUYPER: Mm-hmm.

MR. COLLINS: And you also, you had lots of experience with how IBAs are supposed to work?

MS. KUYPER: Yeah. But I always had a person that I work with. She – like, the last person I was working with, Paul Rich, he was an IBA agreement coordinator. So he would always be the person pushing for, like, more Innu to be hired, yeah.

MR. COLLINS: These next questions are for both of you. And I'll start with Ms. – Ms. Kuyper could answer first, if it's possible –

UNIDENTIFIED FEMALE SPEAKER: Mm-hmm.

MR. COLLINS: – and then Ms. Qupee.

So I understand one part of the IBA is that Innu businesses are supposed to get the first bid on some kinds of work, like security or medical work or access road construction. Is that right?

MS. KUYPER: Not – for some of they were the first bids. Like, I found the first bids were air transportation –

MR. COLLINS: Yeah.

MS. KUYPER: – the catering –

MR. COLLINS: Yeah.

MS. KUYPER: – and – the catering, air transportation –

MR. COLLINS: Medical?

MS. KUYPER: No, those – not first bid, 'cause there was other companies were nominated also for that.

MR. COLLINS: Busing?

MS. KUYPER: Busing, that was competitive, too. It was not a first bid. There were four major ones. Fuels, fuels, I believe. And I know there was four – catering –

MR. COLLINS: (Inaudible.) Security?

MS. KUYPER: – transportation – no, that was not a first bid, 'cause I had a couple of nominations for that. Security, air transportation – three, four.

MR. COLLINS: (Inaudible.)

MS. KUYPER: I think there –

MS. QUPEE: Hmm?

MS. KUYPER: – was earthworks –

MR. COLLINS: When you say you had a couple of nominations, do you mean a couple of Innu businesses?

MS. KUYPER: Hmm?

MR. COLLINS: When you say you had a couple of nominations, do you mean a couple of different Innu businesses?

MS. KUYPER: Yeah, for some other contracts, yeah, like, it went competitive. Like, if I say competitive, I nominate more than one company.

MR. COLLINS: Right.

MS. KUYPER: Yeah.

MR. COLLINS: So you're talking about the contracts for which only one Innu business bid –

MS. KUYPER: Mm-hmm.

MR. COLLINS: – and they got the contract. But for other contracts –

MS. KUYPER: Yeah.

MR. COLLINS: So for security or medical, there were more than one Innu business –

MS. KUYPER: Yeah.

MR. COLLINS: – who bid? But there were no non-Innu businesses?

MS. KUYPER: Huh?

MR. COLLINS: But there were no non-Innu businesses who had the opportunity –

MS. KUYPER: No.

MR. COLLINS: – to bid on it.

MS. KUYPER: There were registered businesses.

MR. COLLINS: And, so, it was for certain kinds of contracts that Innu businesses, and only Innu businesses, had the first right to bid.

MS. KUYPER: Mm-hmm.

MR. COLLINS: And for other kinds of contracts anyone could bid, including Innu businesses.

MS. KUYPER: Yeah.

MR. COLLINS: So I'd like to show you P-02110, and that isn't in the binder today. It's an exhibit we planned to enter tomorrow but I've – we've brought it in today.

So, Madam Clerk, if you could bring in P-02110?

UNIDENTIFIED FEMALE SPEAKER: (Inaudible) P-02110.

UNIDENTIFIED FEMALE SPEAKER: (Inaudible.)

UNIDENTIFIED MALE SPEAKER: I don't have it.

MR. COLLINS: You don't have it? It was – I believe I asked to enter it this morning.

CLERK: 02 –

MR. COLLINS: 02 –

CLERK: – 1 –

MR. COLLINS: 02110.

UNIDENTIFIED MALE SPEAKER: Don't have it.

CLERK: I don't have it.

UNIDENTIFIED MALE SPEAKER: Don't have it.

MR. COLLINS: It was set to be entered for tomorrow.

UNIDENTIFIED FEMALE SPEAKER:
(Inaudible.)

UNIDENTIFIED FEMALE SPEAKER:
Mmm.

MR. COLLINS: I'll come back to that if that makes sense.

CLERK: Okay, I'll (inaudible).

MR. COLLINS: Thank you.

So if we go to page 3 of this exhibit.

This is a Nalcor document and it's a list Nalcor prepared of contracts where the – where Innu businesses have the right to a first bid. And it indicates that, for example, for supply of camp accommodations, more than one Innu business submitted a bid and the contract was awarded to an Innu business. For catering, housekeeping, it's the same, more than one Innu business bid and the contract was awarded to another Innu business; ground transportation, security services, supply of temporary on-site communications hardware.

Does this list match your recollection that all these kinds of contracts were given to Innu businesses?

MS. KUYPER: Yeah, those were those major ones that I did up – on the upper – yeah, like camp accommodations; catering; ground transport; security, multiple; on site, yes, multiple. Yeah, yeah, that's correct.

MR. COLLINS: It also lists a number of contracts that in the IBA, the IBA says that the Innu businesses would probably get the first bid, but it – this chart indicates that Innu businesses didn't get the first bid so –

MS. KUYPER: Because after, like, after I did this – the first here.

MR. COLLINS: Yeah.

MS. KUYPER: Like, I didn't get much emails from the Nalcor procurement to – like, any other contracts that were coming up, like, there – they posted it on the website. But it would have been so much easier if they – like, they sent me, like, for general supplies, like, I didn't – I don't recall anything about this.

MR. COLLINS: So after the first set of large contracts were given to Innu businesses –

MS. KUYPER: Mm-hmm.

MR. COLLINS: – you didn't get any more or many more notifications?

MS. KUYPER: Mmm.

MR. COLLINS: Could you just scroll down a little further –

MS. KUYPER: Occasionally –

MR. COLLINS: – Madam Clerk?

MS. KUYPER: – but not as often as it should have been.

MR. COLLINS: It certainly indicates a number of classes – office supplies, safety supplies, janitorial supplies – where the contracts didn't go to the Innu Business Centre but there are also a few more – access road construction, brush clearing, waste management – that did go to the Innu Business Centre. Does that seem right?

MS. KUYPER: Yeah.

Like, waste management, I remember, came to my office. I sent a couple of – for the brush cutting (inaudible) campsite, I did get that too. Access – and access road construction, I did get it. But I don't remember anything about, like, janitorial supplies and office supplies and safety supplies and the general supplies. I didn't get that.

MR. COLLINS: So this chart seems accurate to you? You remember the one that says – that you

got – but then you don't remember the ones it says you didn't get.

MS. KUYPER: I didn't get?

MR. COLLINS: This chart says you did get, for example, access road construction, but you didn't get janitorial supplies and that's – that seems right to you?

MS. KUYPER: Yeah, where it says, no, because I didn't get those.

MR. COLLINS: Yes.

MS. KUYPER: Mmm.

MR. COLLINS: So another part of the IBA is that Innu workers were – qualified Innu workers were supposed to be the first ones hired and the last ones fired. Is that your understanding?

MS. KUYPER: Yeah.

MR. COLLINS: And how did that work – from the point of view of the Innu Business Centre, how did you give Innu work – qualified Innu workers their –

MS. KUYPER: Oh, like, usually, like, Roy Byrne is the Innu employment coordinator for Nalcor.

MR. COLLINS: Yes.

MS. KUYPER: And I felt sometimes, like, he didn't directly gave me the same-day job requests that came out. Like, usually he would give me a day or the second day late, and sometimes I would miss out the opportunities for the Innu.

And also, like, how I know that I was late, the unions contacted me if I had anybody else to send some names before lunch. Like, I didn't know there was – this job was coming out until the unions, like, called me up, emailed me.

MR. COLLINS: So Nalcor was supposed to send you a list of all the jobs that were available –

MS. KUYPER: Mm-hmm.

MR. COLLINS: – and you were supposed to have a certain number of days to respond.

MS. KUYPER: Yeah.

MR. COLLINS: Was it three days? Is that right?

MS. KUYPER: Three days, yeah. And also I always, like, email them invite, like, when you guys get those job requests from the companies, why don't you guys cc me as well on the same day? But they haven't.

MR. COLLINS: So the companies wouldn't send them directly to you.

MS. KUYPER: Mm-hmm.

MR. COLLINS: They would send them to Nalcor and Nalcor would send them to their Innu business liaison who would send them to you.

MS. KUYPER: Yeah.

MR. COLLINS: Is that right?

MS. KUYPER: But I made, like, direct contacts with the companies myself. Like, what I was doing – what I do and where I work so they replied and they gave me some answers that I needed.

MR. COLLINS: Do you think you could have found more Innu workers work if you'd received them –

MS. KUYPER: Yes.

MR. COLLINS: – faster?

MS. KUYPER: I truly believe that because we missed out a lot of jobs, opportunities for the Innu because how, like – like, I know because I started working recruitment back in 2005 when Voisey's Bay started so I know the people, what trades they have. So I got that in my database at my work. So I don't know why they never included me on their job requests that they get on the same day. Like, I made –

MS. QUPEE: Could I ask a question? Could I ask what your question was? I want to hear what that question was last.

MR. COLLINS: Would more Innu workers have had work if Nalcor had sent – if Nalcor had sent job postings to the Innu Business Centre faster? So –

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

UNIDENTIFIED FEMALE SPEAKER:
(Inaudible.)

MS. QUPEE: No –

MR. COLLINS: So if –

MS. QUPEE: – I thought I heard you say, like, the Innu were the first to be hired and the last to be fired. Is that what I heard?

MR. COLLINS: I believe that's how the IBA – what the IBA is supposed to say.

MS. QUPEE: Be laid off?

MR. COLLINS: Is that your understanding?

MS. QUPEE: To be laid off – the last to be laid off –

MR. COLLINS: Last to be off.

MS. QUPEE: – not fired. Yeah.

MR. COLLINS: Yeah. Sorry.

MS. QUPEE: Okay.

MR. COLLINS: It's a fine point.

So, if we could go to Exhibit P-02110 again?

UNIDENTIFIED FEMALE SPEAKER:
(Inaudible.)

MR. COLLINS: If we could go to page 42.

So, this is another chart from the same Nalcor document. And this – on the top of the page we have a graph showing how many Innu workers were working on site in 2013. And it indicates –

if you could scroll down one click, Madam Clerk – it indicates that in 2013, at the beginning of the year, there were 16 Innu workers working on site. And that number increased throughout the year up to 108 workers, then falling off before Christmas.

Does that seem correct to you, Ms. Kuyper or Ms. Qupee?

MS. KUYPER: Like, January 13 – that was the start off, wasn't it?

MR. COLLINS: That's right, so there were very few – only 15 – only 16 workers on site then.

MS. KUYPER: Yeah, 'cause it was increasing gradually –

MR. COLLINS: And it increased up –

MS. KUYPER: – in the next few months, yeah.

MR. COLLINS: – increased all the way to October and then fell off again.

MS. KUYPER: Yeah.

MR. COLLINS: And if we go down a little farther on the same page, there's a similar chart for 2014 that shows in 2014, we started off with 80 Innu workers on site, rising up to 205 in July and August during the – in the middle of the summer, and then falling off to 156 at the end of the year?

And that seems – does that seem right to you?

MS. KUYPER: Like, is it for all the contractors on site?

MR. COLLINS: I believe so, yes.

MS. KUYPER: Yeah, I think that's accurate, yeah.

MR. COLLINS: And then if we go on the top of the next page, the top of page 43, we have a similar chart from 2015, which shows the number of Innu workers increasing from 120 in January up to 213 in August.

That – does that seem right also?

MS. KUYPER: Yeah.

MR. COLLINS: So, a significant number of Innu workers found work on the site, but you believe that if Nalcor had sent job postings to you earlier, even more Innu workers could have – were qualified and could have worked on site.

MS. KUYPER: Yeah, I found that there was a lot of missed opportunities for the Innu when that happened. 'Cause when I tried to submit names, I was already late at times.

MR. COLLINS: Yeah.

MS. KUYPER: Yeah.

MR. COLLINS: So, you'd submit a name but the time –

MS. KUYPER: Yeah.

MR. COLLINS: – would be up.

MS. KUYPER: They already dispatched that person when –

MR. COLLINS: Okay.

MS. KUYPER: – they get – 'cause interview so much better if they gave me the same-day job referrals to us – the Innu employment for the Nalcor worker.

MR. COLLINS: Did contractors ever ask for too much experience for Innu workers to get jobs?

MS. KUYPER: Yes, I found, like, we were – it was getting to a point that the contractors were asking for, like, higher experience. Like, there was one contractor was asking five years' experience in cleaning. You don't need experience for cleaning. And also for, like, cement trucks you need 10 years.

Like, we had a training at CONA College there a couple of years ago for a construction craft worker, and we had tractor-trailer training also in Badger, in Newfoundland, that time and when I submitted their names for the job – because of all those trades that they went, none of them got hired because no experience. They went for schooling; there was nothing.

MR. COLLINS: So, Nalcor committed to offer some training to help people –

MS. KUYPER: Mm-hmm.

MR. COLLINS: – get jobs on site. But then when the jobs came up, too much experience was required for the people –

MS. KUYPER: Yeah.

MR. COLLINS: – who had been trained.

MS. KUYPER: Too much experience. And when they wanted to hire there was no experience. So...

MR. COLLINS: And do you think the Innu Business Centre was informed of all the jobs that were available?

MS. KUYPER: Can you repeat that again please?

MR. COLLINS: Do you think the Innu Business Centre was informed of all the jobs that were available? Or was sometimes –

MS. KUYPER: Do you think Innu Business was informed – all of the jobs we requested?

MR. COLLINS: Did Nalcor send all the jobs to the Innu Business Centre?

MS. KUYPER: I don't think they sent me all of them.

MR. COLLINS: No?

MS. KUYPER: 'Cause the – I just had one there a couple of weeks ago of all the job requests from one company. The list was an Excel sheet. That's the first time I ever seen that – of all the job requests. But it wasn't filled by all Innu – it was – yeah.

MR. COLLINS: You hadn't received those jobs?

MS. KUYPER: No.

Usually – the only person (inaudible) was Bob White. He works for Nalcor in Goose Bay sometimes.

MR. COLLINS: This is about getting – these questions have been about getting jobs in the first place. What about promotions? Were Innu workers given promotions fairly?

MS. KUYPER: Promotions? I don't – promotions ...

MR. COLLINS: Foreman positions, for example. Were many Innu workers made into – offered foreman positions?

MS. KUYPER: I know what you mean but I'm just thinking.

I don't remember but I think there was a few. I can't recall the –

MR. COLLINS: When a worker from St. John's was hired to work on Muskrat Falls they'd get – they'd be flown to Muskrat Falls and then they'd get a bus to the work camp, generally, and they'd stay in the work camp while – for their whole rotation.

MS. KUYPER: What?

MR. COLLINS: So, when a worker from St. John's worked at Muskrat Falls –

MS. KUYPER: Yeah.

MR. COLLINS: – they'd get – they'd – the project would pay for a flight to Goose Bay –

MS. KUYPER: Mm-hmm.

MR. COLLINS: – and then a bus to the work site –

MS. KUYPER: Yeah.

MR. COLLINS: – and then the worker would stay at the accommodations and those are all costs for the project.

When an Innu worker was hired at the work site, were they given a place to stay?

MS. KUYPER: No, they were not given the opportunity to stay at the camp. The only company that put their workers at the camp was Labrador Catering but there were other Innu that

was interested in staying but there was no place for them.

MR. COLLINS: So how would an Innu worker get to the site in time to start their shift in the morning?

MS. KUYPER: Usually, I know 'cause – usually (inaudible) if they have a day shift, a lot of people that I know – they wakes up around 3:30, get ready, make their lunches and they go on the bus at – there's three bus stops in Sheshatshiu: one by the bus stop, one by the school.

So, the first bus that gets on is quarter to 5. Between 4:40 and 4:45 he's at North West River and between 4:45 to 4:55 he's at the school in Sheshatshiu. So at 5:10 he leaves on the main bus, like, on the highway when you leave Sheshatshiu. So they goes – usually when it started they would go – make rounds, too, in Goose Bay after the run from Sheshatshiu. They would make three runs, so that's almost, like, an hour and a half on the bus to get to the campsite.

But about two – three years ago the Innu workers were making complaint because it was too long for them to go in around picking up other workers. So there was a complaint made from the Innu workers and Anastasia was the grand chief at that time, so we recommended that they get a direct bus going from Sheshatshiu to Muskrat and that has happened.

MR. COLLINS: And with the direct bus how long does it take to get from Sheshatshiu to Muskrat?

MS. KUYPER: Okay, from – they leave 5:10 from Sheshatshiu. I think they get to Muskrat Falls at 6:30, like an hour and 10, 15 minutes.

MR. COLLINS: What about Innu workers from Natuashish?

MS. KUYPER: Most of them, they stay at the camp there. Yeah.

MR. COLLINS: So it's primarily Innu workers from Sheshatshiu who take the bus.

MS. KUYPER: What?

MR. COLLINS: It's primarily workers from Sheshatshiu –

MS. KUYPER: Yeah.

MR. COLLINS: – who take the bus.

And what happens if, say, an Innu worker needs a babysitter and the babysitter doesn't make it by 4:30 in the morning?

MS. KUYPER: Usually, I know there was – usually they call in to the line, to the work line. And, at times, they couldn't get through the work line because the voicemail was always busy. And sometimes that's when the contractors would say there was absenteeism and that going on. Like, the voicemail was always full because I know; I've called a couple of times for people too, as well, so I know.

MR. COLLINS: You got complaints about absenteeism often.

MS. KUYPER: Yeah.

MR. COLLINS: Do you think there would have been fewer complaints about absenteeism if Innu workers had been able to stay on – at the camp?

MS. KUYPER: I think so because a lot of them wanted to stay at a camp and they couldn't. Like, the contractors said, no, it's only for people that from outside.

MR. COLLINS: Commissioner, I note it's 12:30. I don't know if this is a good time to take a break.

THE COMMISSIONER: (Inaudible) so we'll take our break now until 2 o'clock.

CLERK: All rise.

Recess

CLERK: This Commission of Inquiry is now in session.

Please be seated.

THE COMMISSIONER: All right, good afternoon.

Mr. Collins, when you're ready.

MR. COLLINS: Thank you, Commissioner.

Ms. Kuyper, and Ms. Qupee also, did you get many complaints from Innu workers about racism on site?

UNIDENTIFIED FEMALE SPEAKER: (Innu-aimun spoken.)

UNIDENTIFIED FEMALE SPEAKER: Mm-hmm.

UNIDENTIFIED FEMALE SPEAKER: (Innu-aimun spoken.)

MS. KUYPER: I found that, like, when Astaldi first got on site and they hired Innu workers, I found that, like, after first few days, that's when the complaints started –

MR. COLLINS: Yeah.

MS. KUYPER: – with Innu workers.

MR. COLLINS: Right away.

MS. KUYPER: Right away, yeah.

MR. COLLINS: And were these complaints to you or complaints from Innu workers?

UNIDENTIFIED FEMALE SPEAKER: (Innu-aimun spoken.)

MS. KUYPER: There were complaints from Innu workers on site. And they were calling me.

MR. COLLINS: Can you give me – do you have any examples of those complaints?

MS. KUYPER: When was those complaints? Okay. I don't have complaints at work, in my files here –

MR. COLLINS: Of course.

MS. KUYPER: – so I can't recall every complaint.

UNIDENTIFIED FEMALE SPEAKER: (Innu-aimun spoken.)

MS. QUPEE: There was complaints about workers being overlooked for positions within – on site. There was complaints that workers from outside were making racial remarks to Innu employees and – and workers then would come forward to Clem. And then Clem would advise me of some of the things that were being said to the Innu workers.

MR. COLLINS: These kinds of complaints – when Innu workers are experiencing those kinds of conditions, would that make it harder for them to work effectively on the site?

MS. QUPEE: Very much so, because it affected them mentally and emotionally. Nobody feels good to have somebody make racial remarks at you and at the end of the day, go home with that. And I applaud people that, from that site, that came forward. And we went forward with those concerns to Nalcor. And it was unacceptable.

MR. COLLINS: And when you brought those concerns to Nalcor, what kind of response did you get from Nalcor?

MS. QUPEE: The response was that we will look into it. We would have the – they said that they would send the liaison workers, which were Innu, to look into it. And there was another person in HR, who – I can't recall his name – but he was the one that was working with the liaison workers. And – but we made sure that at the end of the day, that we got information back from Nalcor to see what they had done with those complaints.

MR. COLLINS: Did things – did that improve over time?

MS. QUPEE: It improved because we were at the table, addressing those issues. We didn't let them slide; we took those issues very seriously.

MR. COLLINS: So complaints started early on but over the course of the project, things got better.

UNIDENTIFIED FEMALE SPEAKER:
(Innu-aimun spoken.)

MS. QUPEE: I think that in the early years, we – from communication with the Innu Business staff – within the first early years of the project

when Astaldi was the contractor. And after, they'd changed the – Don –

MS. KUYPER: Project manager.

MR. COLLINS: Delarosbil?

MS. QUPEE: – the project manager, yeah, was changed and we started to see improvements after that. Whereas before then, we fought very hard to make sure that there was changes being made.

MR. COLLINS: Don Delarosbil had experience in Labrador.

MS. QUPEE: Don, yeah, had come from Voisey's Bay with the – he was with Kiewit at that time. And so, he had experience working on the project and that Innu people knew him too. And so we had meetings with him and addressed those concerns and he followed up right away.

MR. COLLINS: One consequence of your earlier racism problem is that it would affect Innu workers' ability to do their jobs. But another consequence is that it could affect the community support for the project.

Is that fair?

MS. QUPEE: Yeah. I made that known to the contractor – that the project would affect everybody from our community, even from Natuashish, that would come here looking for work if the issues around racism weren't addressed. And that there would be – that there's consequences to it.

MR. COLLINS: So I'd like to turn to Exhibit P-02067, which is tab 1.

This is a CBC News story about an instance where Innu protestors block the gates to the Muskrat Falls site. After – it says in the third paragraph on the bottom of the page: “after ... an Innu worker at Nalcor's Muskrat” – site – “was kicked in the head by a worker employed by an outside contractor.”

Do you remember that, Ms. Qupee? Those protests?

MS. QUPEE: I remember that protest when I received a call saying that there was a racist remark made to this young man and that he got kicked in the head.

MR. COLLINS: How did you respond to that report?

MS. QUPEE: How I responded is by calling Ed Martin right away.

MR. COLLINS: Mm-hmm.

MS. QUPEE: And that – I told them that this required his persons to come to Labrador. By that time, we had the elders go up and protest and saying that this is not what they signed up for, to have an Innu young man be kicked in the head and have somebody make a racist remark to him. And so I contacted Ed Martin, like I said, and he flew down and he went to the gate to meet with the elders, and we had a meeting. And the young person – the young man at that time was present at the meeting and so were a few other people, and Mr. Martin apologized to the young man.

MR. COLLINS: Did he and you accept his – Mr. Martin’s apology?

MS. QUPEE: Yes, we did, yeah.

MR. COLLINS: And after that the protestors went home?

MS. QUPEE: Yeah.

MR. COLLINS: Can we go next to Exhibit P-02068, which is tab 2? It’s tab 3, I apologize – 02069, which is tab 3, I apologize. So this is another – Madam Clerk, could we go to 02069? I apologize, I misled you.

So this is another CBC story about a protest the following summer outside the Muskrat Falls camp. And if we go to page 3, we’ll see that the protesters were also protesting outside the Innu Nation headquarters. And, on page 4, in the middle of the page – scroll down a little, Madam Clerk – you’ll see “Protesters have been calling on Grand Chief Anastasia Qupee to step down”

Do you remember this protest, Ms. Qupee?

MS. QUPEE: Mmm.

MR. COLLINS: The CBC report indicates that this protest was connected with environmental concerns.

MS. QUPEE: This – at that time I believe that there were different reasons why people were protesting. One was – I vaguely remember one was a HR issue within our office at that time. And environmental ones – I remember going on the radio and talking to people in the community that their environmental concerns were going to be addressed through, going forward, meeting with the province and Nalcor.

Yeah, that’s what I remember.

MR. COLLINS: This protest had several causes, and environmental concerns were one of them.

MS. QUPEE: Mm-hmm.

MR. COLLINS: This was after the Nunatsiavut Government had launched its Make Muskrat Right campaign. So some Innu people may have had some concerns about that.

I’d like at this point to turn to tab 5. This is a letter, which is P-02071, Madam Clerk.

MS. QUPEE: Excuse me, this binder here, could we –

MR. COLLINS: Yes (inaudible) –

MS. QUPEE: – look at it? ’Cause I’m not –

MR. COLLINS: That binder. If you go to tab –

MS. QUPEE: I wasn’t sure because we didn’t get an explanation what that was about.

MR. COLLINS: I apologize.

If you go to tab 5 in this binder, you’ll see the document I’m going to point to.

This is a letter you sent to the Government of Newfoundland and Labrador, to Perry Trimper, in the summer of 2016.

MS. KUYPER: Tab 5.

MS. QUPEE: Five.

Okay.

MR. COLLINS: You're writing about – in the first paragraph it says: "... the obligations that Canada and the Province have to conclude an Environmental Management Agreement with the Innu Nation."

And in the third paragraph, if you scroll down a little, thank you, you say: "We see this as a logical structure for discussing and addressing concerns about methylmercury in Lake Melville and its accumulation in species that the Innu Nation rely on. Innu Nation is directly impacted by the environmental and human health impacts that this Project will have"

And if you go – turn to the next page, at the top of that page, it says: "Up until October 2013, we negotiated with Canada and the Province in good faith, arriving at an almost final version of the Environmental Management Agreement ... but the Province and Canada would not agree to fund the implementation of the Environmental Management Agreement."

Was your idea that an environmental management agreement with the Innu Nation would've been a better way to deal with methylmercury concerns than protests and the – what happened as things played out?

MS. QUPEE: Okay, can you ask me that question again, please?

MR. COLLINS: Of course.

Would an environmental management agreement between the Innu Nation and the Government of Newfoundland and Labrador and Canada have been a better way to deal with methylmercury concerns than protests and the controversy that actually happened?

MS. QUPEE: I feel if that was in place before any of the protests happened, that would've probably alleviated a lot of the concerns around methylmercury.

MR. COLLINS: Thank you.

So I'd like to turn next to Exhibit 01688, which, I think, should be tab 12 in your binder.

MS. QUPEE: Oh.

MR. COLLINS: I don't think anyone else has it at the moment. This is a – an exhibit that was entered this morning – that was used this morning. And – 01688, thank you.

So this is a CBC News story about the fall 2016 protests, where workers blockaded the gate of the Muskrat Falls site and eventually broke the gate and occupied the site. In the first paragraph it says: "Busloads of workers are being sent home after protestors occupied the Muskrat Falls hydroelectric project work site"

Do you remember these protests, Ms. Qupee?

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

MS. QUPEE: Do I remember these protests?

MR. COLLINS: These protests were just before the big meeting you had.

MS. QUPEE: No, we didn't have anything to do –

MR. COLLINS: You had nothing –

MS. QUPEE: – (inaudible) the Innu Nation.

MR. COLLINS: So these protests had no – the Innu Nation had no role in these protests at all?

MS. QUPEE: No.

MR. COLLINS: We've heard – we heard yesterday Todd Russell from NunatuKavut Community Council. And Todd Russell said that NunatuKavut was helping to organize protests and sending staff, sending food.

The Innu Nation wasn't doing anything of the kind. You weren't supporting the protests.

MS. QUPEE: No, the Innu Nation didn't sanction.

MR. COLLINS: Now, if we turn next to P-02072. This is – this should be tab 6 in your binder.

MS. QUPEE: Okay.

MR. COLLINS: This is a news report of large – the press conference after a 12-hour meeting you had at the Confederation Building with Dwight Ball and also representatives from the other Indigenous governments. Do you remember that meeting?

MS. QUPEE: This meeting? Yeah.

MR. COLLINS: And the agreement you made at this meeting, that ended the protests and let the protestors go home? Do you remember that?

MS. QUPEE: Yeah, I remember that.

MR. COLLINS: Now, in general, do you feel the province has kept the promises it made to you during that meeting?

MS. QUPEE: Well, we came to an agreement at this meeting around the issue of methylmercury and setting up IEAC committee. And that's what I remember.

MR. COLLINS: So you left – you stepped down as grand chief in 2017, August –

MS. QUPEE: My term was up.

MR. COLLINS: Your term ended.

MS. QUPEE: Yeah.

MR. COLLINS: And after your term ended, you weren't involved in the subsequent IEAC reports or the recommendations?

MS. QUPEE: No, I was not involved after my term ended with the Innu Nation. I had no involvement after that.

MR. COLLINS: But the Commissioner can take the Innu Nation's position from the written exhibits and not from your testimony. So thank you very much.

MS. QUPEE: Mm-hmm.

MR. COLLINS: In general – and this is question for both of you – do you feel that Nalcor and the Newfoundland and Labrador Government have fairly implemented the IBA?

MS. QUPEE: In looking at both the previous IBA that we had with Voisey's Bay, it was – it seemed like that the work done with the Voisey's Bay was clear. It was clear and implementation – we didn't – I didn't see, like, really big issues as to what we have with this IBA.

I find that this IBA we always had to, like, keep it close to us because there are things happening. And that's why we really had to, like, keep the IBA close because we wanted to make sure that things were implemented and things were followed up on whatever the challenge of the day was.

MR. COLLINS: Ms. Kuyper, is that your impression too?

MS. KUYPER: Yeah.

MR. COLLINS: Thank you. Those are my questions.

THE COMMISSIONER: All right, Province of Newfoundland and Labrador.

MR. RALPH: No questions, Commissioner.

THE COMMISSIONER: Nalcor Energy.

MR. SIMMONS: No questions.

Thank you, Commissioner.

THE COMMISSIONER: Concerned Citizens Coalition.

MR. BUDDEN: No questions, thank you.

THE COMMISSIONER: Edmund Martin.

MR. CONSTANTINE: No questions, Commissioner.

THE COMMISSIONER: Kathy Dunderdale.

MR. HEWITT: No questions, Commissioner.

THE COMMISSIONER: Former Provincial Government Officials I don't believe are here.

Julia Mullaley, Charles Bown aren't here.

Robert Thompson's not here.

All right, Consumer Advocate.

MR. HOGAN: No questions, Commissioner.

THE COMMISSIONER: Innu Nation.

Oh wait now. I'm going to – just can I do you last? I'm sorry; I made a mistake here now.

The Grand Riverkeeper/Labrador Land Protectors.

MS. URQUHART: Good afternoon, Ms. Qupee and Ms. Kuyper.

So I'm Caitlin Urquhart and I'm representing the Grand Riverkeeper and Labrador Land Protectors and I just have one – I'm just trying to understand a bit, obviously, some elements of the IBA – we've had an ability to see more about that but I'm wondering if you can advise a little bit more on how the different companies or what the requirements are for Innu companies in terms of, like, Innu membership, like how many Innu folks have to be on the board or whatnot in order for it to be considered?

Do you know how that – the rules around that?

MR. LUK: I'm sorry to interrupt my friend, Ms. Urquhart. This is – I'm Senwung Luk, counsel for Innu Nation. I believe that those specifics provisions are still redacted in the updated redacted version of the IBA, so ...

MS. URQUHART: Okay, sorry, no – and I just had – we had a question just in terms of trying to understand how the – it's ensured that folks are – that the companies that are getting it are Innu members but obviously there's – that's subject to redaction, sorry.

I hadn't – I was trying to – it's hard to know what we do and don't know and what's missing out of the pieces, so I was just trying to piece it together and that was a question we have. If that's outside of the scope then I can retract that.

THE COMMISSIONER: Okay. That's understandable; no issue. Any other questions?

MS. URQUHART: No, that was all.

Thank you.

THE COMMISSIONER: Okay.

Thank you, Ms. Urquhart.

The Nunatsiavut Government?

MR. GILLETTE: No questions, thank you.

THE COMMISSIONER: NunatuKavut?

MR. RYAN: No questions, thank you.

THE COMMISSIONER: Thank you.

Former Nalcor Board Members?

MS. MORRIS: No questions, thank you.

THE COMMISSIONER: Dwight Ball, Siobhan Coady?

MR. O'FLAHERTY: No questions.

THE COMMISSIONER: All right.

The Innu Nation.

UNIDENTIFIED SPEAKER: (Inaudible.)

MS. WENTE: Good afternoon, Commissioner. Good afternoon, Ms. Kuyper and Ms. Qupee. My name is Maggie Wente, W-E-N-T-E. I'm a lawyer for Innu Nation and I am of course familiar with the witnesses.

I might be able to do a little bit of general work to address Ms. Urquhart's question that doesn't get into the weeds of the redacted part.

I don't have too many questions. I just had a couple of questions starting from your testimony. Ms. Kuyper, you said early on in your testimony that the Innu Business Centre – you said they got all of the contracts. So can we just walk through in a really general way what the process was and what the Innu Business Centre's role was in the contracting process?

So, how does it start?

MS. KUYPER: Like, from the – how it started in the first, when it started –

MS. WENTE: Sure –

MS. KUYPER: – back in (inaudible)?

MS. WENTE: – yeah, how it starts at the beginning.

MS. KUYPER: Back in 2002 you mean? Or just contract ...

MS. WENTE: Just with the Nalcor contracts.

MS. KUYPER: Okay.

Like, when people are looking for joint ventures, they're looking for an Innu partner, they come to our office, look for partnership. Then we give them application form – partnership form. And they got – we need a certificate of incorporation; in St. John's they've got to register.

So if you meet all the requirements, then they get them registered in their business registry. But if it's for, like, say, those huge contracts – those big contracts like air transportation, we – those contracts are given out to IDLP, Innu Development Limited Partnerships, because they form their own entity and they represent two communities, Natuashish and Sheshatshiu.

MS. WENTE: How much was the Business Centre involved in the negotiations between, say, IDLP and their joint venture partner, or their Innu partner and their joint venture partner?

MS. KUYPER: We don't have no involvement in the negotiations.

MS. WENTE: And then what would happen after that, when Nalcor would let out the contracts?

MS. KUYPER: Like, one of those priority contracts, say, for instance, like, they sent me the scope of work to me. And if it's – if I find if it's a huge contract, I usually send in one nomination for nominating one company – like, just for example, airlines.

MS. WENTE: Mm-hmm.

MS. KUYPER: I just nominate Provincial Airlines, 'cause where it's such a huge contract.

MS. WENTE: And then when Nalcor is making the deal on these huge contracts with the Innu businesses, was Innu Nation or IBDC involved?

MS. KUYPER: No, not involved in those negotiations at all.

MS. WENTE: Would you –

MS. KUYPER: I would just –

MS. WENTE: – at the end of the day know what the deal was?

MS. KUYPER: No.

Like, after their negotiations, then they let us know if the contract is awarded.

MS. WENTE: Thank you.

Now, Mr. Collins took you through the day of a worker from Sheshatshiu and what time that day started. And I would just ask – like to ask you a little bit about how that day ends for a worker living in Sheshatshiu.

MS. KUYPER: (Inaudible.)

MS. WENTE: What time – how – what time do they get home is really what I'm asking.

MS. KUYPER: Oh.

They get home – like they leave – they get ready probably 3:30 in the morning –

MS. WENTE: Mm-hmm.

MS. KUYPER: – trying to get their lunch ready and they gets on the bus between quarter to five and 5:10. They got three stops in Sheshatshiu. That was the first three years for that and they had to make three stops in Goose Bay also. So they leaves 5:10 from Sheshatshiu; I think they would probably arrive in Muskrat site at around 6:30, 20 minutes to seven –

MS. WENTE: And then what about on the way home?

MS. KUYPER: On the way home, they – like, the nightshift workers – they get home 7 o'clock in the morning.

MS. WENTE: Okay, but at the end of – for the day workers, what time did they get home at night?

MS. KUYPER: Like 7 a.m. and 7 p.m.

MS. WENTE: Okay.

MS. KUYPER: Yeah.

MS. WENTE: So, if you were on nights you'd come home at seven in the morning?

MS. KUYPER: Yeah 'cause they finished at 5.

MS. WENTE: And if you were on days you'd get home at 7 p.m.

MS. KUYPER: Yup.

MS. WENTE: Okay. Thanks.

And can we talk a little bit about how – a little bit more about the process for referring employees to Nalcor? You touched on it – you talked about it a little bit earlier, but can you talk about what kind of information you had about employees?

MS. KUYPER: Like, I got all – a lot of information about employees when they did their training and got their safety certificates. We're like – we update their résumés also. So whenever they get laid off they call us and give us the names, the dates and what they did on their last day of work and then we update their résumés. And (inaudible) –

MS. WENTE: When you had that on file and when you got a job posting, what would you do?

MS. KUYPER: Job posting – job referrals, or – ?

MS. WENTE: Sure, a job referral – that's what I mean –

MS. KUYPER: Yeah, okay.

MS. WENTE: – thank you for correcting me.

MS. KUYPER: Usually, like, this – I get it sometimes the same day when Roy – when he – the guy from – the Innu employment coordinator calls me, or sometimes I get it the day after or the second day. And sometimes, like, the union calls me – say can you look for this person? We need it as soon as possible, but I don't – I don't have the job referral; I say how can I not know? But he just emails me – gives me the, like, labour worker.

MS. WENTE: Mm-hmm.

MS. KUYPER: Like, I've requested numerous times – like, I should get the same-day job referrals that you get but I haven't had any proper answer to that.

MS. WENTE: And then how would you make the referral of a worker that you knew was available?

MS. KUYPER: I usually sends my – the résumé. Sometimes I sends it directly to the union and directly to the contractor and to Nalcor coordinator. But when, like, I had an issue there a few weeks ago where, like, this bus driver, Innu bus driver, was working with PENCAL since the start of the Muskrat Falls and – but he was laid off from that position. Then the position came on with teamsters for a bus driver on site. But he didn't – on his résumé it didn't say fuelling trucks and buses, but he had that experience over 10 years, he said, when he started in Voisey's Bay.

So the HR person for Pennecon wouldn't accept it. I said hold on, I said, well, he has so many experience; he did fuelling. I said I'm going to update his résumé. And as soon as I said that to her then he accepted that résumé.

MS. WENTE: Okay.

MS. KUYPER: Like –

MS. WENTE: Thank you. That's helpful.

You talked a little bit – or maybe it was Ms. Qupee – either of you could answer this. Can

you talk a little bit about what the role of the Innu liaison was at Nalcor? Or was there – was the Innu liaison Astaldi?

MS. KUYPER: There were two liaisons: one for Astaldi and one for Nalcor. Nalcor assist Innu workers on site if they have issues, work-related issues. But I found that, like, the last person who was there, like, she had to leave her position. She said she couldn't get where she wanted to go with the issues, it – like, there was a stop there, so ...

MS. WENTE: What kind of things did the Innu liaison help workers with or help –

MS. KUYPER: They helped with –

MS. WENTE: – Nalcor with?

MS. KUYPER: – issues they had. Like, for if they have issues with the workers' performance they would, like, have a meeting with them, like, set up meetings with them. And, like, they would inform us what was going on, like, the Innu liaisons.

MS. WENTE: Okay, thank you.

Now, Ms. Qupee, I'm going to ask you a couple questions now.

We were talking about the protest that happened after there was the incident on site where the young man was kicked in the head and I just wanted to clarify. You said: We had the elders up there at the site protesting. Did Innu Nation ask the elders to go there and protest?

MS. QUPEE: No. I should clarify that, no.

MS. WENTE: Thank you.

Ms. Qupee, can you tell me what's your current job?

MS. QUPEE: My current job is that I work for the Sheshatshiu Innu First Nation, and I'm the director of social health for the Sheshatshiu Innu First Nation.

MS. WENTE: So do you have an idea – I just want to give some context about the employment numbers that we saw earlier today.

Can you tell me what the population of Sheshatshiu is?

MS. QUPEE: I don't have the accurate number but last time it was around 1,800.

MS. WENTE: Okay.

And do you happen to know off hand around what the population is of Natuashish?

MS. QUPEE: The last I heard was 900.

MS. WENTE: When was the – can you just give us a time frame of when that was?

MS. QUPEE: Their last meeting – probably last year.

MS. WENTE: Okay.

MS. QUPEE: Yeah.

MS. WENTE: Thank you.

I just wanted to ask you, sort of generally, if you had – I think Mr. Collins already asked questions about implementation. But in particular, I think – I have a question for you. In your role of grand chief, it sounds like you spent a lot of time trying to implement the IBA. Do you think that's a fair characterization?

MS. QUPEE: Yes.

MS. WENTE: And why did you spend so much time doing that?

MS. QUPEE: I spent a lot of time doing that because people would come with concerns and it was my job to follow up on the concerns that people raised. An example could be Christmas closure. Not the closure but just, like, having a skeleton crew on site.

One of the things that I remember, Innu people – workers coming and saying that they weren't offered the – they weren't offered to work overtime over the holidays. And they said that there was people from outside that are working over the holidays getting paid overtime.

And so I went back. I went back to Nalcor and I said: Why is this happening? Why is it over the

last few Christmases that there hasn't been Innu people working, or even offered, if they were available to work over the holidays. So that's one example of –

MS. WENTE: What were the majority of complaints you got from community members about the work site? Or about the IBA generally, I guess. Let's start there.

MS. QUPEE: I guess it was about the workers not getting the hours, like I just said, not given an opportunity to work double time; the supervisors sometimes making remarks to Innu people.

Transportation was another one, busing for people. They said that they would spend a lot of time getting up early in the morning for work and then be driven around to so many stops and by that time, as Clem has mentioned, that they get to work by 7.

So between leaving the house at 4 until 7, it was really tiring the workers out. And so you have to look at their safety at the work site. If they're really tired, like, just going around the bus and preparing for work mid-day, like, they were really tired.

And they said – and then I said to Nalcor where it's not safe for people to work during those times because you're putting the safety at risk for that individual or those workers. And so at that time that's when we had the busing changed, where people from Sheshatshiu would get direct busing to the site.

MS. WENTE: Things get better –

MS. KUYPER: Can I say one thing?

MS. WENTE: Oh, sorry, go ahead, Ms. Kuyper.

MS. KUYPER: Oh, so, like, I would add on to the – like, the workers, like, there was hundreds of people coming in from Newfoundland and the people – like, the workers would call me up, he said how come there's not many Innu and there's lots of people coming on busloads of – from Newfoundland? And I'm thinking, like, there could've been jobs for Innu, locals. For these positions there's a lot of labour work and

carpenters. Like, we got enough carpenters also, like, not only Innu, for locals, too.

MS. QUPEE: Mmm.

MS. KUYPER: Like, they would've saved lot of money for Nalcor, I think.

MS. WENTE: All right.

Ms. Qupee, if you can just – I think I'm just going to finish off by asking you: Why was – in your view, why are the jobs and the contract so important to Innu in IBA implementation?

MS. QUPEE: I go back to my community. I grew up in Sheshatshiu, and at that time, my parents and my grandparents were nomadic people, and 60 years ago they settled in the community. And I remember growing up with stories – there's 15 of us in my family – and growing up with stories of my older brothers and sisters being promised that, if they go to school, they'll have – they'll become lawyers, they'll become doctors, they'll become teachers. And – so my mother told us stories about that. And so I think that – looking back on that and – and that's part of my history.

You look at today in our community, we have a population of young people in the community; we don't have many elders in the community. And so living off the land, we don't have that option. And so we – when we negotiated this IBA, it was to build a brighter and better future for our community. And that's one of the things – is that we wanted to see a brighter future for our young people, our children, our grandchildren.

And I would also like to – also tell you a story. And it's the story of my father. My father worked in – he worked as a geologist helper. And at that time, the geologist would take the helpers, the Innu people, into the country to look for – one of the things my father did was he helped the geologist look for uranium. And he had a friend – I don't know if you'd call it friend – but he had a non-Innu worker working with him as well.

So my father would travel all over the interior working with a geologist and the geologist – I've met the geologist that worked with my

father a couple of years ago, and he was in his 80s. And he said, your father was a very hard worker. He knew the land and he looked after me. And he said, I'm grateful that we had the Innu people that looked after us in the country.

And so one day my father finds uranium, and he brings it back to our community; he brings it to his boss at that time. And the office was in Northwest River. And he brings it over there – no, he didn't bring it over there; he brought it home. And this guy that – the non-Innu person that was with him, they were drinking, and he took that and he took it over to the office and said that he found this. And he said he found it, and what he got was – he got compensated, this guy.

And my mother told us that story, and I'll never forget it, and I haven't forgotten it. He said when your father found out that he went – that this guy claimed it and he got compensation my father came back and said to my brother, my older brother, he said, help me. He said, I want to write a letter. So he wrote – my brother wrote a letter. And they got a letter back from the manager and said that you're getting a stove.

And that's my story.

MS. WENTE: Thank you.

I don't have any further questions.

THE COMMISSIONER: All right. Redirect?

MR. COLLINS: No redirect.

THE COMMISSIONER: All right.

Thank you, Ms. Qupee. Thank you very much, Ms. Kuyper. I appreciate your time this afternoon, thank you.

We're done for the day?

Okay. So we're on for tomorrow.

Ms. O'Brien, I know you're dealing with Mr. Hussey. How's that looking for tomorrow? I think most of us are flying out tomorrow night?

MS. O'BRIEN: Yes. If possible, Commissioner, I would like to start at 9 o'clock

tomorrow just to ensure that we have enough time.

THE COMMISSIONER: Okay.

I'm assuming nobody has any real major objection. I'm not sure it would make much difference anyway, but – anyway, so we'll start tomorrow morning at 9 o'clock.

CLERK: All rise.

This Commission of Inquiry is concluded for the day.