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NATURAL RESOURCES CONSERVATION BOARD

Application No. 1701

SPRINGBANK OFF-STREAM RESERVOIR PROJECT

P R O C E E D I N G S

Volume 3

March 24, 2021

(Via videoconferencing)

1 Natural Resources Conservation Board Proceedings taken
2 virtually in Calgary and Edmonton, Alberta.

3

4 Volume 3

5 March 24, 2021

6

7

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Daniel Heaney	Commission Member

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2

3 Bob Williams For Calalta Amusements Ltd.
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5 Scott Wagner For Scott Wagner

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Deanna DiPaolo, CSR(A)

8

(PROCEEDINGS COMMENCED AT 8:30 A.M.)

9

10 THE CHAIR: Good morning, everyone. We can
11 get started this morning with cross-examination of the
12 SCLG panel for Topic 1 that we concluded direct on
13 yesterday.

14

15 Is there any -- before we start, any prelim
16 matters, any housekeeping anyone has for this morning?

17

18 MR. FITCH: Yes. Mr. Chairman, can you hear
19 me?

20

21 THE CHAIR: Yes, I can.

22

23 MR. FITCH: Okay. It's Gavin Fitch. One
24 preliminary matter.

25

Yesterday afternoon, Alberta Transportation
provided the Board and my friend, Mr. Secord, with our
response to what we believe was the last outstanding
undertaking from his cross-examination that related to
what consultation occurred on the Opus report in 2017.
So that response is in the form of a document that's

1 been sent to the Board and sent to my friend.

2 And I would note that this morning, Mr. Secord
3 contacted me and indicated that there's a link in the
4 document to a Rocky View County website that apparently
5 he couldn't open, so we're trying to rectify that.

6 But subject to that, the undertaking response has
7 been provided.

8 THE CHAIR: Thank you, Mr. Fitch.

9 Ms. Friend, Mr. Kennedy, enter that as an exhibit.

10 MR. KENNEDY: I'm not quite sure where we're at
11 in exhibit numbers. It might be Exhibit 357.

12 THE CHAIR: Sounds about right.

13 MS. FRIEND: Sorry, that should -- it's 358.

14 THE CHAIR: We're close. Thank you,
15 Mr. Friend. Thank you, Mr. Fitch.

16 **EXHIBIT 358 - UNDERTAKING RESPONSE**
17 **RELATED TO WHAT CONSULTATION OCCURRED**
18 **ON THE OPUS REPORT IN 2017**

19 MR. FITCH: Thank you.

20 THE CHAIR: So we'll start with cross of any
21 parties that are not adverse, and I believe
22 Mr. Williams has indicated he has no questions.

23 Mr. Williams, are you on line? Is that still the
24 case?

25 MR. WILLIAMS: Yes, I am on line, Peter.

1 THE CHAIR: And no questions?

2 MR. WILLIAMS: No questions.

3 THE CHAIR: Thank you. Mr. Rae?

4 MS. LOUDEN: Good morning, Mr. Chair. This is
5 Sara Louden from Rae and Company. I will be lead
6 counsel today, and no, we do not have any questions.

7 THE CHAIR: Thank you. And Mr. Wagner?
8 Hearing none. Mr. Wagner may not be online. He does
9 at times I think join on -- to start YouTube as an
10 observer.

11 Mr. Wiebe, do you see Mr. Wagner on line?

12 MR. WIEBE: Yeah, he is in the list.

13 THE CHAIR: He is, okay.
14 Mr. Wagner? We'll catch him at the end.
15 Ms. Friend, perhaps you could contact Mr. Wagner
16 and confirm.

17 Okay, so we'll move on to City of Calgary.
18 Ms. Senek?

19 MS. SENEK: No, we do not have any questions.
20 Thank you.

21 THE CHAIR: And Calgary River Communities
22 Action Group. Mr. Cusano, Mr. Bruni.

23 MR. CUSANO: No questions. Thank you, sir.

24 THE CHAIR: Mr. Kruhlak, Mr. Fitch.

25 MR. FITCH: Yes, Mr. Chairman. It's

SCLG PANEL

Cross-examined by Mr. Fitch

1 Mr. Fitch. Good morning.

2 Alberta Transportation does have some questions
3 for this witness panel. I think -- I think five of the
4 ten, nine or ten witnesses we'll have questions for.

5

6 K. HUNTER, M. ROBINSON, K. MASSEY, T. FEIST, M. COPITHORNE,
7 D. VICKERY, J. ERISMAN, B. COPITHORNE, L. DREWRY, B.
8 TEGHTMEYER, M. DUSDAL (For SCLG Group), previously
9 sworn/affirmed

10 MR. FITCH CROSS-EXAMINES THE PANEL:

11 Q. So I'm going to begin with you, Ms. Erisman. Good
12 morning.

13 A. MS. ERISMAN: Good morning.

14 Q. Ms. Erisman, I understand that you reside on Springbank
15 Heights Way; is that correct?

16 A. MS. ERISMAN: Yes. Springbank is a very large
17 area, and I live in Springbank, and I use all of the
18 infrastructure that is very, very close to this.

19 Q. Right. And is Springbank Heights Way northeast of the
20 airport, Springbank airport?

21 A. MS. ERISMAN: Yes, it is.

22 Q. It's actually very close to the Bow River, as opposed
23 to the Elbow, isn't it?

24 A. MS. ERISMAN: Yes. So I know a lot about dams,
25 because I've done a lot of research on dams because I

SCLG PANEL

Cross-examined by Mr. Fitch

1 live close to the Bow River. But yes, and the big
2 issue is is that we all share the same Paskapoo
3 aquifer. And so there's just big concern about water
4 quality over a large area.

5 Q. Okay, thank you.

6 Ms. Erisman, in your testimony yesterday, you
7 referred to a lake, a dried lake bed in California
8 called Owens Lake. Do you recall that?

9 A. MS. ERISMAN: Yes.

10 Q. Okay, I --

11 A. MS. ERISMAN: Just within the similarity to the
12 dried lake bed of SR1 which really hadn't been dealt
13 with. So I thought this was a comparative of are we
14 going to have these kind of issues.

15 Q. Right. And that is indeed what I understood.

16 I take it, Ms. Erisman, you're not a -- you have
17 no expertise in the generation or dispersion modelling
18 of fugitive dust emissions?

19 A. MS. ERISMAN: No. That I'm leaving up to you
20 guys to figure out if we really are at risk.

21 Q. And the SCLG does have an air quality expert, Dr. Zelt,
22 and I think you may have referred to him once or twice
23 yesterday as well; correct?

24 A. MS. ERISMAN: I'm not sure I referred directly
25 to him, but I'm very appreciative. I think the more

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Cross-examined by Mr. Fitch

1 eyes we have on this silt dust issue, the better we're
2 going to be. So the more the merrier. I think we
3 should have more testing.

4 Q. Sure. And the reason I ask was I was just wondering
5 if, prior to you providing your testimony yesterday and
6 drawing an analogy between Springbank SR1 and Owens
7 Lake, did you seek any input from Dr. Zelt when you
8 drew that analogy?

9 A. **MS. ERISMAN:** I did not speak to him. I didn't
10 feel that was my place. I read his report, and I've
11 done research on the fugitive dust. And I just thought
12 that it's very similar, and it's something that needs
13 to be looked into.

14 Q. All right, thank you.

15 Those are all my questions for you, Ms. Erisman.
16 Thank you very much.

17 A. **MS. ERISMAN:** Thank you.

18 Q. Next, I've got just a couple of questions for
19 Ms. Feist, if she's with --

20 A. **MS. FEIST:** Yes, I'm available.

21 Q. -- us this morning?

22 A. **MS. FEIST:** Yes, good morning.

23 Q. Good morning. So Ms. Feist, I think you indicated that
24 your family has owned for quite some time the south
25 half of 11-24-4 west of the 5th; correct?

SCLG PANEL

Cross-examined by Mr. Fitch

1 **A. MS. FEIST:** **That is correct.**

2 **Q.** And that's essentially on the northeast -- it's
3 kitty-corner northeast to the traffic circle or
4 roundabout at Highway 8 and 22; right?

5 **A. MS. FEIST:** **Yes, directly across where you're**
6 **planning to put the diversion structure.**

7 **Q.** Right, but just to confirm, you understand that your
8 family's property is not located in what we call the
9 project development area?

10 **A. MS. FEIST:** **I understand that, but I will be**
11 **indirectly affected should that diversion structure**
12 **fail, Mr. Fitch.**

13 **Q.** And, no, the reason I was asking is -- I don't think
14 you need to turn it up, but you will probably recall
15 writing in your statement that was included with the
16 evidence of the SCLG that you fear that AT could
17 potentially expropriate at any time. Do you recall
18 that?

19 **A. MS. FEIST:** **I do.**

20 **Q.** And I just wonder if you'd be able to confirm that
21 nobody at Alberta Transportation has ever told you that
22 your land might be expropriated?

23 **A. MS. FEIST:** **I met with Mr. Hebert last fall, I**
24 **believe it was Wednesday, November the 5th, and in our**
25 **meeting that afternoon, Matthew did -- Mr. Hebert did**

SCLG PANEL

Cross-examined by Mr. Fitch

1 say that -- not my land in particular, but that -- it
2 was made very clear that expropriation could happen to
3 potential lands for this project.

4 Q. Right. But not your land?

5 A. **MS. FEIST:** Not my land, no.

6 Q. Okay. That's it. Thank you, Ms. Erisman (verbatim).

7 Just a couple of questions now for

8 Mr. Brian Copithorne, if he's available?

9 A. **MR. B. COPITHORNE:** Good morning, Mr. Fitch.

10 Q. Good morning, Mr. Copithorne.

11 I'm wondering whether Zoom host, we could all up
12 the Exhibit 249, which is the map that the SCLG
13 included as part of its submissions. Just wait for
14 that to come up, sir. So thank you.

15 So, Mr. Copithorne, we are looking at Exhibit 249,
16 and you can confirm for the Board that you reside on
17 the southwest of 25-24-4 west of the fifth; correct?

18 A. **MR. B. COPITHORNE:** Yes, I do.

19 Q. And just so it's clear, your residence is not within
20 the project development area. It's just outside it;
21 right?

22 A. **MR. B. COPITHORNE:** That is correct.

23 Q. Okay. And you mention in your written statement,
24 although you didn't refer to it yesterday in your
25 testimony, that, in a design flood, so the worst sort

SCLG PANEL

Cross-examined by Mr. Fitch

1 of 2013 scenario, about three-quarters of your driveway
2 will be flooded; correct?

3 **A. MR. B. COPITHORNE:** That is correct. That's my
4 estimate, sir.

5 Q. Yeah. And I just wanted you -- to ask you whether you
6 could confirm that Alberta Transportation has assured
7 you that your -- that access to your residence will
8 either be replaced or maintained --

9 **A. MR. B. COPITHORNE:** Yes --

10 Q. -- yeah, we're not going to strand you or anything;
11 right?

12 **A. MR. B. COPITHORNE:** Yes, sir. That's correct.

13 Q. Okay, thank you.

14 Those are all my questions for you, sir. Thank
15 you.

16 **A. MR. B. COPITHORNE:** Thank you.

17 Q. So, next, I have some questions for Mrs. Robinson.

18 **A. MS. ROBINSON:** I am unmuted. Okay. There we go.

19 Q. Good morning, Ms. Robinson. How are you?

20 **MS. ROBERTS:** Fine, and thank you. It is

21 Ms. Robinson.

22 Q. Ms. or Miss?

23 **A. MS. ROBINSON:** Ms.

24 Q. Ms.

25 **A. MS. ROBINSON:** Yes.

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Cross-examined by Mr. Fitch

1 Q. Thank you. My apologies.

2 Ms. Robinson, in your written testimony, and I
3 think you sort of touched on it yesterday in your oral
4 testimony, you refer to your ranch being obliterated
5 and the fact that you will lose your home.

6 And I just want to, I guess, see if we can get
7 clear on the record that your home is located on the
8 southwest of 3; correct?

9 A. **MS. ROBINSON:** That's correct.

10 Q. Yeah. And you would agree that no part of the
11 southwest of 3 falls within the project area, and your
12 home is not going to be expropriated; right? It's not
13 required for the project?

14 A. **MS. ROBINSON:** Not the actual project, but I will
15 be exceedingly close to the intake, and I am very, very
16 fearful being that close. So I would be very hesitant
17 to live here.

18 Q. Sure. And, similarly, Ms. Robinson, your riding area
19 is also on the southwest of 3, and it's also outside
20 the project area; correct?

21 A. **MS. ROBINSON:** Yes, but it's about a hundred
22 yards from the river, so it will definitely be
23 affected.

24 And also the Heritage House, the house that my --
25 we were raised in will be totally obliterated, so that

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Cross-examined by Mr. Fitch

1 is very relevant.

2 Q. Ms. Robinson, you have said in your written statement,
3 and you testified again yesterday, that you learned
4 about SR1 one evening on the television news; right?

5 A. **MS. ROBINSON:** **That's correct.**

6 Q. Ms. Robinson, you can confirm that you attended a
7 meeting with Government of Alberta officials on July 8,
8 2014, in Cochrane?

9 A. **MS. ROBINSON:** **That's right.**

10 Q. Okay. And you would agree that, at that time, the
11 Government of Alberta advised you and the other folks
12 in attendance that SR1, MC1, and Calgary tunnel were
13 all still under consideration?

14 A. **MS. ROBINSON:** **Yes, they were under**
15 **consideration; but, as usual, they talked 90 percent**
16 **about SR1.**

17 Q. Okay. And you can confirm that you met with
18 representatives from Alberta Transportation and
19 Alberta Environment and Parks on March 3rd, 2015? Does
20 that sound right?

21 A. **MS. ROBINSON:** **I've had several meetings with**
22 **them. Do you mean at my house or -- is that what**
23 **you're considering?**

24 Q. No, not at your house. I'd have to -- I think it was
25 either Springbank or Cochrane. It was the meeting

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Cross-examined by Mr. Fitch

1 where there was a discussion about the benefit cost
2 analyses for SR1 and MC1. Does that help you recall
3 which meeting we're talking about?

4 **A. MS. ROBINSON:** Just me, you're talking about or
5 just --

6 **Q.** No, it was with a number of landowners.

7 **A. MS. ROBINSON:** As a group?

8 **Q.** Yeah.

9 **A. MS. ROBINSON:** It was a group?

10 **Q.** It was a group, yeah. A group of landowners?

11 **A. MS. ROBINSON:** Yeah, but there was lots of other
12 people there too; it wasn't just the landowners.

13 **Q.** And do you recall that, at that time, Alberta
14 Transportation and AEP advised that work on MC1 was
15 continuing?

16 **A. MS. ROBINSON:** By continuing, yes, but what we
17 call "continuing," whether they did it at exactly the
18 same calibre that they did SR1 is very questionable.

19 **Q.** Okay. And, Ms. Robinson, do you recall attending an
20 open house about SR1 in May of 2016?

21 **A. MS. ROBINSON:** Yes.

22 **Q.** Okay, and do you recall --

23 **A. MS. ROBINSON:** Was --

24 **Q.** Sorry?

25 **A. MS. ROBINSON:** Was that the one at -- down at the

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Cross-examined by Mr. Fitch

1 **golf course? Was that the 2016 one?**

2 Q. One sec. I'll have to get back to you on that one,
3 Ms. Robinson. I can't remember exactly where it was.

4 Anyways, you probably definitely remember that in
5 October 2016, a fellow named Seamus Skelly from
6 Alberta Transportation met with you on your property,
7 and you took him on a walking tour?

8 A. **MS. ROBINSON:** **Yes. He wanted to see the**
9 **property and wanted to see some of my infrastructure**
10 **and see how it would affect me.**

11 It would also -- was also a meeting that I had
12 requested to find more detail as to exactly how much of
13 my land they would be taking.

14 Q. Okay, thank you. Do you recall, Ms. Robinson,
15 attending an open house on SR1 in August 2017?

16 A. **MS. ROBINSON:** **I've gone to just about all of**
17 **them. I don't think there's any of them that I've**
18 **missed, so I'm sure I did.**

19 Q. And there was also what AT called a "technical
20 briefing" at the McDougall Centre in November of 2017.
21 Do you recall that?

22 A. **MS. ROBINSON:** **Yes.**

23 Q. And in November 2018, you attended a meeting with
24 Assistant Deputy Minister Crystal Damer and other
25 representatives from Alberta Transportation; correct?

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Cross-examined by Mr. Fitch

1 **A. MS. ROBINSON:** **That's correct.**

2 **Q.** Okay. And you attended a meeting on January 7, 2020,
3 with Minister McIver; correct?

4 **A. MS. ROBINSON:** **That was also the one with**
5 **Crystal Damer was simply to inform all of those panel**
6 **exactly what was happening, again, at our request, and**
7 **she did not know hardly anything as far as our**
8 **concerns.**

9 And so there was three or four of us that spoke at
10 that meeting. There wasn't really any questioning or
11 anything. There was just, we made presentations. They
12 asked a very few questions, and that was all.

13 **Q.** Okay. And then, finally, you can confirm that
14 Mr. Hebert came out to your property and met with you
15 in November of 2021 about four or five months ago;
16 right?

17 **A. MS. ROBINSON:** **Yes, that's correct. And that was**
18 **again for final confirmation of exactly what their**
19 **updated plans were for my property.**

20 **Q.** Okay. Thank you, Ms. Robinson. Just a few final
21 questions.

22 I noted in your written testimony that you say
23 there will be a loss of 6,800 acres of farm and
24 Ranchland.

25 I take it, though, Ms. Robinson, you would be

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Cross-examined by Mr. Fitch

1 aware that the actual footprint for SR1 is 3,610 acres?
2 Are you generally aware of that?

3 **A. MS. ROBINSON:** That's correct, yes.

4 You know, as a rural person, you really don't like
5 to be view to be upon a massive structure. I mean,
6 that is not why we live in the country. So, anything,
7 you know, you can visually see it or anything, it's
8 very impact -- a great impact to us as rural people.

9 **Q.** Sure. And do you understand that this figure of
10 6,800 acres that's sort of been mentioned at times, was
11 Alberta Transportation saying, if we were to buy the
12 entire parcel, whether it's a quarter section or
13 something smaller, where there's some portion of it
14 that's within the project area, so, in other words, we
15 wouldn't leave any remnants, we would -- we would buy
16 the entire parcel, if we did that, then we could
17 potentially be, effect, buying up to 6,800 acres. Is
18 that your understanding of where that number comes
19 from?

20 **A. MS. ROBINSON:** Yes.

21 **Q.** Okay. And you understand -- or maybe -- I'm not sure
22 if you do -- are you aware that that was something that
23 Alberta Transportation offered as a -- as an option
24 that landowners might want; in other words, it was
25 really for landowners' benefit if they were interested.

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Cross-examined by Mr. Fitch

1 Are you aware of that?

2 **A. MS. ROBINSON:** Yes, but nothing's to our benefit
3 when we lose our homes and our heritages. You have to
4 realize it's not money that we're after here. It's
5 actually our homes and our life-styles and our
6 businesses. So it's rather irrelevant.

7 And as I discussed, whether we will actually get
8 the amount of money that we so deserve, according to
9 the way that they're going to be doing land
10 acquisitions is also questionable when they're making
11 an estimate and they don't even know what
12 infrastructure on any of those locations.

13 **Q.** Right, and -- and I don't think -- I don't know if it
14 was you or somebody else yesterday talked about being
15 surprised when someone from Alberta Transportation said
16 there would only be a desktop appraisals. Was that
17 you?

18 **A. MS. ROBINSON:** Yes, that was me.

19 **Q.** Okay. So we don't have to refer to it, but the land
20 acquisition program for SR1 is in evidence. It was
21 attached to the rebuttal submissions of Alberta
22 Transportation.

23 Have you had a chance to look at the land
24 acquisition program document --

25 **A. MS. ROBINSON:** Yes, I'm very aware of that.

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Cross-examined by Mr. Fitch

1 Yes, I know they're going to do estimates and, you
2 know -- well, yeah -- on the properties, but at this
3 time and before that, they had already said they're
4 going to spend 80 to 140 million on land acquisition.
5 That's all they budgeted.

6 So I don't know how they can come up with that
7 number when they haven't looked at any of the
8 infrastructure or they haven't really done any concrete
9 land appraisals.

10 So how can they have any sort of idea what the
11 properties are worth?

12 Q. Right, but with respect to -- I mean, as you've
13 indicated, some of your land is in the project area and
14 is required, and you would acknowledge that, when it
15 comes time, Alberta Transportation will have full-blown
16 *Expropriation Act* appraisals done, you'll get market
17 value, any damages you're entitled to under the
18 *Expropriation Act*, your reasonable legal and appraisal
19 costs will be covered, all of that; correct? Do you
20 understand that?

21 A. MS. ROBINSON: I do understand that, but you also
22 have to understand that a legal land appraisal, these
23 lands are agricultural, and that is not, at this point
24 of time, what we would sell our land for. Because I
25 know land can be sold for 10 to 50 times as much if we

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Cross-examined by Mr. Fitch

1 sell to a developer.

2 So whether you're going to be giving us that
3 opportunity to sell as we would to a developer is
4 another question, or whether we will just be appraised
5 at agricultural.

6 So there's a great deal of difference in variation
7 of what we could get for our properties if we sold them
8 for a development like Harmony or whatever, so whether
9 we, you know, we are briefed of that opportunity
10 financially by just having a land appraisal that's
11 agricultural land.

12 And we have other -- we have other plans for our
13 land, as well, and there's also business loss, and
14 there's all sorts of other things that come into this.

15 You know, future generations and, you know, what
16 they're going to do. So it affects us so much
17 financially, business-wise and personally.

18 Q. Sure, you also understand that, as part of the whole
19 land acquisition process, you could hire your own
20 appraiser, and your own appraiser could come up with a
21 value for your land based on what that person considers
22 to be its highest and best use, as we say in the
23 expropriation business. Do you understand that?

24 A. MS. ROBINSON: I do understand that, yes.

25 Q. Okay. Thank you very much, Ms. Robinson.

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Cross-examined by Mr. Fitch

1 Those are all my questions for you?

2 **A. MS. ROBINSON:** **Thank you.**

3 **Q.** So my final set of questions, Mr. Chairman, are for
4 Ms. Hunter, if she?

5 **A. MS. HUNTER:** **Yeah, I'm here.**

6 **Q.** Thank you. So, Ms. Hunter, I was looking at Appendix A
7 to the SCLG submissions, which for the record is
8 Exhibit 248, and that's the members list, and I
9 noted -- we don't have to turn it up -- but I noticed
10 the name "Karin Hunter" and the address of
11 Morgans Ridge. Is that you?

12 **A. MS. HUNTER:** **Yes, that's correct.**

13 **Q.** And where is Morgans Ridge?

14 **A. MS. HUNTER:** **Straight east of the project. If**
15 **you look at the air quality maps, that would be my**
16 **house impacted by one of those, and I have my four**
17 **children which attend the Springbank schools directly**
18 **east between my home and SR1 project.**

19 **Q.** Okay. Zoom host, could we pull up Alberta
20 Transportation Aid to Cross Number 2, please? And
21 maybe we could just zoom in a little bit. So --

22 **A. MS. HUNTER:** **Can I just add here, Kirstin and**
23 **Bill Wallace, I do believe they're south of --**

24 **Q.** Sorry, Ms. Hunter, I'm -- I'm asking the questions. So
25 if you'd just let me do my job here, that would be

SCLG PANEL

Cross-examined by Mr. Fitch

1 appreciated.

2 All I want to know is, do we -- so this is a map
3 prepared by Stantec, as you can see, from the top right
4 corner, and all I want to know is, have we, roughly
5 speaking, got the location of your residence correct?

6 **A. MS. HUNTER: Yes, that's correct.**

7 **Q.** So that would be, what? About 6.5 kilometres or so
8 from the project development area?

9 **A. MS. HUNTER: I'm going to assume you're correct**
10 **on that.**

11 **Q.** Okay, thank you.

12 So, Ms. Hunter, you are the president of the
13 Springbank Community Association; correct?

14 **A. MS. HUNTER: Yes.**

15 **Q.** And I just want to be clear on what capacity you're
16 appearing here today.

17 So I read in the submissions of the SCLG that the
18 group is comprised of individuals and families.

19 So should I take it from that that you're
20 participating here, and not as president of the SCA,
21 but in your personal capacity?

22 **A. MS. HUNTER: Yes, that's correct. Although**
23 **it's hard to segment my brain into those two different**
24 **elements. So I would say, yes, this is my personal**
25 **capacity. I also happen to be president of the**

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Cross-examined by Mr. Fitch

1 **community association.**

2 Q. Right. And the community association itself is not a
3 member of the SCLG. Do I have that right?

4 A. **MS. HUNTER:** **That is correct. Members of the**
5 **community association are members of the SCLG, however,**
6 **yes.**

7 Q. Okay. Ms. Erisman referred earlier to the fact that
8 Springbank is geographically a large community. Can
9 you just help us understand, what are the -- like,
10 what's the jurisdiction, if I could put it that way, of
11 the Springbank Community Association? In other words,
12 what's the aerial extent of Springbank?

13 A. **MS. HUNTER:** **Yeah, that's a great question. I**
14 **mean, Springbank, I would say -- I call it "the greater**
15 **Springbank" area which includes: Springbank,**
16 **Elbow Valley, the airport area, I would consider**
17 **Harmony part of Springbank, I consider all the way down**
18 **to Redwood Meadows part of Springbank.**

19 And all of the landowners, Tracey Feist, who's on
20 -- near the diversion channel, is Springbank.

21 Q. Okay. You say you would -- you would consider that. I
22 guess I'm wondering, does the Springbank Community
23 Association actually have a map that shows what -- what
24 the boundaries of Springbank are?

25 A. **MS. HUNTER:** **I -- I don't understand how that**

SCLG PANEL

Cross-examined by Mr. Fitch

1 matters, and there is no specific boundary, it's just a
2 broad community. It's like Jumping Pound is a
3 community just to the north of Springbank, and it
4 encompasses acreages and it encompasses houses. I
5 mean, it's a strange question you're asking me. I'm
6 having a hard time understanding --

7 Q. Well, I appreciate that things are different in rural
8 Alberta from the city, but I guess what I'm getting at
9 is, in the city, you know, my community association has
10 pretty clearly defined boundaries.

11 All I'm wondering is, are there clearly defined
12 boundaries of Springbank?

13 A. MS. HUNTER: No, just I can give you general
14 boundaries of Springbank.

15 Q. Okay, so does the Springbank Community Association
16 speak for the residents of Bragg Creek?

17 A. MS. HUNTER: No, the Springbank Community
18 Association has -- are you asking me in my personal
19 capacity or as the president of the community
20 association?

21 Q. As the president of the community association.

22 A. MS. HUNTER: So the president as -- in my role
23 as president of the community association, I liaise
24 with Bragg Creek as needed, Redwood Meadows as needed,
25 Elbow Valley Resident Association as needed, Harmony as

SCLG PANEL

Cross-examined by Mr. Fitch

1 needed. So I mean -- yeah.

2 And as my personal capacity through this process,
3 I have grown quite a network throughout those
4 communities, just out of necessity and by shared
5 concerns and interests and what's happening with this
6 project.

7 Q. Okay. Let me approach it a slightly different way.

8 Does Bragg Creek have its own residents or
9 community association?

10 A. MS. HUNTER: They have the Bragg Creek
11 Community Association, which operates the Bragg Creek
12 facility there.

13 Q. Does Redwood Meadows have its own residents or
14 community association?

15 A. MS. HUNTER: I do believe they do.

16 Q. Does Elbow Valley have its own residents or community
17 association?

18 A. MS. HUNTER: Yes, but I'm going to just
19 identify you that Elbow Valley, as a contained
20 community, is surrounded by many acreages, homes that
21 are not covered by that community association.

22 Like, when you drive into Elbow Valley, they have
23 a homeowners association, a residents association, I
24 believe they call it, for Elbow Valley, but there are
25 people on Range Road 32, 33, 34, all the way through

SCLG PANEL

Cross-examined by Mr. Fitch

1 Highway 22 that are not covered by that. So they would
2 be covered by us.

3 And, in fact, I do consider members of Elbow
4 Valley, whose children go to the Springbank schools,
5 members, if they so choose, of the Springbank Community
6 Association.

7 So I think what you need to understand is our
8 community gravitates -- our broader community between
9 the rivers, Elbow and Bow, from the Calgary border, all
10 the way through Highway 22 and past, gravitates to
11 Range Road 33 which is directly downstream of this
12 project, downwind of this project. And for the 2,000
13 children that go to school, they come from North
14 Springbank, they come from Harmony, they come from
15 Discovery Ridge, they come from Bragg Creek, they come
16 from Redwood Meadows, and they come to Springbank to
17 school.

18 Q. Okay, I --

19 A. MS. HUNTER: And also -- and I just want to be
20 clear, I just want to be clear that they also come to
21 the soccer and sports facilities in Springbank.

22 So when you ask me to define Springbank, I think
23 it's just, you know, you're trying to pigeonhole me
24 into what is Springbank, and what I'm saying is where
25 our schools and community gathers is a very broad group

SCLG PANEL

Cross-examined by Mr. Fitch

1 of people.

2 So do you understand what I'm trying to say to
3 you?

4 Q. I do, and you're going to need to slow down a little
5 bit.

6 THE CHAIR: Yes, thank you. I was just going
7 to ask that for the court reporter.

8 Your last little bit there, Ms. Hunter, was
9 probably about right for speed, but if it's too quick,
10 it's really difficult for the court reporter to get it
11 down. So thank you very much.

12 Q. MR. FITCH: Ms. Hunter, how is the Springbank
13 Community Association financed? Do you get dues from
14 your members; is that how it works?

15 A. MS. HUNTER: You know, this is a great -- this
16 is a great question. And no, I mean we're not
17 financed. I mean we really are not. We're really
18 at -- in my capacity, speaking as right now, not
19 Karin Hunter SCLG, Karin Hunter, president of
20 Springbank Community Association, we have -- I consider
21 our membership to be anyone who's interested in
22 participating with us in any way, whether -- and we're
23 just working on our bylaws. Our bylaws are 1940, okay.

24 So when I joined the community association in
25 2018, it was a very small organization, and it had been

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Questioned by Mr. Kennedy

1 around, as I said from 1940, so 80 years or almost.
2 And it was really just operating in a once-a-year type
3 of annual general meeting type of status.

4 So yeah, so I mean one of the things we're looking
5 at is what is a member, what does it mean to be a
6 member of our community association.

7 So, technically, according to our bylaws, you can
8 pay I think it's \$2.50 to be a member, but we don't
9 require people to do that. We say if you want to join,
10 you can join.

11 Q. All right.

12 MR. FITCH: Mr. Chair, just one moment. Okay,
13 I think I'm done, Mr. Chair. I'm just going to have a
14 quick look at the rest of my notes.

15 Mr. Chairman, those are the questions of Alberta
16 Transportation for these witness. Thank you very much.

17 THE CHAIR: Thank you, Mr. Fitch.

18 So panel members, Mr. Secord, we do have a few
19 questions from Board staff and Panel members.

20 Mr. Kennedy. I think someone might -- Mr. Fitch,
21 you might need to mute your mic. Mr. Fitch? There.
22 Thank you.

23 MR. SECORD: Yes, that's fine, sir. We're
24 ready for the Panel -- NRCB questions. Thank you.

25 MR. KENNEDY QUESTIONS THE PANEL:

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Questioned by Mr. Kennedy

1 MR. KENNEDY: Thank you, Mr. Chair.

2 Q. I have a couple questions, and I think they may be best
3 answered by Ms. Hunter. Welcome answers from others.

4 But the questions relate to the presentation
5 yesterday in your direct and in your written where you
6 did a comparative benefits of SR1 and MC1. And, of
7 course, this Panel is here to review SR1 and determine
8 whether it's in the public interest.

9 And your presentation identifies the benefits of
10 each, and I think there -- I think it's fair to say you
11 have a preference, if there was a choice, for MC1. Is
12 that -- do I get that correct?

13 A. MS. HUNTER: You know, I think that my view
14 would be with Rocky View County's view that the
15 alternatives were dismissed prematurely, and because
16 MC1 is the only one that sufficient documentation
17 exists on relative to a comparison, that's what I had
18 to work with.

19 I mean to me, for flood mitigation, it's -- it's
20 crucial that you understand SR1 relative to something
21 conventional.

22 So it's unfortunate that there aren't more
23 alternatives or that -- that wasn't contemplated
24 earlier to look at the effectiveness of flood
25 mitigation on the rates.

SCLG PANEL

Questioned by Mr. Kennedy

1 And to be honest, I'm so disheartened that that
2 analysis wasn't done sooner because if it was, would we
3 be here today?

4 And I realize you're not here to direct anyone to
5 go build MC1, I understand that. But in my view, I
6 don't think there's enough evidence to show that SR1 is
7 the one you want for flood mitigation.

8 And, you know, I'm not an expert in dams or dam
9 safety, and I have learned so much over these past few
10 years, and it -- I'm -- I'm astonished it took us this
11 long to present to you today that maybe rates is a
12 problem. And I cannot believe we figured it out this
13 late, and I don't know how it's gone on so long.

14 And, you know, it pains me to ask you to reject
15 SR1 because I know those people downtown are begging
16 for flood mitigation.

17 So I take no joy in this process, and, you know,
18 to begin with, I was just curious to see if it impacted
19 our community. And then, you know, you start to ask
20 questions and questions, and you start to understand
21 more and more, and you say, "Wow, you know, why isn't
22 anyone listening, that there's some really big issues
23 here that have come to light between 2014, '15 and 2018
24 when the EIA was filed? Why is nobody taking these
25 comments seriously?"

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Questioned by Mr. Kennedy

1 And so the last thing I wanted to spend my last
2 three years on is this. But, out of necessity,
3 honestly, truly, to try and raise these issues before
4 an independent panel, that is what pushes us forward.
5 We have really felt disadvantaged by the process in
6 this community, and I think the landowners would agree,
7 and that there really wasn't an opportunity for this
8 type of independent review of SR1, in particular
9 relative to an in-stream dam like MC1, early enough to
10 guide an informed, educated decision that was conducted
11 with due diligence and independence without a political
12 lens.

13 Q. I think you've answered the balance of my questions,
14 Ms. Hunter, and I thank you for that.

15 MR. KENNEDY: Mr. Chair, I have no more
16 questions.

17 THE CHAIR: Thank you, Mr. Kennedy.

18 Ms. Fitch -- or sorry, Ms. Fitch -- Ms. Vance, how
19 about we try that.

20 MS. VANCE: Thank you, I don't have any
21 questions.

22 THE CHAIR: Thank you. Panel members,
23 Ms. Roberts?

24 MS. ROBERTS: I don't have any questions,
25 thanks.

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Questioned by Mr. Kennedy

1 THE CHAIR: Mr. Heaney?

2 MR. HEANEY: I have no questions.

3 THE CHAIR: Mr. Ceroici?

4 MR. CEROICI: Yes, I have one -- one question.

5 Q. Mr. Secord, I believe Mr. Brian Copithorne commented
6 during his presentation yesterday on the value of
7 monitoring proposed for the project. And, you know, I
8 believe the implication was that monitoring's not the
9 solution for all the issues. And I'd like to ask
10 Mr. Copithorne what would the SCLG like to see an
11 effective monitoring program, you know, regardless if
12 the project approved?

13 A. MR. B. COPITHORNE: Hello, sir, I'm not sure of the
14 question. What comments did I make yesterday in
15 reference to the monitoring? Was it air quality
16 monitoring?

17 MR. SECORD: I think that, Mr. Ceroici, were
18 you referring to Marshall Copithorne or Brian?

19 MR. CEROICI: Again, I believe it was Brian, but
20 I'm open to being corrected.

21 THE CHAIR: Mr. Secord, I think it was
22 Marshall, and we could have Marshall Copithorne brought
23 up, but --

24 MR. SECORD: Sorry, sir, I just didn't catch
25 Mr. Ceroici's -- I wasn't sure whether it was directed

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Questioned by Mr. Kennedy

1 to Marshall or Brian.

2 So Brian, I think it's your question to field, and
3 if you'd like it sort of re-explained, then just ask
4 Mr. Ceroici to rephrase it, okay.

5 **A. MR. B. COPITHORNE:** Thank you very much.

6 Yes, Mr. Ceroici, if you could rephrase the
7 question. I'm not understanding what you're wanting me
8 to comment on.

9 **Q. MR. CEROICI:** Sure. The comment I believe was
10 made is that monitoring -- "monitoring this, monitoring
11 that" were some words used that it may not be the
12 solution, was my implication from that statement. And
13 I was just wondering in general, what would the SCLG
14 consider -- like to consider an effective monitoring
15 program, regardless of the project approved?

16 **A. MR. B. COPITHORNE:** Well, I made comments about the
17 air and the air quality, but I --

18 **A. MS. ROBINSON:** Excuse me, but I think it was me
19 that did -- I think it was me that actually did talk
20 about monitoring.

21 **THE CHAIR:** And who's speaking please?

22 **A. MS. ROBINSON:** This is Mary Robinson.

23 **THE CHAIR:** Mr. Copithorne, did you want to
24 defer that to Ms. Robinson?

25 **A. MR. B. COPITHORNE:** Yes, I would.

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Questioned by Mr. Kennedy

1 MR. CEROICI: I apologize.

2 THE CHAIR: Ms. Robinson?

3 A. MS. ROBINSON: I think my comment was that in
4 several places in reports, they have said they're going
5 to monitor wildlife, they're going to monitor birds,
6 they're going to monitor amphibians, all sorts of --
7 they're going to monitor the silt, they're going to
8 monitor noise control, they're going to monitor air
9 quality. And I just don't think that, you know, all of
10 those things they've most certainly -- and a lot of
11 them like the silt, how they're going to deal with it,
12 and they're underestimating it hugely.

13 So monitoring isn't good enough. There has to be
14 really concrete plans, and I do not think that they
15 have any idea what things like silt can do and how
16 they're going to cope with those.

17 And the expense of, you know, trucking away silt
18 and all those things. I mean just all those things
19 again would not be a problem in MC1.

20 MR. CEROICI: Okay. Thank you.

21 THE CHAIR: Thank you, Ms. Robinson. And
22 thank you, panel. I have no further questions.

23 Thank you, Mr. Secord, for your panel. I would
24 thank them for the time they've taken, the energy
25 they've put into this, and obviously the, you know,

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Questioned by Mr. Kennedy

1 emotional investment they have as well.

2 Mr. Secord, do you have any redirect on behalf of
3 SCLG?

4 MR. SECORD: I don't, sir. Thank you.

5 THE CHAIR: Okay.

6 MR. FITCH: Mr. Chair, it's Mr. Fitch. I
7 neglected to ask earlier if we could mark the Aid to
8 Cross Number 2, the map that I was looking at with
9 Ms. Hunter, as our next exhibit, please.

10 MR. SECORD: Just on that topic, my
11 understanding is that aids to cross are not
12 exhibits and are not referred to by the Panel. Am I
13 right about that, Mr. Kennedy?

14 MR. KENNEDY: Well, I think it's a mixed bag.
15 If the aid to cross is -- is something that the Panel
16 will find important on a go-forward basis, by all
17 means, I think we should enter it as an exhibit.

18 I think this one, when Mr. Fitch referenced it, he
19 called it up from a present exhibit, and I'm going to
20 suggest it was well -- well identified, it will be easy
21 for the Panel to locate and for other parties to locate
22 if they so desire. So I don't know that there's a need
23 to separately mark the document.

24 MR. SECORD: I would agree.

25 THE CHAIR: Mr. Fitch?

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Questioned by Mr. Kennedy

1 MR. FITCH: I -- if I'm mistaken, I apologize,
2 but I thought Aid to Cross Number 2 was not currently
3 in evidence, but if it is, then obviously we don't need
4 to remark it.

5 MR. KENNEDY: Now, are you talking about SCLG's
6 Aid to Cross 2, or are you talking about the resident
7 map?

8 MR. FITCH: The map that I had the Zoom host
9 call up, and I briefly discussed with Ms. Hunter about
10 the location of her residence. It's got Stantec in the
11 right-hand corner. I don't think that's in evidence.

12 MR. KENNEDY: In that case, if you're requesting
13 it be marked as an exhibit, why don't we do so? I mean
14 in the interest of time --

15 THE CHAIR: I agree. You referred to it in
16 your questioning, the Board has been -- the Panel has
17 been closely attentive as you've been referring to it,
18 why wouldn't it be -- (crosstalk)

19 MR. SECORD: -- yeah, sure. I had just -- I
20 had just been on the assumption that somehow aids to
21 cross were not something that the Panel considered and
22 would have regard to, and I believe that was in -- in
23 some of the correspondence I received from Mr. Kennedy.
24 But I have no objection. Certainly I know Mr. Fitch
25 and I are used to having aids to cross marked as

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Questioned by Mr. Kennedy

1 exhibits.

2 So in light of that, I'm happy to have Mr. Fitch's
3 aid to cross marked as an exhibit, and I would ask --
4 given that it appears that I was proceeding on a
5 misunderstanding, I would also ask that the two aids to
6 cross that I referred to yesterday be marked as
7 exhibits as well.

8 THE CHAIR: So, Ms. Friend -- sorry,
9 Mr. Fitch, did you --

10 MR. FITCH: Can't really object to that,
11 Mr. Chairman.

12 MR. SECORD: It's called sauce for the goose.

13 MR. FITCH: Indeed it is.

14 THE CHAIR: Indeed. So Ms. Friend, did we
15 have SCLG's already marked as -- with evidence --

16 MS. FRIEND: No, we didn't.

17 THE CHAIR: Okay.

18 MS. FRIEND: So we'll do -- the one from this
19 morning from AT will be Number 359, and Mr. Secord's
20 two aids to cross will be 360 and 361.

21 MR. SECORD: And just for the record, SCLG Aid
22 to Cross Number 1 to AT, that will be 360, and SCLG Aid
23 to Cross Number 2 to AT, that will be Exhibit 361.

24 MS. FRIEND: Correct.

25 MR. SECORD: In terms of describing them in the

1 transcript.

2 MS. FRIEND: Right, okay.

3 EXHIBIT 359 - ALBERTA TRANSPORTATION
4 AID TO CROSS NUMBER 2, LOCATIONS OF
5 SCLG MEMBERS WHO SUBMITTED INDIVIDUAL
6 STATEMENTS

7

8 EXHIBIT 360 - SCLG AID TO CROSS
9 NUMBER 1 TO ALBERTA TRANSPORTATION

10

11 EXHIBIT 361 - SCLG AID TO CROSS
12 NUMBER 2 TO ALBERTA TRANSPORTATION

13 MR. SECORD: And I think I mentioned I have no
14 redirect.

15 THE CHAIR: I was just going to ask that. I
16 think that's where we left off.

17 Okay, so your panel is now complete.

18 We're ready to move on to direct evidence from
19 Calalta.

20 So thank you, Mr. Secord, and thanks to your panel
21 once again.

22 MR. SECORD: Thank you, sir.

23 (PANEL STANDS DOWN)

24 THE CHAIR: I did get a note that my voice may
25 be a little faint. Is it coming through a little

B. WILLIAMS**Submissions by Mr. B. Williams**

1 better now? Are people able to hear me?

2 MR. SECORD: Loud and clear, sir.

3 THE CHAIR: Thank you. Mr. Williams.

4 MR. WILLIAMS: Yes. Can you hear me?

5 THE CHAIR: We can. Give that another try.

6 MR. WILLIAMS: Pardon me?

7 THE CHAIR: Yes. Great, thank you. Are you

8 ready to go?

9 MR. WILLIAMS: Yes, I am. Yeah.

10 THE CHAIR: Okay. Floor is yours. Thank you.

11

12 **B. WILLIAMS** (For Calalta), sworn

13 MR. WILLIAMS: So I'd first like to thank the
14 Board and Mr. Chairman, first of all, for the
15 opportunity to share our concerns/objections to SR1,
16 and for the pretrial hearing of December 3rd and giving
17 our objections standing. So we appreciate the process
18 so far and want to thank you for hearing us in this
19 process.

20 My name is Bob Williams. I'm the general -- I'm
21 going to be careful here, Mr. Chairman, because I'm a
22 fast talker, like Ms. Hunter, and so I'm going to try
23 to be very conscious and go slow for the court
24 reporter.

25 My name is Bob Williams. I'm the general manager

B. WILLIAMS**Submissions by Mr. B. Williams**

1 of Calaway Park. Calaway Park is Western Canada's
2 largest outdoor family amusement park.

3 We sit on -- we own 118 acres of land in which the
4 park itself operates on about 27 acres.

5 The -- my background, just so you know, is I have
6 a diploma from Southern Alberta Institute of Technology
7 in business administration. I have an ICAE, which is a
8 Certified Attractions Executive from the International
9 Association of Amusement Parks and Attractions; and I
10 have a CTP, which is a Certified Training Professional,
11 from the Canadian Institute for Performance and
12 Learning; and I have taught post-secondary for in
13 excess of 30 years in two areas, leadership and in
14 marketing. That would be my background.

15 The presentation today that I will share will be
16 in the order of Calaway Park/Calalta Waterworks Ltd.
17 overview. It will be the then presentation of our
18 three objections and then, in closing, will be our
19 conclusion.

20 In saying -- the reference material that I will
21 use will be identified as the Calalta PowerPoint,
22 Exhibit 84, which is File Number 20180728, which is an
23 NRCB document, and then our Exhibit 221, which is our
24 letter and resource material that we filed on
25 February 25th.

B. WILLIAMS**Submissions by Mr. B. Williams**

1 The other material that exists, and if the Board
2 requires, we can forward four exhibits, would be the
3 Impact Assessment Agency of Canada, and it was their
4 Environmental Assessment Report in which we submitted
5 input to them on February 3rd of '21; there's an
6 article from the CBC, April 28th, 2020, Rachel Ward,
7 and it was in regards to Tsuut'ina Nation and the
8 \$32 million grant; and then we have reference to two
9 websites -- and I didn't know how to submit these, and
10 they're there for the Board to take a look at because
11 they're large sites -- but is the Calaway Park, which
12 is calawaypark.com; and then for Calalta Waterworks is
13 the calaltawaterworks.com, which is our website for the
14 waterworks company.

15 So, saying that, that would be, you know, just to
16 share the housekeeping notes that I would have to
17 start. The final housekeeping --

18 THE CHAIR: Mr. Williams, so the Federal Court
19 is in evidence, available on our website. The websites
20 you're referring to, I don't believe are. If there's
21 something specific you need us to go to there, then I
22 guess it might be best for you to refer to that.
23 Otherwise -- you know, I don't know if the panel -- if
24 entering into evidence a website -- for us to go
25 snooping around on a website is really of much use

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1 because, you know, what is it we're looking at, and how
2 transparent is that.

3 So I think, unless there's something specific you
4 need to refer to, we may not need to enter websites
5 into evidence for now. If there's a piece of
6 information specifically that you want us to see, then
7 we can maybe get the exact page link to that document
8 that you may be referring to.

9 So let's let it play out. If there's no need at
10 the end to enter those into the evidence, we won't. If
11 there is, then we'll need a specific reference on the
12 link.

13 MR. WILLIAMS: Sounds great. Yeah, that's great.
14 No, you bet.

15 And in the websites, in my dialogue, especially in
16 Objection Number 3, is to give the magnitude; but,
17 again, it's a reference only, and I thought that I
18 would bring it to the attention of the Board if
19 required.

20 In conversations with Mr. Kennedy with regards to
21 our presentation today, the last housekeeping note
22 would be that due to our three objections and in
23 regards to timing, it was agreed with Mr. Kennedy that
24 we would submit all of our presentation in Area Number
25 Topic 1 only, that we won't be presenting in Topics 2,

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1 3, 4, and 5, even though some of our points might be
2 appropriate in those areas. He just felt that, based
3 on what we have submitted to date, that that would be
4 the best -- best use of time and we felt comfortable
5 with that, just so you know.

6 THE CHAIR: Thank you.

7 MR. WILLIAMS: In saying that, I will start with
8 giving a Calaway Park overview.

9 If I could have the Calalta PowerPoint brought up
10 on site for the Board. Excellent. Thank you.

11 So, in talking to this slide, I would like people
12 to know I'm representing two limited companies today.
13 The first is Calaway Park.

14 Calaway Park is Western Canada's largest outdoor
15 amusement park, family amusement park. We have
16 operated on Range Road -- Township -- or, no,
17 Range Road 233 and the Trans-Canada Highway for the
18 last 40 years.

19 We employ 650 seasonal team members, and we are
20 one of Alberta's largest youth employers. In that
21 employment, we also have 40 permanent team members that
22 make up of administration, leadership management, and
23 maintenance, and those 40 team members work year-round
24 and are permanent positions.

25 We are a leader in the province of Alberta and are

B. WILLIAMS**Submissions by Mr. B. Williams**

1 seen as one of Alberta's Number 1 visited attractions.
2 We operate on 104-day year, typically, from the May
3 long weekend each year to Thanksgiving weekend as a
4 summer facility.

5 We are leadership in safety -- we are leader in
6 safety, and in that leader -- leadership role that we
7 take, we adhere to ASTM standards. We are regulated by
8 AEDARSA, which is the regulatory body in the province
9 of Alberta, and we have exceeded all expectations,
10 including the most recent protocols in COVID protocols
11 and procedure.

12 We are a work-for-credit site, and we are
13 identified as one of the first ones in 2004, and so the
14 opportunity for high school students to work for
15 matriculation credit of up to 25 credits towards their
16 Grade 12.

17 We have eight high school teachers on site that do
18 credit assessment for these students, and we were one
19 of the first sites in the province, the Calgary Board,
20 the Calgary Catholic, and the Rocky View County School
21 Division are all participants in this program that we
22 have in the park.

23 We have won municipal, provincial, national, and
24 international awards in every category over the last
25 40 years, and we are very, very passionate about what

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1 we do. And as I have shared with you, I have been with
2 the park for over 30 years this year, and most of our
3 team members have -- we've all grown up there.

4 We have been a significant participant in the
5 community of Rocky View, in the County of Rocky View,
6 and in the community of Springbank, and we are an
7 official partner of the three schools, the Springbank
8 middle, elementary, and high school.

9 And so that would give me -- give you the overview
10 of the -- you know, the shortened version overview of
11 Calaway Park.

12 Calalta Waterworks Ltd. is the utility that
13 Calaway Park initiated in 1981. One of our conditions
14 for our development permit was to build a 10-inch
15 waterline from the Elbow River that extends -- would go
16 northbound along Range Road 33 to the park in about a
17 4-kilometre distance from the river.

18 Calalta Waterworks is one of the things that we
19 were -- we wanted to build originally a 6-inch
20 waterline, but it was mandated 10-inch because of all
21 of the businesses and development that would happen for
22 the water that the county had committed to that we
23 would be the beneficiary of if we did so, and in doing
24 that, we were mandated to tie in the schools, the Park
25 For All Seasons, there's a seniors community

B. WILLIAMS**Submissions by Mr. B. Williams**

1 association building and water tie-in; and over time,
2 we were told that this -- this would come, but we were
3 to borne the costs of putting this utility in place as
4 part of our development permit, which we -- which we
5 agreed to.

6 And so, in saying that, I'll talk more about
7 Calalta Waterworks when we get into the franchise area,
8 so I'll end with the introduction of the Waterworks
9 from that perspective.

10 The only comment I would make about SR1, and I'll
11 talk again in the conclusion with regards to SR1 and --
12 and, you know, the -- the -- I guess, the lost
13 opportunity -- and for the province of Alberta to have
14 the opportunity to diversify as we've been talking
15 about for the last 40 to 50 years, the opportunity in
16 tourism is significant in the province. The province
17 is rich with, not only attractions, but with geography,
18 with culture, with spectacular views.

19 So, from my perspective, when I look at the SR1, I
20 guess the only comment I would make is -- or the
21 disappointment would be is the lost opportunity of
22 efficiency of using something like a dam for both --
23 not only for, you know -- for flood, yet due to climate
24 change and identified in the First Calgary, First
25 water -- Calgary First -- Calgary Water that I read

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1 last night is the concern of drought in the next 10 to
2 20 years.

3 So I guess the concern -- and I've shared this
4 with Matt Wood and with Matthew Hebert, you know, that
5 it's unfortunate that the dam itself isn't being --
6 having the dual purpose of not just flood, but also for
7 drought.

8 And, from my personal bias, it's the lost
9 opportunity for recreation and tourism where a lot of
10 dams around the world, you have campgrounds associated
11 with them, there's water activity, recreation activity,
12 and I just think it would be wonderful, but that is
13 just an opinion.

14 If I could have you go to slide Number 2. This
15 slide indicates to you, and I'd like to share with you,
16 that the -- this is the communication that we have had
17 with Alberta Transportation since the hearing that we
18 had on -- the pre-hearing that happened on
19 December 3rd. And, at this point, I would like to, you
20 know, I think it's important for the Board to
21 understand that -- that Matthew Hebert from
22 Alberta Transportation has been very responsive, has
23 reached out and, in my mind, has done an exemplary job
24 in communication with us as a, you know, a concerned
25 stakeholder in this region. So I do want to -- I want

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1 to give credit where credit is due and, Matthew, you've
2 done a great job, in my mind, in keeping us in the
3 loop -- and we might not agree on everything, and
4 that's okay, but I do want the Board to hear that
5 Alberta Transportation, with Matthew, has done a great
6 job in working with us.

7 In saying that, those have been the communication
8 that has happened, but we first came -- I guess our
9 first objection happened when we sent an email to
10 Matthew on July 9th of 2019 in which we then had a
11 follow-up meeting with Matt Wood from Stantec and
12 Matthew Hebert on August 8th of 2019.

13 And this was in reference to Exhibit Number 84,
14 and this was a NRCB document that identified that the
15 potential of sediment into the return water source
16 going from the dam into the Elbow River, that the
17 sediment might and possibly can cause harm to two
18 downstream utilities. And the two utilities in this
19 document that were identify was Calalta Waterworks
20 Ltd., and another utility that is further downstream
21 called Westridge. So in that document, that is where
22 the flag came up for us, and our first objection came
23 to bear at that time.

24 On the August 8th, we had the conversation with
25 both Matthew -- Matt Wood and Matthew Hebert with

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1 regards to -- with these concerns, in which then a
2 follow-up -- we received an email communication of
3 Matthew -- from Matthew Hebert on October 15th of 2019,
4 just sharing with us that he will keep us in the loop
5 as we proceed, and as the process continues to work.

6 So those would be, you know, on this page to give
7 you some sense of the communication and discussions
8 that we've had with the -- with Alberta Transportation.

9 If we can go to our next PowerPoint slide. So how
10 we've laid this out for the Board is, we have three
11 objections: We've identified Background, Objection,
12 Resolution being discussed, and then our request from
13 the NRCB as far as a condition for approval. This was
14 the most logical way for us to -- to lay this out.

15 One of the things that I would say -- in our three
16 objections, one of the things as a company that we do
17 on an annual basis and work continuously over the years
18 with a Sergeant named Katherine Severson who is an
19 expert and works for the Calgary City Police, and she
20 is their emergency response -- but of the emergency
21 response managers.

22 One of the things that we've learned on emergency
23 response and assessing risk is -- you know, the one for
24 us is -- the first one is weather. A lot of people in
25 the amusement park industry think it's rides, but as

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1 you work through it in the safety and the ride
2 industry, it isn't.

3 And the second biggest risk that we face is what
4 they call an "unintentional incident." And so when we
5 look at -- and I bring it in context to the dam, our
6 objections are based on, we don't know. We don't -- we
7 are trying to assess the risk of this dam, and as much
8 as the evidence shows and all the work that's been
9 done, from our belief, there's not many of these dry
10 dams existing in the world, and in the environment that
11 we work in. And so our concern in raising our
12 objections is potentially that we look at the
13 unintentional incident, the oversight of "Oh, we didn't
14 think about that or that." So -- so we come to you
15 today with these objections with that in mind.

16 Objection Number 1 is air quality and ambient air.
17 And so, from that perspective, we want you to know --
18 and I'll share a small story here. Growing up in my
19 youth in Saskatchewan, I spent many a summer in my teen
20 years out on a family farm, and so when I look back at
21 my experience, I have been a witness -- and I've also
22 been a witness of a sand storm in the United
23 Emirates -- I've also been in Saskatchewan and watched
24 a dust storm on several of occasions, and so I -- I
25 have experienced what dust can do and how far it can

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1 travel. And so, with this, our understanding of SR1 is
2 it will take three seasons to construct.

3 Now, just from a map perspective, and I don't need
4 you to bring up the map, but we are just slightly east
5 of the map that was shown earlier today from
6 Ms. Hunter, we're right on Range Road 33, and the three
7 schools, the elementary, middle, and high school, are
8 direct proximity adjacent to us, the two, and the high
9 school is a little further down the road, and then on
10 the other side of the Trans-Canada Highway is school
11 called "Edge School."

12 So when I talk about this concern of air quality
13 and ambient air, I am talking, you know, immediately
14 primary about Calaway Park and our summer operation,
15 but I also want to bring in context that 18 businesses,
16 which is called "Commercial Court," which is just east
17 of Calaway Park off of Range Road 33, these schools and
18 residences, farmers and residences live in this area.

19 So it is -- there is a bit of -- now, just north
20 of us is the Springbank Airport, and then just west of
21 the Springbank Airport is the Harmony development which
22 has several -- you know, hundreds of houses.

23 So, you know, when you look at context of this
24 area and with westerly winds and the dust, this would
25 probably be the first and the immediate area that would

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1 be -- the farmers absolutely between SR1 and our park,
2 but then the next swath of people that would have
3 consequences to this dust would be in this area.

4 And so when we look at, from the perspective and
5 this -- this area, the evidence that I use is the
6 evidence of everyone that has spoke just prior to us.

7 And then the evidence of the Impact Assessment
8 Agency of Canada identifying that this potentially, for
9 them to address it and also to identify mitigation in
10 it, indicates that they also recognize it as a
11 potential impact.

12 Alberta Transportation has identified it as an
13 impact, and they have in their -- in their cases have
14 come up with mitigation.

15 So -- so it is a concern. It does exist as
16 there's evidential resources that share that it is a
17 concern and that it potentially could have an impact.

18 To give everybody, you know, a context also,
19 there's approximately 2,100 school children from the
20 September 1 to the June 30th time period attend these
21 three -- the four schools that I had mentioned. So
22 there -- we looked in the total number, and there's
23 about 2,100 school children.

24 The dust also is not just all of us as
25 residences -- and I'm sure -- I can't find any evidence

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1 of this, but being growing up in Saskatchewan and
2 driving in a dust storm, the SR1 is adjacent to the
3 Trans-Canada Highway, and so the dust that could swoop
4 up from -- we get some significant winds in this
5 area -- could impact safety on the Trans-Canada
6 Highway, and I'm sure it's addressed somewhere in the
7 documentation, but I haven't seen it to this date, but
8 I would want that to bring up that.

9 And then the last thing from a safety concern is
10 the Springbank Municipal Airport, which is the fourth
11 most touched down airport in Canada, the dust that it
12 might have impact on flight and equipment that -- that
13 operates in this area.

14 So I bring those up just as an opinion. I don't
15 have any evidence from these other partners, but I do
16 want to say.

17 The impact for dust on Calalta or Calaway Park is,
18 one is our guest experience. We don't want a dustbowl
19 that is, you know, 6 kilometres west of us bringing
20 dust in so people get it in their teeth and that we
21 work in it, so that's the first thing.

22 The second thing that I think is important for the
23 Board to understand is all of our rides have redundancy
24 on them for safety. One of the tools that we use in --
25 on all of our -- not all of them, but most of the

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1 rides, especially the larger rides, are what we call
2 PLCs, and PLCs are programmable logic computers; and
3 these computers, what they assess is, they are --
4 they're automation controllers, but they are real
5 time -- they give us real-time, deterministic
6 information. So if we have what we call in our
7 business a code 2, a strange sound on the ride or
8 anything like that, that ride will be closed, it will
9 be called a code 2; then the millwright from our
10 maintenance department will attend the rides, and one
11 of the first things they do is go to the PLC to see
12 what evidence the ride -- or the activities ride.

13 Our concern from a dust perspective is the --
14 whenever we have lightning or we have big windstorms,
15 there can be adverse impacts on these PLCs, so then
16 there is an inspection on them to ensure that there was
17 no change or anything like that. They don't -- they
18 don't necessarily run the safety of the ride, but they
19 do give us information that we use for the safety of
20 opening and closing rides for whatever reason. And
21 this is a significant concern for us with the dust.

22 So that's to give you the overview. The objection
23 is that, you know, the three summers of the
24 construction period, and then going forward on the
25 construction.

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1 One of the things that with -- with Matthew Hebert
2 from Alberta Transportation, it sounds like we're in
3 agreement to a dust monitoring station within the
4 property, and it would make sense for that monitoring
5 station to be at Calaway because of our proximity to
6 the mass that I talked to you about, all of the
7 impacts, the school children, et cetera. We also would
8 recognize that the farmers and ranchers that are west
9 of us could access -- we could have on our website, you
10 know, information if required, if people wanted to know
11 what the monitoring is. So we are in agreement to
12 working with Alberta Transportation.

13 Now, the parts of this, the finalized parts of
14 this have not been figured out, the mitigation plan
15 finalized prior to construction, because we would also
16 want in that mitigation, if there was damages to our
17 equipment or if we could prove damage to guest
18 experience because of dust, that there would be
19 mitigations in place either for damage or for ensuring
20 that they're taking protocols and procedures to ensure
21 that we don't experience that.

22 What we're asking on Objection Number 1 is for the
23 NRCB to put it as a condition of approval, and how that
24 condition would be written, we're not sure, yet we
25 would ask that that be considered in the Board's final

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1 deliberation and report that they provide.

2 Moving on to, if I could go to slide Number 2 or
3 sorry, Objection Number 2, page 4, the next slide,
4 thank you.

5 This one is the surface water and sediment in the
6 Elbow. And so one of the things I want you to
7 understand is that we, in 1992, we did have a flood on
8 the Elbow River, it was a flash flood, and that flood
9 at that time had wiped out our intake system off the
10 Elbow for the utility.

11 So what Calalta -- we borne the cost to do this,
12 but we went in -- and I can't be exact and I could
13 provide at a later date, but I believe it's
14 approximately, to the best of my knowledge,
15 approximately 500 metres, we came inland, and we have
16 put five subsurface wells that -- that exist.

17 Now, we built these wells, we built five because
18 for the next hundred years, because we're incurring the
19 costs at that time, we thought we may as well build for
20 the future. Currently, we operate on about two and a
21 quarter of the wells for the intake at this time, so we
22 do have capacity.

23 And we've done drawdown tests on the wells in 2014
24 and 2019, and so we have a pretty good assessed
25 position of the condition of the wells and also their

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1 performance of how they take.

2 Now, one of the beauties of this well system is we
3 have a natural gravel filtration before the water
4 reaches the well -- the wells, and so our water is
5 pretty clean when it comes in.

6 We -- we look at the -- the flood of 2013, and we
7 can tell you at the time that turbidity levels and the
8 intake of our system was not compromised, and I believe
9 it's because we did this work in 1992.

10 So there have been other floods, flash floods and
11 stuff like that, and we haven't had anything compromise
12 the well or the intake system, yet we've never -- the
13 most -- and I'm not good at this on sediment and the
14 engineering specifications of the sediment, but the
15 understanding we have is that the water coming in or
16 the flood could be at 160 metres cubed, and there could
17 be debris when the water is taken from the dam in that
18 at August time period and put back into the river. So
19 we're just sensitive to sediment and debris coming into
20 the infrastructure at that time.

21 And so that -- you know, the background, I do want
22 you to know that we service all of the community for
23 this utility, and I want to stress that we are a
24 utility. We are governed by the Alberta Utility
25 Commission for rate and for complaint in any matter,

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1 and we were deemed a public/private utility in 2004 by
2 the Alberta Utility Commission.

3 So we have, you know, two areas that oversight us.
4 It's the Alberta Utility Commission, but more the
5 oversight is Alberta Environment who oversees the
6 actual utility itself.

7 So the concern that we have is the significant
8 sediment dump. Now, into the intake system first.

9 In 2006, in Walkerton or Wakerton, I'm likely
10 pronouncing it incorrectly, there was a horrendous
11 water failure with the utility in which some -- I
12 believe it was three individuals had passed due to some
13 water -- poor water quality and water poisoning to some
14 degree.

15 At that time, Alberta Environment then,
16 recognizing that there was a number of not just
17 utilities in the province but water co-ops, especially
18 in the southern Alberta region, they also recognize
19 that in the Springbank community, that, you know, that
20 there needed to be upgrades to the utilities.

21 So at that time, they put forward an ordinance to
22 us that we had till 2012 to do an upgrade to our water
23 treatment plant. In saying so, the upgrade, we started
24 to incur that. Along came a developer called Bingham,
25 and then Edge School, which is on the north side of the

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1 Trans-Canada Highway, also was trucking water at the
2 time. So they, both groups approached us, and with the
3 work that they required, we built an 8-inch line from
4 Calalta Waterworks, the water treatment plant, and put
5 it under the Trans-Canada Highway to these -- one to
6 the future tie-on for Bingham, but to Edge School which
7 is currently on the system.

8 In saying that, a venture that started as a
9 \$3.2 million capital project ended up being a
10 \$6 million-plus capital project to what we believe,
11 and, you know, I'm not sure anybody can dispute this --
12 and that's why I'm making reference to Calalta
13 Waterworks. I'm not sure we have to put it in as an
14 exhibit, but if any Board member wanted to look at the
15 inside of the plant, it is on that -- it is on that
16 website. You can see the control system and the ultra
17 membrane filtration system.

18 So what we put in was what they call a super ultra
19 membrane treatment system and filtration system, sorry,
20 and in putting this in, it's state of the art. It's
21 computerized.

22 We can see -- we can't tell you it's an actual
23 flush toilet, but we can pretty much give you evidence
24 that at Edge School at this minute they -- you know, a
25 toilet or a water fountain or something was done

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1 because that's how good this system is.

2 It's fully computerized, it has a backup system
3 for redundancy, and then there's a generator on site
4 that if there's any power outages.

5 So this system was built for the next 100 years.
6 It currently operates on eight filters. We go side to
7 side because there's only a 33 percent demand on the
8 system as it is right now. But it -- on the one train,
9 as we call it, there's -- you could add six more
10 filters, and then we built the building so that we
11 could add a complete full train.

12 We currently, with the current system, could
13 process about 440-acre feet of potable water. With
14 the -- with the added filtration and the other train,
15 we could easily exceed over a thousand-acre feet
16 without expanding the building any further.

17 So the building was built in mind for the future,
18 and it will -- I'll talk more to this when we get into
19 the franchise agreement.

20 So the system itself services, and we have been
21 recognized in the recent two, there's two ASPs that
22 have area structure plans for Springbank, the north and
23 the south, that have had second reading at council and
24 are now in front of the -- the Calgary Municipal
25 Regional Board on review of their input into that. But

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1 we're recognized as the regional -- within our
2 franchise, the regional water utility for this
3 Springbank area.

4 And so our -- our concern on sediment and the
5 surface water is the impact -- so our objection is the
6 sediment dump and the damage it could cause to both the
7 intake and the new plant. And the solution that we're
8 discussing -- and we're not -- you know, we've had good
9 communication, and our hope is we can bring to
10 resolution with Alberta Transportation, is that a
11 neutral third party would be identified to assess any
12 damage caused by -- when water or sediment gets put
13 back into the river from the flood, that we would have
14 a third party determine what the damage was and impact
15 on the system, and that any compensation for damages or
16 impact to the overall utility itself.

17 Some of the detail of that has not been worked out
18 yet with Alberta Transportation, but in this objection,
19 we're asking that the NRCB make it a condition of
20 approval that this objection that we cite in standing,
21 that it gets -- it gets recognized.

22 So that would be our Objection Number 2.

23 Objection Number 3, and if I could ask you to go
24 to the next slide. Objection Number 3 talks about a --
25 a franchise agreement with the County of Rocky View.

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1 Now, to give you tomorrow background of the -- the
2 franchise agreement exists. The county will not just
3 give anybody a franchise agreement. It exists, and we
4 believe that, you know, as time went on, when we proved
5 our responsibility and accountability to the utility
6 with the -- with the new treat -- water treatment plant
7 and all the work that we have done on the intake
8 system, the drawdown tests, the work that we do with
9 the water treatment utility, the county had recognized
10 this and wanted us to pursue a franchise agreement.

11 This franchise agreement started with the county
12 manager. His name was Stuart Jewison. Stuart is
13 currently retired from the county, he just retired
14 about a year ago, but Stuart approached us in 2009.

15 So the deliberation of this franchise agreement,
16 which we didn't want to participate in because we
17 already had an agreement with the county on being --
18 having the exclusive area of the Range Road 33 because
19 this was given to us in an agreement for us borneing
20 (verbatim) all the cost to put the utility into place.

21 And so one of the things is this pursued for
22 11-year period. And eventually as we got closer to
23 2015, the deliberation really heated up, and so Calalta
24 Waterworks Ltd. had significant legal costs for this
25 franchise to come into place.

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1 Now, this -- this franchise, the county's need for
2 the franchise agreement gives them more oversight.
3 It's approved by the Alberta Utility Commission,
4 Alberta Environment, and the County of Rocky View.

5 The sensitivity in this is obviously the schools
6 and the school children and safe drinking water. Like,
7 that's what this was all about for the county, in their
8 minds, and to ensure that there was potable water for
9 future development in the area.

10 The benefit to Calalta was that we looked at this
11 and said well, there's really no true benefit. Why
12 would they want to do this. And what it does give us
13 is it does give us bylaw enforcement on an exclusive
14 area. And what it does was it gave us an area of
15 geography in which we could have future potential
16 development tie-on to offset the costs of the utility.

17 Now, for those that know utilities, and I'm sure
18 many on this Board do, utilities are not -- are
19 not-for-profit if they're owned by a municipality. If
20 they're a public/private according to the *Alberta*
21 *Municipal Act* in which the county manager that exists
22 now has made to my attention, that the utility being a
23 public and within the franchise agreement, the maximum
24 profit that we can make from this utility is
25 8.4 percent.

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1 Now, I would -- I would share that with you that
2 we have not ever made 8.4 percent on this utility, and
3 that our belief in the investment in the utility is not
4 just for, you know, the sustainability for the
5 Calaway Park and for the existing businesses, but for
6 future growth.

7 So our -- our intention of going forward with this
8 franchise agreement was that was the win for both. And
9 so we went through a public process and public postings
10 were throughout the process over the last three years
11 through the county hearings, the first read hearing and
12 then the second and third reading, the Alberta
13 Utilities Commission publicly posted. And so there was
14 lots of opportunity for input into this, and which some
15 did, and I do believe some comments did come from the
16 City of Calgary, but I'd have to look back at the
17 historical information to -- to share this.

18 In saying that, the franchise area, it came to our
19 attention that the SR1 takes up about approximately
20 2,240 acres of our actual exclusive franchise area.
21 This area represents -- if you look at, they are in the
22 process of buying 6,800 acres of land, it would
23 recognize approximately 32 percent of the 6,800 acres
24 of land that they're buying, or if it's the dam size
25 itself being 3,600 acres, our sterilization is

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1 62 percent of the dam area, and that's the map you can
2 see. That is our franchise area.

3 Now, in saying that, our potential, one of the
4 largest potentials was the access off of Highway 8,
5 which is -- connects to the Trans-Canada Highway as you
6 can see in this map, and the businesses along there
7 which would no -- we wouldn't have that opportunity any
8 further, and then any other businesses that would come
9 along the area that they might object to if we were
10 ever to put in, you know, the opportunity to request
11 for the area.

12 We -- we look at this, and want this to be
13 recognized by the Board. And the word that came out of
14 the AT presentation was that this was a commercial
15 venture and that it would be best that it be a
16 one-on-one conversation and that AT is -- is prepared
17 to have a conversation with Calalta.

18 So I want to rebut that to -- in my presentation
19 to say that the County of Rocky View for the 6800 acres
20 of loss -- and again, please hear, I don't have the
21 details because we cannot get the details of some of
22 the negotiations -- was paid \$10 million for the lost
23 tax revenue that they -- they had -- that they will no
24 longer have once the -- the dam is created.

25 In an article that was on the CBC April 28th of

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1 2020, Rachel Ward, who is the writer at the time,
2 indicated that Tsuut'ina Nation was given a \$32 million
3 grant in exchange for removing its opposition to the
4 controversial SR1 project.

5 It's also our understanding that a compensation
6 has been made to the TransAlta Utilities and
7 compensation, we can't -- we can't find evidence of
8 this, so I will just state this as observation, but
9 there is press information that the Ermineskin Cree
10 Nation and the Blood Tribe Kainai have both withdrawn
11 their objection, and yet I cannot confirm, you know,
12 whether what or if compensation was paid, yet I found
13 that to be interesting.

14 In saying that, I want to argue the fact that this
15 isn't, you know, as much as Calalta is the investment
16 over the 40 years into the utility in its operation and
17 the recent franchise agreement is the sustainability of
18 the utility.

19 I -- I appreciated last night or yesterday
20 afternoon in the City's presentation, the document, and
21 I read it last night, and it was a document that they
22 identified that is in -- I'm not sure what number it
23 is, but it was the document, "One Calgary, One Water."
24 And the City has done an excellent job at -- and I'm
25 saying -- mirroring what we're exactly going through.

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1 And the Number 1 thing that they talk about in
2 their document is water security. And water security
3 comes in many forms of securing safe drinking potable
4 water, but also in sustainability. And in this
5 document, they talk about water licenses and managing
6 these licenses and future growth.

7 And so sustainability comes in, for a utility, an
8 opportunity to tie on development, whether it be -- it
9 could be farmers that are concerned about water going
10 into their -- surface water going into their well
11 systems that would eventually want to tie on from its
12 safety perspective, or it could be future development
13 that could tie on -- that could offset costs that the
14 Calalta Waterworks Ltd. has borne.

15 So in saying that, you know, I challenge the word
16 "commercial in nature." Yes, it is a public/private,
17 but the goal and responsibility of the utility and our
18 responsibility in our franchise agreement to the county
19 and to the residents, businesses, and schools that
20 currently tied onto the system is to be a sustainable
21 operation.

22 We want you to know that the magnitude of the
23 water treatment plant and to the scale that was built,
24 we have to use a third-party operator that has to be in
25 the plant a minimum of four hours a day.

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1 The plant is also technically tied to other
2 devices that give us alarms, et cetera, 24 hours a day
3 and 365 days a year.

4 We also have on site adjacent to the utility a
5 security individual and dogs that live there 365 days a
6 year and 24 hours a day.

7 And so we take our responsibility and our
8 accountability to all of these costs, using the
9 third-party operator, the security and other costs that
10 we bear, to ensure that the utility -- and the utility
11 has a security system, cameras, et cetera, the list
12 goes on and on and on -- what we have done to ensure
13 our responsibility.

14 In saying that, our objection to this -- our
15 Objection 3 is as they have shared -- as Alberta
16 Transportation has set a precedent in paying other
17 stakeholders' damages. They talked to stakeholders in
18 their -- Mr. Gavin Fitch today talked in crossing a
19 witness, commercial discussion, the cost of
20 expropriation of land and potentially businesses and
21 damages to businesses. So that's no more different
22 commercial in my mind than what we are providing.

23 And so from our perspective, you know, the
24 objection is that we don't feel that we've come to a
25 valuable conversation of the intention. We understand

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1 that Matthew Hebert is -- is prepared to have a
2 conversation. We would like the Board to recognize
3 this objection for the long-term sustainability as one
4 of the things and a stakeholder that has a damage, that
5 they recognize this, and for -- not for the commercial
6 operation, because we understand that the Board does
7 not compensate. We fully understand that. We're not
8 asking the Board to compensate that, but we're asking
9 that a condition of approval is that the Alberta
10 Transportation comes to or engages with Calalta
11 Waterworks to a reasonable damage awardment (verbatim)
12 for the damages caused to the utility.

13 And we fully understand that -- that the Alberta
14 Transportation, they have reviewed the franchise
15 agreement as they were crossed by myself in Number 1,
16 so they're fully clear on what the exclusive area is.
17 They understand the 2,240 acres, which is 14 1/4
18 quarter sections. And so the evidence is there that
19 this exists, that maps cross over, as you can see in
20 the map that I've provided. And from what perspective,
21 that's what our request of the Board is that they make
22 this a third on our behalf condition of approval.

23 In saying that, what I would like to do is close
24 with -- with a conclusion. And in saying in my
25 conclusion, one of the things that I want to start out

B. WILLIAMS**Submissions by Mr. B. Williams**

1 by saying, that this flooding -- and I can talk to
2 flooding. We had a flash flood. Again, it was a
3 rainfall flood, and I don't know what a flash rainfall
4 flood would do to the dam, but we have had a flash
5 flood happen at the park where the water was -- was
6 raging over Range Road 33 and filled up our
7 administration basement at one point.

8 I had a maintenance worker, it was 2 in the
9 morning, and he was on the radio, he said "Bobby,
10 Bobby, you better get down here, we got a tsunami.

11 So, you know, we have experienced flooding. It
12 was to the point where I walked outside at about 3 in
13 the morning because we got pump trucks and everything
14 else going, and I looked out at our bumper boat pond,
15 and I sound the boats that are tethered to the dock
16 above the whole dock itself.

17 So we have seen and witnessed flooding in the
18 area. We have been fortunate that the flooding that
19 we've experienced did not come from the Elbow River
20 that happened in 2013.

21 But we work closely with the 2013. You know, we
22 understand and get it. And -- and I -- with my whole
23 heart, we -- we -- the Calgary Zoo and their season
24 pass members, we worked with helping them out when they
25 were closed due to the 2013 flood.

B. WILLIAMS**Submissions by Mr. B. Williams**

1 We had many residents stay at our RV Park and
2 Campground, and we had special considerations with them
3 to come here.

4 High River, which was another community south of
5 Calgary, was devastated, and we had High River Days for
6 families to get away from the stress, and we gave them
7 free admission.

8 So, you know, we fully understand the need for
9 this flood mitigation, and I would want the City of
10 Calgary and the residents of the City to hear and
11 understand that.

12 We do need to solve this. There is no doubt in my
13 mind that mitigation needs to -- to happen.

14 We just -- we just say that -- in saying that, we
15 want to be part of the solution, not part of a problem.
16 We want to -- the Board to understand and recognize the
17 objections we have, yet they extend beyond Calalta
18 Waterworks Ltd. and Calaway Park as a business. They
19 extend into the community, to the schools, to the
20 school children, to other businesses that work in this
21 area because we are the utility that provides this
22 service, and we have made the investment in doing so.

23 So in closing, I would like to say, you know, we
24 understand -- we are asking the Board to recognize our
25 three objections. We are asking the Board to make them

B. WILLIAMS**Submissions by Mr. B. Williams**

1 conditions of -- for the project to proceed in -- in
2 recognizing not only the investment but our life's
3 work.

4 You know, as I said, I've been with the park for
5 30 years. Our -- our human resources and revenue
6 manager's been there 39 of the 40 years; our rides
7 manager, 20; our food and beverage manager, 25 years.
8 You know, we've worked hard to build this business.
9 And, you know -- and we take what we do very seriously,
10 and we are very passionate about what we do.

11 We don't want something to come out of left field
12 as unintentional incident to damage all the work that
13 we've done. And so for our three objections, we hope
14 the Board takes them seriously, and as I've requested
15 already, we ask the Board consider them to be
16 conditions of development.

17 So in that, I would close.

18 THE CHAIR: Thank you, Mr. Williams.

19 For cross-examination, I'm wondering, parties
20 not in adverse, Ms. Louden, did you have any questions?

21 MS. LOUDEN: No, Mr. Chair, we do not.

22 THE CHAIR: Mr. Secord? Or Ms. Okoye?

23 MR. SECORD: I'm just getting unmuted, sir.

24 THE CHAIR: Oh, okay.

25 MR. SECORD: That's the problem with getting

B. WILLIAMS**Cross-examined by Mr. Kruhlak**

1 the -- the cursor moving.

2 No, we're not adverse in interest, so I think we
3 will not be entitled to ask questions of Calalta. I
4 would like to ask a few questions, but I will pass.
5 Thank you.

6 THE CHAIR: All right. Thank you.
7 Mr. Wagner?

8 MR. WAGNER: Likewise, I'd love to ask some
9 questions, there was some important stuff there, but I
10 have no questions at this time.

11 THE CHAIR: Ms. Senek?

12 MS. SENEK: No questions from the City of
13 Calgary, thank you.

14 THE CHAIR: Thank you.
15 Mr. Cusano?

16 MR. CUSANO: No, thank you, sir.

17 THE CHAIR: Mr. Kruhlak or Mr. Fitch?

18 Mr. Kruhlak -- your voice, you're not muted, but I'm
19 not hearing you. I'm not sure why.

20 MR. KRUHLAK: Okay, let's try that again.
21 Can you hear me now, Mr. Chairman.

22 THE CHAIR: Indeed.

23 MR. KRUHLAK: Thank you very much. I was
24 mentioning I have a few questions for Mr. Williams.

25 **MR. KRUHLAK CROSS-EXAMINES THE WITNESS:**

B. WILLIAMS**Cross-examined by Mr. Kruh1ak**

1 Q. Morning, Mr. Williams. Nice to meet you.

2 A. **Good morning.**

3 Q. I'm happy to hear that your well intakes survived the
4 2013 floods. You were able to continue operation
5 during that period?

6 A. **That's correct.**

7 Q. And you have a remaining concern about releases of
8 water from the Springbank diversion project reservoir
9 after a flood; is that the nature of your concern with
10 respect to your water intake?

11 A. **That's correct.**

12 Q. And I take, sir, you don't have any sort of technical
13 information that would indicate you should expect to
14 have any concerns from the discharge of water out of
15 the reservoir with your, I think you described it as
16 some 50-metre -- or 500-metre setback for your wells?

17 A. **The only evidence that we have that potentially could
18 be a concern is the -- NRC document that was written --
19 it's Exhibit Number 84, and in that evidence, it -- it
20 indicates -- the NRCB indicates the potential for cause
21 of damage, and that's where this objection comes from.
22 It originated from that exhibit and that evidence.**

23 Q. Thank you. I appreciate that. But having regard to
24 the location of your wells, they're set back from the
25 river, and as you described it, the natural gravel

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Cross-examined by Mr. Kruh1ak

1 filtration which was able to handle the 2013 flood, you
2 have no technical information that would suggest that
3 the release of water from the reservoir would likely
4 cause any impacts? This is just a potential concern
5 that you have, I take it?

6 **A. Well, turbidity levels are -- so there's two -- there's**
7 **two causes of concern for the intake system -- so the**
8 **turbidity of what -- when the water is put back into,**
9 **you know, into -- we have to manage turbidity levels,**
10 **because the water operation requires us to do so to**
11 **ensure that, once we treat the water, that we make**
12 **the -- the standard required or approved.**

13 So our sensitivity is debris or diversion of water
14 that the -- the water might cause when put back in; and
15 then the turbidity levels of the water, what sediment
16 is in it, what -- how much to the degree.

17 But in answering your question, no, I do not have
18 any evidence, technical evidence, that would suggest
19 that we have a concern. So -- but from -- from looking
20 at historically and evidence of the river itself, the
21 turbidity level and then debris causing any blockages
22 that the dam might -- the water put back into the river
23 might cause, that is our concern.

24 **Q. It sounds from what you've described, Mr. Williams,**
25 **that Calalta Waterworks has created a robust enough**

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1 water intake system to cope with the heavy loads of the
2 turbidity in the Elbow River naturally if it survived
3 the 2013 flood.

4 **A. Yeah, yeah. Absolutely, yeah.**

5 Q. Mr. Williams, I just had a couple of questions on the
6 franchise area. I think, as you've acknowledged,
7 Alberta Transportation's prepared to have further
8 discussions with you on it, but -- I don't know, Zoom
9 manager, if you have received or can pull up my aids to
10 cross that were sent over on Monday?

11 In particular, if you could pull up Number 3 which
12 is the Alberta Utilities's Commission decision.

13 Thanks. Firstly, could you perhaps turn to PDF 15.

14 Mr. Williams, we've been talking a lot about it,
15 so I thought I'd actually pull up the agreement. This
16 is the franchise agreement that you've been referring
17 to and describing?

18 **A. That's correct, yeah.**

19 Q. And Calalta Waterworks Ltd. entered into this agreement
20 with Rocky View County on February 25th, 2020?

21 **A. The deliberation was 11 years, but the first reading
22 was the 25th of February, 2020, correct.**

23 Q. Yeah, and this was sometime after you have actually
24 heard and had discussions with Alberta Transportation
25 on the Springbank project?

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Cross-examined by Mr. Kruh1ak

1 **A. That's correct.**

2 **Q. And could I also take you to PDF of 74, I think there's**
3 **a map that's appended to this?**

4 **A. That's correct, yeah.**

5 **Q. I don't know if everybody can see it well enough --**
6 **there we go. That helps. Thank you, Zoom manager.**

7 **So, Mr. Williams, you were describing the**
8 **waterline, and is that what I see in purple if I look**
9 **towards the eastern side of the franchise area running**
10 **north to south?**

11 **A. There's several lines that aren't identified on this**
12 **map, but correct. The red line would be the primary**
13 **line that you can see. There's spring lots of this**
14 **line, and there's also the line crosses the**
15 **Trans-Canada Highway over to the purple area, which is**
16 **Edge School, which is you can see -- yeah. So you can**
17 **see the area of the development there.**

18 **Sorry, the purple, purple part is the Springbank**
19 **Airport. The quarter section, the land that is just**
20 **south, is Edge School. You can barely see the school**
21 **there, but anyway.**

22 **Q. And if I just sort of generally describe it, is it fair**
23 **to say, over the period of time that Calalta Waterworks**
24 **has been operating, you've effectively serviced this --**
25 **some areas within the eastern third of your franchise**

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Cross-examined by Mr. Kruh1ak

1 area? Would that be fair?

2 **A. Yeah, that would be correct.**

3 Q. And you don't provide any services to the remaining
4 two-thirds that would be to the west part of your
5 franchise area?

6 **A. Not at the current time.**

7 Q. And --

8 **A. But if I could make a notation, the exclusive area**
9 **identified, was the future potential for development,**
10 **and that is why we were awarded this area, and that was**
11 **the benefit to Calalta Waterworks for entering into**
12 **this agreement.**

13 Q. Appreciate that.

14 And you pointed out on the map in your PowerPoint
15 that a portion of the Springbank project intersects
16 into the franchise area from the western boundary, so
17 it would be sort of in the southwestern corner of your
18 franchise area?

19 **A. That's correct, and the area's 2,240 acres.**

20 Q. Okay. Now, I also wanted to just take a chance here to
21 help you -- have you help me clarify the water license
22 situation.

23 Your franchise agreement also identifies water
24 licenses that the Calalta Waterworks currently holds?

25 **A. That's correct. And -- and since the agreement,**

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1 there's been two amendments to -- to the water license
2 area I should bring to your attention.

3 So Calalta Waterworks Ltd. was able to ascertain,
4 and it would be identified in the document as the
5 B. Stewart license for 34-acre feet, and since the
6 document, through Alberta Environment, Calalta
7 Waterworks has also taken over the 27-acre feet license
8 in what they call Commercial Court. So that now is
9 property of Calalta Waterworks Ltd., and we're in
10 current negotiation with -- and I can't disclose the
11 confidentiality of this -- but we're in negotiation on
12 two other water licenses.

13 And I'd also make the Board and yourself aware
14 that none of your water licenses are returned to
15 source. They're all consumable, potable water
16 licenses.

17 Q. And I take it, Mr. Williams, that you have to actually
18 try to acquire existing licenses because it's not
19 possible at this time to obtain new operating
20 license -- or new diversion licenses under the
21 *Water Act*?

22 A. Yes, except for the provincial government has recently
23 made amendments, or are potentially going to bring this
24 fall, some changes to the southern -- the water basin
25 due to the fact that they would like to open up a

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Cross-examined by Mr. Kruhlak

1 market availability for water licenses because the
2 native water for some mines that they -- coal mines
3 that they would like to development.

4 And so the southern basin, there looks like there
5 is some opportunity for some additional -- which is
6 very exciting.

7 And then the other thing is that, within the water
8 license arrangement, there's some activity going on
9 with Alberta Environment, the county, and other
10 counties in regards to purpose of license and movement
11 of license.

12 So these are other activities that are currently
13 taking place.

14 Q. But, at this time, you currently have to either use
15 your existing licenses or any particular licenses
16 you're able to acquire?

17 A. Yeah, that's correct. We need to -- and we have been
18 pursuing additional licenses for the utility, correct.

19 Q. That's right. Because do you know offhand, rough
20 percentage right now, Mr. Williams, which Calalta
21 Waterworks, the amount of water it consumes out of the
22 total amount that it is able to divert?

23 A. Yeah, so -- so, currently, licenses to the system,
24 they're -- in the document -- because, again, there was
25 another amendment of a third party. Bingham was able

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Cross-examined by Mr. Kruhlak

1 to get another 90-acre feet. So we in the document
2 talk about 233-acre feet. Since then, there's been
3 another 90-acre feet added to that license
4 availability.

5 We -- we currently operate -- the system, on the
6 233, on an annual basis -- we currently use
7 approximately about 90-acre feet of the 233 that
8 exists.

9 In addition, since then, there's been another
10 90-acre feet added to the system, and we don't need to
11 own all the license. That's the other thing, I think,
12 as the utility and franchise the Board needs to know,
13 we just become the point of diversion.

14 There is a group that is west of us, and it's very
15 well documented in all of the county information, it's
16 called Bow Water and Land, and they currently have
17 1100-acre feet of agricultural license that's returned
18 to source, that consumable looks like could be another
19 300-acre feet.

20 We've had several discussions with them over the
21 years of the opportunity, whether we own their license
22 or whether they just become part of our point of
23 diversion, and we treat their license.

24 According to the Calgary Management Regional
25 Board, one of the key points in the board that makes is

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Cross-examined by Mr. Kruhlak

1 the efficiency of existing infrastructure. And so the
2 efficiency of existing infrastructure in the City of
3 Calgary's regional board document, it talks about using
4 existing resources and ensuring that that is the first
5 step.

6 And so in our discussions with Bow Water and Land,
7 it's been a discussion that another -- not another
8 treatment plant get built and -- and now cannot because
9 we have the exclusive franchise area, but that other
10 additional water licenses could be tied into the plant
11 for treating potable water.

12 Q. Appreciate all that, Mr. Williams.

13 I was just looking -- basically, just trying to
14 address the fact that expansion requires both customers
15 and available water capacity --

16 A. Yeah, and we have lots of capacity at this time, trust
17 me.

18 Q. And I just want to clarify, you mentioned discussions
19 as to new allocation which may be available by
20 allocation order in southern Alberta, but that's
21 dealing with the Old Man Basin, isn't it?

22 A. It is, but there is a discussion that it could open up
23 some further -- because there's been a need for
24 development.

25 Right now, as everyone is aware, maybe not the

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Cross-examined by Mr. Kruh1ak

1 NRCB Board members, but the City of Calgary is fully
2 aware of this, that they control and manage most of the
3 water licensing and diversion in this area, and it's
4 been a contentious issue for over the years.

5 And so our hope is that they recognize this as a
6 utility and that they -- you know, that there's
7 possibilities in the future.

8 Things are opening up as there's a recognition
9 that there needs to be, you know, future development
10 for the area.

11 Q. One last point I just wanted to clarify with you,
12 Mr. Williams. You spoke of various agreements, and
13 that -- I think you suggested perhaps there was an
14 agreement between Alberta Transportation and TransAlta
15 Utilities, and I'm just wondered if you may be --
16 you're relating the discussion that Mr. Rae has -- was
17 advancing the other day with respect to arrangements on
18 the Bow River would involve TransAlta --

19 A. Possibly, yeah, but I understand with some compensation
20 for a stakeholder that might have some damage.
21 That's -- that's the only reason why I bring it up.

22 Q. So you're not aware of any arrangements between Alberta
23 Transportation and TransAlta on the Springbank project?

24 A. We can't get any details.

25 Q. Okay.

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Cross-examined by Mr. Kruhlak

1 **A.** I can't -- we've tried, but we -- as in some of the
2 other Indigenous groups too, we just -- the access to
3 the information is not available to us.

4 **Q.** Right. Thank you very much, those are my questions.

5 **A.** Excellent. Thank you.

6 THE COURT REPORTER: Excuse me.

7 THE CHAIR: Yes?

8 THE COURT REPORTER: Sorry, Lorelee just advised me
9 that the witness was not sworn. So if we could swear
10 him now, if that would be possible?

11 We have an oath to give in this case.

12 MR. WILLIAMS: So would that be me or
13 Mr. Kruhlak?

14 THE CHAIR: No, no, that would be you,
15 Mr. Williams.

16 MR. WILLIAMS: I've got a Bible here, so I can --
17 do I need a witness for the Bible?

18 THE CHAIR: And perhaps you can --

19 MR. WILLIAMS: Let me find a witness --

20 THE CHAIR: And perhaps you can swear on the
21 evidence that has just been given as opposed to about
22 to given, and I think that will work.

23 MR. WILLIAMS: Okay. Just let me grab someone to
24 assist me with that.

25 MR. KENNEDY: Mr. Williams, we've got plenty of

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1 witnesses.

2 THE CHAIR: Oh I thought he was looking for
3 the Bible.

4 MR. WILLIAMS: So here's the Bible. I'll just
5 put that down. Okay, my hand is on the Bible. And I
6 swear that the information --

7 THE COURT REPORTER: Just wait.

8 (OATH ADMINISTERED)

9 MR. WILLIAMS: Yes.

10 THE COURT REPORTER: Thank you.

11 THE CHAIR: Thank you, Ms. DiPaolo. Perfect.

12 MR. KRULHAK: Mr. Chairman, I just offer up --
13 perhaps Mr. Kenney can consider it. We've made
14 reference to this Alberta Utilities Commission decision
15 that appends the franchise agreement, and maybe just
16 for ease of reference, we can make that an exhibit?

17 THE CHAIR: Thank you.

18 UNIDENTIFIED SPEAKER: 362.

19 MS. FRIEND: Yeah, that's correct. And which
20 aid to cross is that?

21 MR. KRULHAK: That would be Aid Number 3.

22 MS. FRIEND: Number 3. All right, thank you.

23 MR. KRULHAK: Thank you.

24 THE CHAIR: Mr. Kennedy, Ms. Vance, what was
25 the length of the questioning you might have? And you

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Cross-examined by Mr. Kruh1ak

1 are done; is that right, Mr. Kruh1ak? Sorry, you were
2 complete? Yeah, thank you.

3 Mr. Kennedy?

4 MR. KENNEDY: Mr. Chair, I have no questions for
5 this witness.

6 THE CHAIR: I think we can finish up now,
7 Ms. Vance.

8 MS. VANCE: I just had one clarifying
9 question.

10 Q. At the very beginning, Mr. Williams, you were talking
11 about documents that you might refer to, and I think I
12 sorted out Exhibit 84 and Exhibit 221, and then you
13 made reference to an IAAC EIA input from February 3rd.
14 That -- was that input from Calalta?

15 A. **It was from Calalta to the Impact Assessment Agency,**
16 **and it's their request.**

17 **Now, we haven't filed that as an exhibit, but we**
18 **can.**

19 Q. Well, I didn't actually hear you refer to it, but I
20 just wanted to check. I just wanted to tie that loop
21 off to see if you --

22 A. **Sure.**

23 THE CHAIR: My understanding, Mr. Williams, is
24 that you were also referring to the actual report
25 released by IAAC, and that we do have on evidence.

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1 MS. VANCE: Yeah.

2 A. That is correct, on both natures, yeah.

3 Q. I wanted to clarify because I had thought it was maybe
4 your input from February 3rd, which I'm -- maybe
5 somebody can help me, I'm not sure if we have that
6 anywhere. And whether you wanted to use it, I don't
7 know.

8 A. Yeah, we can submit it. It's similar to the
9 documentation that we've submitted to the NRCB. So
10 it's our letter with our objections, but we can -- we
11 can have that submitted today.

12 Q. That's not my call, but we do have letters I know on
13 record from January and February of 2021.

14 A. Okay.

15 Q. But not that particular one, perhaps. I didn't hear
16 you refer to it, but I wanted to just clarify that
17 point.

18 A. We -- Mr. -- Peter is correct in the sense that I used
19 as a reference the -- our objections come that there's
20 evidence in the Impact Assessment Agency that -- that
21 the air -- air quality, ambient air is a concern, and I
22 made reference to that document for both that and for
23 surface and sediment water.

24 So I did -- so I used it twofold. One, I said we
25 submitted a letter to the agency, but then I used

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Questioned by Mr. Heaney

1 excerpts from the agency work in -- as evidence of why
2 these are objections for us.

3 THE CHAIR: Right.

4 Q. MS. VANCE: So if we have -- we have the
5 agency draft report. We have that.

6 A. Yeah, yeah, that's correct.

7 Q. Does that suffice or did you want to add anything else?

8 A. No, that's -- that suffices, correct.

9 Q. Okay. Thank you.

10 MS. VANCE: I think that was the only question
11 I had.

12 THE CHAIR: Thank you, Ms. Vance. And Panel
13 members. Mr. Ceroici?

14 MR. CEROICI: I have no questions. Thank you.

15 THE CHAIR: Mr. Heaney.

16 MR. HEANEY: Just a couple of quick questions,
17 Mr. Williams.

18 **MR. HEANEY QUESTIONS THE WITNESS:**

19 A. Yes.

20 Q. In contemplation of, you know, the potential for more
21 dust in the air in the future, have you looked into
22 what you could do to further dust proof your operation,
23 and do you have some idea of the costs involved?

24 A. No, we haven't looked into that. As I say, we're on
25 118 acres. The actual operation is about 27 acres in

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1 size. On an annual basis -- and I can't -- not
2 disclose the number of guests on an annual basis
3 because we have a policy on disclosure, but we do over
4 half a million guests on an annual basis, on 104-day
5 operating season. So -- but we have not looked into,
6 you know -- on the PLCs example, for putting guards on
7 them and that kind of thing on that, no, we have not
8 looked into that at this time.

9 Q. And then the other question I had was just -- you know,
10 point of clarification. You said that the Springbank
11 Airport was the fourth most touched-down airport in
12 Canada; was that correct?

13 A. MR. WILLIAMS: That's -- that's what we've been
14 told.

15 Q. I was wondering what the source of that information
16 might be?

17 A. MR. WILLIAMS: You know, what, we will look for
18 that, and we can submit it to the Board.

19 Q. Okay. Thank you. That's it.

20 THE CHAIR: Thanks, Mr. Heaney. Ms. Roberts?

21 MS. ROBERTS: I got a bit lost in all of the
22 numbers for water license, but I'll be happy to review
23 the transcripts, and I'm sure that will clarify for me,
24 so I won't ask any questions of Mr. Williams.

25 THE CHAIR: All right. Thank you,

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1 Ms. Roberts. And I have no questions, Mr. Williams.

2 Thank you very much.

3 And did you have anything in redirect based on the
4 questions that you were asked, or are you good to go?

5 MR. WILLIAMS: None at this time, other than
6 thank you, and thank you to the Board, thank you,
7 Mr. Chairman, and thank you to all the participants in
8 the process.

9 THE CHAIR: Thank you very much. I'm looking
10 for -- to take a break, but first, I understand
11 Mr. Wagner, if you're online, that you are not
12 intending on providing direct evidence on Topic Area 1;
13 is that correct?

14 MR. WAGNER: Correct, Mr. Chairperson. I
15 believe that everything has been covered off at this
16 point, and I have no new information to bring forward.

17 THE CHAIR: Okay, thank you.

18 MR. WAGNER: But I will be available for cross
19 if -- if it so please the Panel.

20 THE CHAIR: You were going to provide direct
21 in another topic area; is that right?

22 MR. WAGNER: That is correct. I know that a
23 lot of the landowners have presented the majority, if
24 not all, of their case in this section. I had actually
25 chose some personal issues in Crown engagement, and

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1 that's where I will be bringing up most of the issues
2 that I have.

3 THE CHAIR: Okay, all right. So we'll hear
4 from you on next topic.

5 So Mr. Kruhlak and Mr. Fitch, you'd be up after
6 the break, then, with rebuttal if you have. Do you
7 have rebuttal evidence for Topic Area 1?

8 MR. FITCH: No, sir, we're not advancing any
9 rebuttal.

10 MR. KENNEDY: If I might. Sorry, it's
11 Bill Kennedy. I had a conversation with Mr. Kruhlak
12 yesterday as the Panel had some -- had at least some
13 questions that it wanted to follow up with your witness
14 Mr. Sol. And I think the suggestion was that Mr. Sol
15 be impanelled as part of a rebuttal panel. And if
16 we're not going to see a rebuttal panel, we need to
17 explore some alternatives.

18 THE CHAIR: Or perhaps Mr. Kruhlak had
19 another -- I mean this is Topic Area 1, yes, but could
20 that be done on another day?

21 MR. SECORD: Just a suggestion, sir. Perhaps
22 Mr. Sol could join in Topic Panel Number 2 because we
23 should get -- we should complete that panel today
24 comfortably.

25 MR. FITCH: Mr. Chairman, we're in your hands

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1 which you prefer. We could ask Mr. Sol to join the
2 second panel for Topic 2 or, alternatively, if it's an
3 isolated question, we'd be happy to take that away as
4 an undertaking and provide the Board with a response.

5 THE CHAIR: Well, I'd prefer -- you know, I
6 think our preference would be to ask Mr. Sol so we
7 could have maybe follow-up questions rather than sort
8 of going back and forth with undertakings.

9 So if Panel Number 2 works, I mean, you know, it
10 may be a bit out of step of process, but, you know, I
11 think overall it still works, doesn't it?

12 MR. KRUHLAK: We could certainly accommodate
13 that, sir.

14 THE CHAIR: And it gives Mr. Sol time, and
15 then also the Panel can make sure we've got all our
16 questions rounded up.

17 MR. KENNEDY: And to be clear, Mr. Chairman, we
18 had no -- none of my discussion with Mr. Kruhlak dealt
19 with the specifics of the questions, simply the need
20 for the witness.

21 THE CHAIR: Right, right. Okay, thank you.

22 So we can begin after break on Topic Area 2.

23 Mr. Kruhlak, you will be ready to head off Topic
24 Number 2 after break?

25 MR. KRUHLAK: That's correct. We'll have the

ALBERTA TRANSPORTATION TOPIC #2 PANEL

1 panel available.

2 THE CHAIR: Okay, great. So let's get back at
3 11 o'clock if we could. Reconvene at 11 o'clock.
4 Thank you everyone.

5 (BRIEF ADJOURNMENT)

6 THE CHAIR: Okay, Mr. Kruhlak, Mr. Fitch,
7 you're up on direct, and if my notes are correct, I
8 think you've asked for around 30 minutes. Is that
9 about what you still expect you'll take on direct?

10 MR. KRUHLAK: I expect that is accurate, sir.

11 THE CHAIR: Okay, great. Thank you very much,
12 and take it away.

13 MR. KRUHLAK: Okay. I'll just briefly be
14 looking to introduce our witness panel, and I guess
15 what -- the people I'd be calling, if you look to
16 Alberta Transportation's Topic 2 is I've referred to
17 five common members of our witness panel, Mr. Hebert,
18 Mr. Svenson, Mr. Speller, Mr. Brescia, and Mr. Wood.

19 We also, at the Board's request, will add Mr. Sol
20 to that, who was on Topic 1, just to respond only to
21 the questions of the Board. And we have three -- I
22 failed to mention Ms. Perret, who was also on Topic 1,
23 so we only have two new members of the Topic 2 witness
24 panel that we'll be calling upon to be sworn. That is
25 Jennifer Hallson and Dr. Colin Buchanan.

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

1 And, Mr. Chairman, I'm in your hands how you wish
2 to confirm with the witnesses who have already been
3 sworn on Topic 1, to have them reconfirm that they
4 understand they're still under oath.

5 THE CHAIR: If that's necessary. I mean I --
6 that might be the simplest way to do it. Even just an
7 affirmation that they feel to -- we don't need to
8 reswear every time, in my view.

9 Mr. Kennedy, Ms. Vance, do you have any alternate
10 views there?

11 MS. VANCE: No, I think he can just recognize
12 that he's still sworn in.

13 THE CHAIR: Okay, that'd be great. Thank you.

14 MR. KRUHLAK: Thank you. Then I'd ask if,
15 Madam Reporter, if you could have Ms. Hallson and
16 Dr. Buchanan sworn.

17

18 M. HEBERT, M. SVENSON, W. SPELLER, D. BRESCIA, M. WOOD, D.
19 SOL, M. PERRET, J. HALLSON, C. BUCHANAN (For Alberta
20 Transportation), previously sworn/sworn/affirmed

21

22 A. MR. HEBERT: Mr. Chairman, if I may,
23 Dr. Buchanan is having a Zoom issue, but we'll try to
24 rectify it momentarily.

25 THE COURT REPORTER: Sorry, who was that speaking?

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

Examined by Mr. Kruhlak

1 MR. HEBERT: Sorry, Madam Court Reporter, it's
2 Matthew Hebert, the Chair of the Transportation witness
3 panel. We're just in a separate room from Mr. Kruhlak
4 and want to confirm we're having momentary technical
5 issues on the part of Dr. Buchanan.

6 THE CHAIR: Thank you. And is he in the room
7 with you, Mr. Hebert?

8 MR. HEBERT: Yes, he is, sir.

9 MR. KRUHLAK: What I can do, Mr. Chairman, is I
10 will ask Ms. Hallson to confirm her background, and
11 then we can move to Dr. Buchanan.

12 **MR. KRUHLAK EXAMINES THE PANEL:**

13 Q. Ms. Hallson, can you confirm that your CV that we filed
14 in Exhibit 336, and yours is located at page 42, is
15 accurate?

16 A. MR. HALLSON: Yes, that's correct.

17 Q. And I understand you work with DEMA -- that's all
18 capitals, D-E-M-A -- Land Services as a team lead
19 Indigenous consultation and engagement; is that
20 correct?

21 A. MS. HALLSON: Yes, that's correct.

22 Q. And could I ask you to describe to the Board your
23 education and experience?

24 A. MS. HALLSON: Yes. I have a bachelor of arts
25 degree with honors in anthropology, and a master of

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

Examined by Mr. Kruhľak

1 arts degree in anthropology, both from the University
2 of Alberta.

3 I have been with DEMA Land Services about 3 and a
4 half years, and have been involved on the SR1 project
5 during that entire time.

6 At DEMA, I'm responsible for facilitating
7 consultation engagement for the Crown and proponents
8 which meet the guidelines established by the Aboriginal
9 consultation office.

10 I have worked with Alberta Transportation on
11 several projects, helping them to receive consultation
12 adequacy from the ACU.

13 Q. Did you get the hand signal to perhaps slow it down a
14 little bit?

15 A. MS. HALLSON: Yes, I will.

16 Q. And again, could I ask you just to review your role on
17 this application and your involvement?

18 A. MS. HALLSON: Yes. My role has been to help
19 facilitate the Indigenous consultation and to maintain
20 the records of consultation and engagement, create the
21 record of consultation logs, as well as track concerns
22 and responses in the specific concerns and response
23 tables.

24 I've also been involved in reviewing and preparing
25 material related to the Indigenous engagement program

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

Examined by Mr. Kruhlak

1 for regulatory filings.

2 Q. Thank you, Ms. Hallson. Do we have Dr. Buchanan now
3 available to be up?

4 I see you, Mr. Hebert. Is Dr. Buchanan now
5 online?

6 MR. HEBERT: I'm just confirming.

7 DR. BUCHANAN: Yes, I am.

8 MR. KRULHAK: Thank you, sir.

9 I'd ask, Madam Reporter, if you could now swear
10 Dr. Buchanan.

11

12 **C. BUCHANAN (For Alberta Transportation), sworn**

13 Q. And, Dr. Buchanan, could I ask you to confirm that your
14 CV that's been included in Exhibit 336, and yours in
15 particular at page 2, is accurate?

16 A. DR. BUCHANAN: Yes, it is.

17 Q. And you work with Stantec as a principle, and you're
18 the technical lead for Indigenous services; is that
19 correct?

20 A. DR. BUCHANAN: Yes.

21 Q. And could I ask for you to describe your experience and
22 education to the Board?

23 A. DR. BUCHANAN: I have a PhD in anthropology from
24 the University of Calgary, an MA in anthropology from
25 Carlton University, and a BA from the University of

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

Examined by Mr. Kruhlak

1 Winnipeg with a double major in English and
2 anthropology.

3 I have 25 years of professional and academic
4 experience; the last 13 years at Stantec.

5 I've served as a discipline lead and a senior
6 advisor on traditional knowledge and traditional land
7 use programs for several major regulatory applications.
8 And I was responsible for the scoping, planning, and
9 execution of traditional land use studies and reporting
10 of traditional knowledge in environmental assessments.

11 As subject matter expert for traditional knowledge
12 and traditional land use with Stantec, I provide
13 guidance and technical direction nation-wide on TK
14 study methodology and data gathering and consideration
15 of traditional knowledge in environmental assessments
16 and regulatory reporting.

17 I have appeared as an expert witness before the
18 hearing panels of the National Energy Board, the
19 Canadian Environmental Assessment Agency, and the
20 Mackenzie Valley Environmental Impact Review Board.

21 Q. And could I ask you to describe, Dr. Buchanan, your
22 role and involvement on this application?

23 A. **DR. BUCHANAN:** Yes. I was responsible for the
24 traditional land and resource use assessment providing
25 overall guidance and direction quality review for the

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

Examined by Mr. Kruhlak

1 assessment. I provided strategy advice for the
2 Indigenous engagement program for the project and
3 participated in many consultation meetings with
4 Indigenous groups.

5 I was responsible for the preparation and
6 technical review of responses for information requests
7 from regulatory agencies and Indigenous traditional
8 youth studies by Indigenous groups.

9 Q. Thank you, Dr. Buchanan.

10 Mr. Hebert, I'd now like to turn to you and ask --
11 and invite you to provide your opening comments and
12 review your opening statement?

13 A. MR. HEBERT: Thank you, Mr. Kruhlak.

14 Good morning, Mr. Chairman, once again, members of
15 the Board, Board staff, members of interested parties,
16 and members of the public watching today on YouTube.

17 Since it is my first opportunity to do so, I would
18 like to acknowledge the presentations from the directly
19 affected and adjacent landowners delivered in Topic 1.
20 As noted in my opening statement, Alberta
21 Transportation takes seriously our responsibility to
22 understand their concerns with the project and to
23 mitigate those concerns.

24 For the directly impacted landowners, our interest
25 is to continue voluntary land acquisition negotiations

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

Examined by Mr. Kruhľak

1 to assemble program area -- project area, sorry, in
2 addition to discussing any other concerns you may have
3 with the project.

4 For those who are adjacent to the project,
5 Transportation will continue to engage with you to
6 ensure its proposed mitigations respond to your
7 concerns.

8 As I begin my remarks on Topic 2, I want to
9 acknowledge the presence of the elders from the
10 Stoney Nakoda Nation that will be testifying in this
11 topic session. Transportation welcomes their
12 perspectives on the project, and as referred to in our
13 hearing submission, would welcome future opportunities
14 to engage with the Stoney elders in the completion of
15 their traditional land use assessment.

16 Alberta Transportation's Indigenous engagement
17 program for the SR1 project reflects its efforts to
18 conduct a meaningful and responsive engagement program
19 based on respect and transparency. The Indigenous
20 engagement program designed by Alberta Transportation
21 followed federal and provincial guidelines, took
22 direction from the government of Alberta's Aboriginal
23 consultation office, and the Impact Assessment Agency
24 of Canada or "IAAC," it strove to respect each
25 Indigenous group's specific consultation protocols.

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

Examined by Mr. Kruhlak

1 For the record, Transportation was directed to
2 consult with the Following Treaty 7 nations by the
3 Aboriginal consultation office. They are: The
4 Tsuut'ina Nation, the Stoney Nakoda Nations, Piikani
5 Nation, Blood Tribe Kainai First Nation, and the
6 Siksika Nation.

7 In addition, IAAC directed Transportation to also
8 engage with the following groups: Ermineskin Cree
9 Nation, Samson Cree Nation, Montana First Nation, Louis
10 Bull Tribe, the Foothills Ojibway Society, the Ktunaxa
11 Nation Council, Metis Nation 3, and Metis Nation
12 British Columbia.

13 I have personally been involved in over 32
14 meetings of some 99 meetings that members of the
15 project team have had with Indigenous groups. As the
16 Board may be aware, we have filed extensive records of
17 consultation with the Board.

18 Further, we are pleased that many of the concerns
19 raised by Indigenous groups have been addressed through
20 the engagement process and follow-up as the
21 Stoney Nakoda Nations remain the only group intervening
22 at this time.

23 One of the plans that has been tabled with many of
24 the First Nations are the proposed land use principles
25 driven by comments from the consultation process and

1 information requests from the federal regulator. We
2 have shared this plan with the First Nations and
3 Indigenous groups who I identified earlier, the
4 regulators, and stakeholders.

5 This project creates a novel situation where the
6 project acquires private land and converts it to Crown
7 land. Due to the unique nature of the project's
8 operation, there is an opportunity to support uses
9 outside of flood mitigation. This includes the
10 practice of Treaty rights among a limited number of
11 secondary uses.

12 The plan filed calls for additional consultation
13 to ensure that all interested parties will have an
14 opportunity to express any concerns or interests they
15 may have in its finalization, which would occur after
16 all project approvals are obtained.

17 Transportation is also committed to Indigenous
18 participation in the SR1 project, including through
19 training, employment, and contracting opportunities.
20 To support this commitment, Transportation developed a
21 draft Indigenous participation plan and shared it with
22 Indigenous groups in November 2019.

23 Since it was first developed, Transportation has
24 advanced the draft Indigenous participation plan by
25 meeting with Indigenous groups, hosting a business

1 readiness workshop, and obtaining information on
2 businesses and contractors that could participate in
3 the construction opportunities.

4 Alberta Transportation has determined what
5 construction work packages could be awarded to
6 Indigenous groups -- sorry, Indigenous businesses and
7 contractors if the project is approved. The work will
8 be ongoing until the prime contractor tender processes.

9 Alberta Transportation intends to continue to
10 inform Indigenous groups of the potential opportunities
11 for the SR1 project and to engage further in one-on-one
12 discussions regarding the participation on the project.

13 The Stoney Nakoda Nations have raised the concerns
14 about the adequacy of consultation. While Alberta
15 Transportation believes it has made every possible
16 effort to share information, seek input, and maintain
17 communications, whether in person, virtually, by phone,
18 or email, it seeks to address those concerns.

19 Transportation has expressed to the Stoney Nakoda
20 Nations that it is very interested in continuing to
21 meet with them and ensure that they have an
22 understanding of the commitments that transportation
23 has described and undertaken as we believe it addresses
24 many of the concerns.

25 We have also indicated that we are very interested

1 in working with them to address the issues they
2 identified in their interim traditional land use
3 assessment.

4 In particular, Alberta Transportation would
5 propose to undertake the following: It would
6 facilitate additional site visits to the Stoney Nakoda
7 Nations before construction to review habitations of
8 the camping areas in ceremonial and sacred areas
9 identified in the Stoney Nakoda Nations's interim
10 traditional land use assessment report with
11 representatives from Alberta Culture, Multiculturalism
12 and Status of Women to confirm whether the areas
13 identified by the Stoney Nakoda Nations are reportable
14 under the *Historical Resources Act* and to review
15 potential mitigation measures.

16 Alberta Transportation would endeavour to assist
17 the Stoney Nakoda Nations in completing and finalizing
18 the Stoney Nakoda Nations' traditional land use
19 assessment, and AT invites them to submit their final
20 traditional land use assessment report.

21 Alberta Transportation will provide a written
22 response to the final report and would be pleased to
23 meet with the Stoney Nakoda Nations to review its
24 response and discuss the proposed mitigation measures.

25 It would assist and encourage the Stoney Nakoda

1 Nations to participate in the project's First Nations
2 land use advisory committee.

3 Alberta Transportation would welcome engaging the
4 Stoney Nakoda Nations with respect to undertaking
5 cultural monitoring during construction and
6 participation in the development of a mitigation plan.

7 Transportation would seek to provide the Stoney
8 Nakoda Nations with updates with respect to the
9 implementation of the wildlife mitigation and
10 monitoring plan to ensure that they have information
11 available to them to assess the issue.

12 I have invited my colleague, Dr. Colin Buchanan,
13 who, as we have heard, holds a PhD in anthropology and
14 over 25 years' experience in ethnographic and
15 historical research pertaining to aboriginal people,
16 their culture in history to share his observations on
17 Alberta Transportation's efforts and consultation on
18 this project and how we might address concerns raised
19 by the Stoney Nakoda Nations.

20 Dr. Buchanan.

21 A. DR. BUCHANAN: Thank you, Mr. Hebert.

22 Alberta Transportation started early engagement
23 with Treaty 7 First Nations in 2014 as directed by the
24 Aboriginal consultation office. And when the Impact
25 Assessment Agency of Canada directed that additional

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Examined by Mr. Kruhľak

1 Indigenous groups be engaged in on this project in
2 2016, Alberta Transportation acted quickly to expand
3 the Indigenous engagement project.

4 MS. VANCE: I'm just going to interrupt. I
5 believe the court reporter may be having some
6 difficulty with the speed of your speaking. Could you
7 kindly just slow down a little for her.

8 A. DR. BUCHANAN: Thank you. Yes, I will.

9 MS. VANCE: Thank you.

10 THE CHAIR: Thank you, Ms. Vance.

11 A. DR. BUCHANAN: The record demonstrates that
12 Alberta Transportation has conducted robust and
13 meaningful consultation for the SR1 project.

14 The consultation logs contain thousands of entries
15 and reflect meetings, workshops, site visits,
16 correspondence, funding for traditional youth studies,
17 and ongoing project updates.

18 Alberta Transportation shared project information
19 in a timely manner and met individually with Indigenous
20 groups to review project information and obtain their
21 perspectives on potential project effects, specific
22 concerns, and recommendations for mitigation.

23 Upon receiving traditional youth studies from each
24 Indigenous group, Alberta Transportation prepared a
25 written response addressing the comments and concerns

1 and identifying proposed mitigation to avoid or reduce
2 project effects.

3 Alberta Transportation then offered to meet with
4 those Indigenous groups to review the written record
5 and obtain their feedback.

6 Alberta Transportation has attempted to respond
7 meaningfully to concerns and issues raised by
8 Indigenous groups, and in response to their feedback,
9 has made noteworthy changes to the project including:
10 Fish passage measures, improved wildlife passage, and
11 the addition of the debris deflector.

12 Of course, the most significant change to the
13 project in response to Indigenous concerns has been the
14 development of the principles for future land use and
15 the proposed First Nation Land Use Advisory Committee
16 to support First Nation's practice of Treaty rights and
17 traditional uses.

18 Alberta Transportation has provided numerous
19 opportunities for Indigenous groups to share their
20 views on potential effects and comment on the
21 environmental impact assessment.

22 In addition to funding traditional youth studies
23 and facilitating site visits, Alberta Transportation
24 has provided draft effects assessments to Indigenous
25 groups prior to filing the EIA. And then offered to

1 hold workshops with Indigenous groups to attain their
2 input on proposed mitigation measures and discuss how
3 project-specific concerns have been addressed in the
4 EIA.

5 In my experience, these initiatives are rarely, if
6 ever, undertaken and provided Indigenous groups with a
7 unique opportunity to have their input meaningfully
8 considered in this project.

9 On February 26th, Stoney Nakoda Nations submitted
10 a large volume of material to the NRCB and then filed
11 their interim traditional land use assessment report on
12 March 4th. Based on review of this material, it
13 appears the information provided by Stoney Nakoda
14 Nations confirms the assumptions made in the EIA about
15 the nature and extent of Stoney Nakoda Nations's
16 traditional use in the PDA.

17 While the interim traditional land use assessment
18 report provided additional site-specific traditional
19 use information in relation to the project, no new
20 pathways or potential effects to Stoney Nakoda Nations
21 Treaty rights or traditional uses have been identified
22 that have not already been considered in the EIA.

23 I'll now turn to back to Mr. Hebert for final
24 comments.

25 A. MR. HEBERT: Thank you, Dr. Buchanan.

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Examined by Mr. Kruhlak

1 Mr. Chairman, I would close my remarks by
2 confirming that Alberta Transportation is fully
3 committed to continuing its engagement with the Stoney
4 Nakoda Nations, and it would be pleased to meet with
5 the Stoney Nakoda Nations to review any remaining
6 issues it may have with the SR1 project and to discuss
7 the proposed mitigation numbers.

8 Thank you, Mr. Chairman.

9 THE CHAIR: Thank you, Mr. Hebert. Does that
10 conclude your direct?

11 MR. KRULHAK: Mr. Chairman, I just had a further
12 follow-up question for Mr. Hebert as a result of some
13 comments made by the Springbank Concerned Landowners
14 Group with respect to local benefit and parkland.

15 Q. And I'm wondering, Mr. Hebert, whether you'd have any
16 comment on those observations that were shared in the
17 testimony of the SCLG yesterday?

18 A. MR. HEBERT: Thank you, Mr. Kruhlak.

19 Mr. Chairman, as I indicated in my remarks, the
20 intent of the land use principles, assuming the project
21 is approved, is to advance those principles into a land
22 use plan or land use instrument that would have the
23 necessary details and background to administer the land
24 use within the PDA. That plan is subject to community
25 engagements. I would like to refer to the Panel that

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Examined by Mr. Kruhlak

1 the development of the ultimate land use plan is
2 subject to community engagement.

3 One of the components of that plan relates to
4 non-motorized recreational use, which we would
5 understand would be of benefit or interest to the
6 community.

7 I would also note that Alberta Transportation took
8 interest into the remarks made by Ms. Hunter yesterday
9 regarding the development of park opportunities. She
10 referenced some potential community infrastructure that
11 would -- that is of interest to her organization.
12 While I'm not in a position to respond directly to the
13 specific requests she made related to land set aside, I
14 would like to confirm that Alberta Transportation has
15 an interest in commun -- or discussing, rather, the
16 potential communities opportunities for community use
17 of the PDA that's proposed for the Springbank
18 Off-Stream Reservoir Project that would be defined
19 within the secondary uses within the proposed land use
20 principles.

21 Q. Thank you very much, Mr. Hebert.

22 MR. KRUHLAK: Mr. Chairman, that would conclude
23 the direct evidence of Alberta Transportation on Topic
24 Number 2.

25 THE CHAIR: Thank you.

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

Cross-examined by Ms. Louden

1 Calgary River Communities Action Group, any
2 questions, Mr. Cusano?

3 MR. CUSANO: No, sir, thank you.

4 THE CHAIR: And City of Calgary, Ms. Senek?

5 MS. SENEK: No questions, thank you.

6 THE CHAIR: And is it Ms. Louden or Mr. Rae
7 with Stoney Nakoda?

8 MS. LOUDEN: Thank you, Mr. Chair. It's
9 Ms. Louden.

10 THE CHAIR: Thank you, proceed.

11 **MS. LOUDEN CROSS-EXAMINES THE PANEL:**

12 Q. Thank you. Yes, we do have questions of this panel.

13 Before I begin, I'll just clarify for the Panel
14 that when I say "SNN" or "Stoney Nakoda," I mean the
15 individual nations of Bearspaw First Nation, Chiniki
16 First Nation, and Wesley First Nation who are
17 collectively known as the Stoney Nakoda Nations.

18 I may also refer to Alberta Transportation as
19 "AT." And I propose, unless there's any objections, to
20 direct my questions to the Panel generally, and -- and
21 you all may determine who is best suited to respond.

22 So the Stoney Nakoda participated in field visits
23 with Alberta Transportation in October and November of
24 2016. How did Alberta Transportation determine which
25 sites it would take the Stoney Nakoda participants to

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

Cross-examined by Ms. Louden

1 during the field visits?

2 A. MR. HEBERT: One moment, Mr. Chair.

3 Mr. Chairman, the members of the Stoney Nakoda
4 Nation confirmed locations that would be pursued on the
5 site visit.

6 Q. And can you provide an explanation as to how that
7 happened, how they confirmed those sites?

8 A. MR. HEBERT: Ms. Hallson will provide a
9 response.

10 A. MS. HALLSON: Hi, this is Jennifer Hallson.

11 There is a map with property numbers that was sent
12 to Stoney in September, sorry, September 30th, 2016,
13 and then Stoney could then indicate which properties
14 they wanted to visit.

15 Q. So there was only specific properties that the
16 Stoney Nakoda were able to visit; is that correct?

17 A. MS. HALLSON: I understand that it was the
18 properties that had access agreements with Alberta
19 Transportation at the time.

20 Q. During the field visits, the Stoney Nakoda Nation
21 participants were taken to the Our Lady of Peace
22 Mission site. Why were they taken to this site?

23 A. MR. HEBERT: Mr. Chairman, we don't -- we don't
24 know. We assume it might have been at the request of
25 the member of the group, but we don't -- we don't know

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

Cross-examined by Ms. Louden

1 **specifically.**

2 Q. I believe the panel of the Stoney Nakoda Nations later
3 in their direct evidence may address that, but it is
4 our understanding that it was not at their request.

5 Is it true to that the Our Lady Peace Mission site
6 is outside of the project area?

7 A. **MR. HEBERT:** **Mr. Chairman, that's correct.**

8 Q. And were the Stoney Nakoda participants provided the
9 opportunity to visit other sites outside of the
10 Stoney -- sorry, outside of the project area?

11 A. **MR. HEBERT:** **Mr. Chairman, I don't believe so.**

12 Q. So is there an explanation for, again, why they were
13 taken to that -- the Our Lady Peace Mission site but
14 not provided the opportunity to go to other sites
15 outside of the project area?

16 A. **MR. HEBERT:** **One moment, Mr. Chair.**

17 **Mr. Chairman, Mr. Svenson will provide a response.**

18 A. **MR. SVENSON:** **Sorry, found the mute button,**
19 **sorry.**

20 **Good morning everyone, this is Mark Svenson. I**
21 **believe I can respond to part of that, anyway.**

22 **The Our Lady of Peace Mission Cairn site was one**
23 **of the only historical resource sites to be identified**
24 **through Alberta Culture at the time, and it is a**
25 **historical and key area or key resource within the**

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Cross-examined by Ms. Louden

1 area.

2 It's also right adjacent to -- to the project
3 development area and specifically mentions the
4 Blackfoot people in one of the -- on one of the plaques
5 in or associated with the mission cairn.

6 There's also an area where you can look and see
7 where portions of the project would be from -- you can
8 view them from that spot.

9 Q. So without being provided the opportunity to go to
10 other areas just directly adjacent to the project area,
11 would Stoney Nakoda -- were they given the opportunity
12 to identify sites that might have been of significance
13 to them that in the same way were adjacent to the
14 project area and which they thought would perhaps be
15 affected by the project?

16 A. MR. SVENSON: The site visits were, as
17 Ms. Hallson had mentioned, we provided Stoney Nakoda
18 Nation with a map of the project area identifying what
19 land -- what parcels of land we had access to and asked
20 them to identify where they wanted to go.

21 So that is how we went about providing access and
22 working on those site visits with the Stoney Nakoda
23 Nation.

24 Under no or at no time did we receive any
25 information from the Stoney Nakoda Nation identifying

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Cross-examined by Ms. Louden

1 areas outside of the project area for which we did have
2 access to, public areas were not -- that they would
3 like to have visited.

4 Q. What is Alberta Transportation's understanding of the
5 difference between Aboriginal and Treaty rights, also
6 referred to as Section 35 rights, and traditional land
7 and resource use?

8 MR. KRUHLAK: I assume you're not asking for a
9 legal opinion? It's Ron Kruhlak.

10 Q. MS. LOUDEN: No, simply, as we'll get into, but
11 in the assessment of traditional land and resource use
12 and in the apparent assessment of effects to Aboriginal
13 and Treaty rights, just what the understanding was of
14 the Alberta Transportation team of what those two
15 various things are.

16 A. MR. HEBERT: Mr. Chairman, I'd refer to the
17 benefit of the Panel that we described Alberta
18 Transportation's position relative to Treaty rights,
19 starting in Section 226 of Alberta Transportation's
20 hearing submission, which is Exhibit 325. I'd ask
21 Dr. Buchanan to supplement my response.

22 A. DR. BUCHANAN: Certainly.

23 The definition for "traditional use" or "current
24 use," we use "current use" to align with the SIA at the
25 time, SIA 2012 definitions, include activities such as

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Cross-examined by Ms. Loudon

1 hunting, trapping, fishing, use of habitation areas,
2 trails and travel ways.

3 We considered effects on Treaty rights and
4 traditional uses in alignment with the government of
5 Alberta consultation guidelines and policy on
6 consultation with First Nations. And in the EIA, we
7 state that effects on the resources used for
8 traditional or for -- exploited for Treaty rights, an
9 effect on the resources would be considered a --
10 reasonably considered an effect on the Treaty right.

11 Q. So in the environmental impact assessment, were there
12 any valued components or indicators specifically
13 developed for potential effects on Aboriginal and
14 Treaty rights? To clarify, I'm asking if there were
15 indicators beyond those used for traditional land and
16 resource use that were used to assess effects to
17 Aboriginal and Treaty rights?

18 A. DR. BUCHANAN: The VC that we assessed was
19 traditional land and resource use. This is in
20 alignment with regulatory guidance. And within that,
21 we considered the effects on -- as directed by the
22 project terms of reference and the -- the guidelines
23 for the project issued by the Impact Assessment Agency
24 of Canada.

25 Q. So is it Alberta Transportation's position that there

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1 was an assessment of potential effects to Aboriginal
2 and Treaty rights?

3 **A. DR. BUCHANAN:** As I've said, the assessment was
4 conducted in alignment with the guidance provided by
5 the regulatory agencies, being Alberta Energy
6 (verbatim) and Parks and the Impact Assessment Agency
7 of Canada. And if you look at the terms of reference
8 issued by Alberta Energy and Parks, it asks for
9 assessment of change in availability of traditional
10 resources, change in access, and effects on cultural
11 and medicinal plants. And that's what we've provided.

12 **Q.** I understand that. Just to clarify, my question was is
13 it Alberta Transportation's position that an assessment
14 of potential impacts to Aboriginal and Treaty rights
15 was conducted?

16 **MR. KRUHLAK:** Sorry, Mr. Chairman. It's
17 Ron Kruhlak. I've heard the question now asked a
18 couple of times, and I think the witness has responded.
19 And I think that's probably to the extent of the
20 response from Alberta Transportation.

21 **THE CHAIR:** Thank you, Mr. Kruhlak.

22 Ms. Louden.

23 **Q. MS. LOUDEN:** Is it Alberta Transportation's
24 understanding that for a full assessment of impacts to
25 Stoney Nakoda's Aboriginal and Treaty rights, there

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1 must be a consideration of the exercise of the right,
2 in addition to a consideration of impacts to cultural,
3 social, and ceremonial components of that right?

4 **A. DR. BUCHANAN:** We conducted the assessment in
5 accordance with guidelines, both federal and
6 provincial. And if you'd like, we can bring up the
7 terms of reference issued by Alberta Energy and Parks,
8 and we've conducted the assessment and provided the
9 information that was asked for.

10 **Q.** Is it Alberta Transportation's position that mitigation
11 measures should be directly responsive and proportional
12 to specific impacts that are identified?

13 **A. MR. HEBERT:** Mr. Chairman, in general, yes.

14 **Q.** Can I ask that Exhibit 18 at PDF page 134 be pulled up,
15 please. Thank you.

16 So near the bottom of the page there, sorry, under
17 "Mitigation Measures," states that: (as read)

18 "Mitigation measures provided for
19 hydrology, surface water quality,
20 aquatic ecology, vegetation and
21 wetlands, wildlife and biodiversity are
22 applicable for mitigating effects on
23 traditional land and resource use."

24 Is it fair to say that these are mitigations of
25 biophysical components?

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1 **A. MR. BRESCIA:** Thank you, it's Mr. Brescia here.
2 One moment. Apologies for that.

3 **THE CHAIR:** Mr. Brescia, I'm not sure if your
4 microphone is situated in front of your mouth or not
5 but give that a try.

6 **A. MR. BRESCIA:** Is that better?

7 **THE CHAIR:** Yeah, and maybe speak just a
8 little bit louder, please. Thank you.

9 **A. MR. BRESCIA:** I will do that, thank you.

10 Yes, it would be fair to say that the majority of
11 those mitigation measures would be mitigating the
12 biophysical components of the valued components.

13 **Q. MS. LOUDEN:** And in this same exhibit, if I can
14 ask that we scroll to PDF pages 135 and 136, perfect,
15 and just if we could scroll down a little bit further
16 to the bottom of the page.

17 So at the bottom there, it says: (as read)
18 "Current use sites or areas located
19 within the area as permanent structures,
20 and the primary reservoir basin will be
21 permanently removed. It's anticipated
22 that following construction, current use
23 sites or areas would remain largely
24 unchanged outside of the PDA."

25 And then if you could just scroll down to the next page:

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1 (as read)

2 "The residual environmental effects from
3 the project on TRLU are determined to be
4 not significant because they do not
5 result in a long-term loss of
6 availability of traditional use
7 resources or access to lands."

8 And it goes on.

9 Can you explain the conclusion that effects from
10 the project on traditional land and resource use were
11 determined not to be significant?

12 **A. DR. BUCHANAN:** Yes, I can.

13 So what has been determined in the EIA is that
14 there will be some effects to traditionally harvested
15 resources. Some vegetation will be removed, but that
16 it won't affect the abundance and viability of the
17 species harvested by Indigenous groups within PDA.

18 **Q.** Since receiving the Stoney Nakoda's interim traditional
19 land use assessment, has this conclusion changed?

20 **A. DR. BUCHANAN:** No, it has not.

21 **Q.** Thank you. If you could just give me one moment.

22 Is Alberta Transportation able to provide any
23 examples of mitigation measures that were developed to
24 mitigate impacts to culture, social, or ceremonial
25 components of rights?

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1 A. DR. BUCHANAN: So Alberta Transportation has
2 received information from several Indigenous groups
3 about culture or spiritual sites that are important to
4 them.

5 Alberta Transportation has worked with these
6 groups to understand the nature of these sites, the
7 importance to the Indigenous groups. They've done
8 things like facilitate site visits with representatives
9 from Alberta Culture, Multiculturalism and Status of
10 Women to examine these sites and determine if they are
11 considered sites under *Historic Resources Act*
12 (verbatim) and what kind of mitigation might be
13 required.

14 And if they're not sites under *Historical*
15 *Resources Act*, how they can be respectfully recorded,
16 mitigated, or commemorated if -- from the perspective
17 of the Indigenous group.

18 Q. So have those consultations with the Stoney Nakoda
19 occurred regarding the sites that they identified in
20 their interim traditional land use assessment?

21 A. MR. HEBERT: Mr. Chairman, those discussions
22 have not occurred as of yet. We received that study
23 on -- subject to check -- I believe March 4th, 2021.

24 As we had indicated in our reply submission and in
25 the statement I made this morning, Alberta

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1 Transportation has an interest in discussing those
2 sites with the Stoney Nakoda Nation with a view to
3 developing a greater understanding of that and to
4 discuss mitigations where appropriate.

5 THE CHAIR: Ms. DiPaolo, you caught -- that
6 was Mr. Hebert speaking.

7 A. MR. HEBERT: My apologies, sorry.

8 Q. MS. LOUDEN: What sorts of mitigation measures,
9 I understand we're speaking generally as you just noted
10 that those specific conversations haven't happened with
11 the Stoney Nakoda, but generally what sort of
12 mitigation measures might be available for these sorts
13 of sites? You can perhaps provide examples of measures
14 that were implemented for other Nation's sites that may
15 have been found in the area.

16 A. MR. HEBERT: Sorry, Mr. Chairman, one moment.

17 A. DR. BUCHANAN: So as I've said, Alberta
18 Transportation has offered opportunities to work with
19 Indigenous groups to identify the nature and importance
20 of the sites. And I think that would be a first step
21 to undertake with Stoney to identify appropriate ways
22 to -- to mitigate these sites.

23 Q. If sites are located within the project area that are
24 deemed to not -- you can't mitigate those sites, for
25 example, if they're located right within where the

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1 project structures are proposed, will Alberta
2 Transportation be accommodating the Stoney Nakoda for
3 the loss of these sites?

4 **A. DR. BUCHANAN:** I think first it would need to be
5 determined whether these sites are historical resources
6 under the *Historical Resources Act*, and if so, Alberta
7 Transportation would follow the requirements of the
8 *Historical Resources Act* and provincial legislation in
9 dealing with these sites.

10 If they are not sites under the *Historical*
11 *Resources Act*, Alberta Transportation will work with
12 Stoney Nakoda Nations to identify ways to, as I've
13 said, record, mitigate, or commemorate these sites.

14 **Q.** So in that last list there, I believe you said "record
15 or commemorate"; you didn't list accommodation. So is
16 it fair to say that accommodation is not an option
17 for -- if those sites cannot be avoided?

18 **A. MR. HEBERT:** Mr. Chairman, it's Matthew Hebert
19 once again. I would say that we would welcome the
20 engagement with Stoney regarding sites that they --
21 they want to identify and discuss with us further.

22 To date, we have not discussed accommodation with
23 other groups relating to historical sites, but we
24 would -- we would welcome the opportunity to discuss
25 with Stoney further to understand their concerns in

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1 **this regard.**

2 Q. Did Alberta Transportation conduct calculation of the
3 land within Alberta and within Stoney Nakoda
4 traditional territory that is currently available to
5 the Stoney Nakoda for the exercise of Aboriginal and
6 Treaty rights?

7 A. **DR. BUCHANAN:** **No, Alberta Transportation did**
8 **not.**

9 Q. Has Alberta Transportation done a calculation of the
10 amount of land within the project area that would
11 become inaccessible to the Stoney Nakoda, specifically
12 which would not intersect with the proposed land use
13 area?

14 A. **MR. HEBERT:** **Sorry, Mr. Chairman. Is it**
15 **possible for counsel to clarify her question?**

16 Q. So has there been a calculation of the amount of land
17 within the project area that would be inaccessible to
18 the Stoney Nakoda, for example, as a result of
19 dispositions, safety-related concerns, et cetera, so
20 the amount of land within the project area that would
21 not be available to the Stoney Nakoda.

22 I referenced the land use plan understanding that
23 the suggestion there is that those lands will be
24 available.

25 MR. KRUHLAK: Mr. Chairman, it's Ron Kruhlak.

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1 I'd just like to briefly just clarify that I take it
2 you're asking the question after the project is --
3 would be approved and -- and developed because I trust
4 we're all aware at this time, the land is largely all
5 private land?

6 Q. MS. LOUDEN: Thank you for clarifying that.
7 Mr. Kruhlak. Yes, you are correct.

8 A. MR. HEBERT: Mr. Chairman, I'm able to provide
9 a response.

10 As I noted in my opening remarks this morning --

11 THE CHAIR: Mr. Hebert speaking.

12 A. MR. HEBERT: Oh, sorry, I'll get better as we
13 go.

14 As I referred to in my opening remarks this
15 morning and as we've referred to in our filings related
16 to the land use -- proposed land use plan for the SR1
17 project, this does represent a novel opportunity
18 whereby what is currently private lands will become
19 Crown land upon assuming the approval and the assembly
20 of the project development area, and again, subject to
21 all applicable legislation and guidelines.

22 As we've clarified in the -- in the proposed land
23 use plan and principles document, a certain amount of
24 the land is the project's infrastructure. It would not
25 be accessible by any users outside of the operator,

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1 Alberta Environment and Parks.

2 We have specified some areas that could be
3 accessible to Indigenous groups upon arrangement with
4 the operator, those are the areas that directly
5 intersect with the infrastructure, and then the
6 reservoir area, which is the principal land use area
7 that would be available to First Nations for the
8 practice of Treaty rights.

9 Q. Is it Alberta Transportation's understanding that the
10 ability of Stoney Nakoda members to exercise their
11 Aboriginal and Treaty rights includes factors such as
12 preference of Stoney Nakoda land users and how this
13 might result in, for example, avoidance behaviours?

14 A. MR. HEBERT: Mr. Chairman, is it possible for
15 counsel to clarify what's meant by "avoidance
16 behaviours"?

17 Q. So, for example, preference of Stoney Nakoda users
18 regarding, for example, the fact that they may not want
19 to exercise their rights or visit sites if there is
20 dust or noise or the presence of construction workers
21 and how those factors could therefore lead to Nation
22 members avoiding the sites or not exercising their
23 rights in that area.

24 So that's sort of what I mean by "avoidance
25 behaviours," and I can repeat my question that is it

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1 Alberta Transportation's understanding that the ability
2 of Stoney Nakoda members to exercise their Aboriginal
3 and Treaty rights includes factors such as the
4 preference of the Stoney Nakoda land users?

5 A. MR. HEBERT: Thank you. Mr. -- or sorry,
6 Dr. Buchanan will provide a response.

7 A. DR. BUCHANAN: So Alberta Transportation
8 understands that Stoney Nakoda Nations has described
9 in -- in submissions for other projects preferences for
10 land use, but the Treaty rights as understood by
11 Alberta Transportation and in -- in alignment with the
12 policy of the government of Alberta are as outlined, as
13 we said previously, in the reply submission and in the
14 response to SIA Information Request 2-1.

15 I'll also note that the interim traditional land
16 use assessment submitted by Stoney Nakoda Nations does
17 not mention preference of -- or avoidance.

18 Q. But you did note as that those behaviours are noted in
19 the other evidence filed by the Stoney Nakoda; is that
20 correct?

21 A. DR. BUCHANAN: Yes, we did acknowledge that.

22 Q. So just to clarify, I note that Alberta Transportation
23 has stated that it will maintain access to identified
24 current use sites located outside of designated
25 construction and project development areas during

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1 construction and operations.

2 So in identifying that availability, did Alberta
3 Transportation consider what we just went over in terms
4 of preference-based avoidance behaviours and that that
5 might lead to a Stoney Nakoda member not accessing
6 those sites?

7 **A. DR. BUCHANAN:** I think that commitment reflects
8 Alberta Transportation's willingness to work with
9 Indigenous groups to understand, first of all, the
10 location and nature of specific sites that can be
11 avoided and then work with them to develop conditions
12 for access.

13 **Q.** Can I ask that Exhibit 325 be pulled up and
14 specifically PDF page 71. And at page -- or sorry, and
15 paragraph 256, so it states that the Alberta
16 Transportation received the interim traditional land
17 use assessment, and the types of activities used and
18 defined appear to align with the traditional
19 activities, practices, sites, areas, and resources that
20 were already assessed. Do you see that there?

21 **A. DR. BUCHANAN:** Yes.

22 **Q.** And can I ask that Exhibit 324 be pulled up, and
23 specifically PDF 39. So in the last paragraph there in
24 the column further to the rights, it states that
25 Alberta Transportation has received the report, and the

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1 last sentence there, that it's currently reviewing this
2 report.

3 So I just wonder with that statement and with the
4 statement that we just read, Alberta Transportation
5 seems to be on one hand stating that it's still
6 reviewing the interim traditional land use assessment,
7 still needs to meet with the Stoney Nakoda, but then at
8 the same time, concludes that nothing new is presented
9 in that report. And I just wonder if you could
10 reconcile those two statements.

11 **A. MR. HEBERT:** Mr. Chairman, I think the
12 appropriate way to reconcile the two statements is that
13 in an effort to ensure that we could provide initial
14 assessment for the benefit of the completion of the
15 hearing submission, we undertook a review of the
16 document, made certain observations of that document.

17 As I stated in my remarks today and in the hearing
18 submission generally, our strong desire is to meet with
19 the Stoney Nakoda Nation to discuss the report in
20 detail as we've offered to other First Nations and
21 again, in an effort to understand the concerns in
22 greater detail and as suggested where appropriate,
23 consider and proposed mitigations that would be -- that
24 would be reflective of the concerns raised.

25 **Q.** Can I ask that Exhibit 310 be pulled up and

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1 specifically PDF page 17. Oh, perfect, thank you.

2 THE CHAIR: Ms. Louden, just before you get to
3 your next question, I was going to ask about your
4 timing.

5 I think it was Mr. Rae that had indicated to
6 Mr. Kennedy, and the Panel had approved 60 minutes.
7 I'm not sure if you're going to be able to make that
8 time. We're still on track. If so, we can continue
9 right through to 12:30 and then break your lunch.
10 What's your thinking in terms of timing so far?

11 MS. LOUDEN: I will do my best to be done in
12 30 minutes. I think it's possible, but I --

13 THE CHAIR: If it's close, then we might as
14 well continue, and if that's acceptable, we'll break at
15 12:30. I think we should break regardless at 12:30,
16 but if you could finish. And then there wouldn't be a
17 break in the Q and A for your section.

18 So please continue, we'll break at 12:30.

19 MS. LOUDEN: Understood, thank you.

20 THE CHAIR: Okay, thank you.

21 Q. MS. LOUDEN: So with these -- so this is the
22 Stoney Nakoda interim traditional land use report. Was
23 Alberta Transportation previously aware of these sites?

24 A. MR. HEBERT: Just one moment, Mr. Chairman.
25 Mr. Chairman, this is the first time that Alberta

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1 **Transportation has seen these particular sites.**

2 **Q.** So the Stoney Nakoda's interim report does identify new
3 information then; is that correct?

4 **A. DR. BUCHANAN:** So as was said, the Stoney Nakoda
5 **traditional land use assessment provides more**
6 **site-specific information.**

7 The EIA and Alberta Transportation's further
8 consideration of traditional use information provided
9 by Indigenous groups throughout the assessment process,
10 including many of the IRs, considered --

11 **THE CHAIR:** Is everybody muted? I think
12 Ms. Robinson, you may not be muted on my screen at
13 least. I think we're getting some outside --
14 Ms. Robinson. There we go, muted now. And everyone
15 else, just have a quick check, and then please proceed,
16 Mr. Buchanan.

17 **A. DR. BUCHANAN:** So yes, the -- this identifies new
18 site-specific information, but the fact is that in the
19 EIA and in other submissions made by Alberta
20 Transportation, cultural and traditional sites were
21 identified as potentially being affected.

22 Alberta Transportation adopted a conservative
23 approach in undertaking this assessment and assumed
24 that traditional use could occur in the area even if
25 specific information was not provided.

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1 We understood that Stoney Nakoda Nations had
2 agreements with landowners and was accessing private
3 land to undertake take Treaty rights and traditional
4 uses. And so this just confirmed that there are
5 specific sites within the PDA that are important to
6 Stoney Nakoda Nations.

7 Q. And you've stated that meetings still need to occur
8 with the Stoney Nakoda to discuss these sites and this
9 information and to discuss potential mitigation
10 options; is that correct?

11 A. MR. HEBERT: Yes, that's what we've proposed.

12 Q. So I'm just curious, if those meetings have yet to
13 occur, how -- how could Alberta Transportation come to
14 the conclusion that these sites have been sufficiently
15 mitigated?

16 A. DR. BUCHANAN: Well, I think Alberta
17 Transportation does need to meet with Stoney Nakoda
18 Nation to identify or to understand the nature and
19 importance of these sites.

20 I'll note that the interim traditional land use
21 assessment provides just a description of the site
22 saying "camping site" or "ceremonial site" or "sacred
23 site."

24 So I think it's important to understand further
25 the nature of them, understand whether these are sites

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1 recordable under the *Historical Resources Act* and work
2 with Stoney to -- to identify the -- the -- yeah, just
3 to identify the nature and extent of these sites.

4 Q. Thank you. And just to be clear for myself, so these
5 sites have not been assessed for particular mitigation
6 measures as of yet; is that correct?

7 A. DR. BUCHANAN: That's correct. I'll just note
8 that the historical resource impact assessment is
9 ongoing.

10 There are sites that Alberta Culture,
11 Multiculturalism and Status of Women has directed that
12 either be revisited or still need to be visited.

13 So, you know, as this project moves through the
14 regulatory approval process, if it is approved,
15 additional site-specific investigations will need to be
16 taken -- undertaken for the historical resources impact
17 assessment and -- yeah, thank you.

18 Q. Has the historical resources impact assessment been
19 provided to the Stoney Nakoda?

20 A. DR. BUCHANAN: So the historical resources impact
21 assessment has been submitted to Alberta Culture, and
22 Alberta Transportation is not able to provide that to
23 other parties, including Stoney Nakoda Nations.

24 Stoney Nakoda Nations may request it from
25 Alberta Culture.

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1 Q. Once it is completed, is Alberta Transportation able to
2 provide that directly to the Stoney Nakoda?

3 A. MR. HEBERT: Mr. Chairman, as described by
4 Dr. Buchanan, the document is under the responsibility
5 of the Ministry of Culture and Multiculturalism and
6 Status of Women.

7 We'd certainly be willing to share or facilitate
8 the contact between the Stoney Nakoda Nation and the
9 appropriate people in the Ministry of Culture so that
10 the sharing of report at the appropriate time can
11 occur.

12 Q. So as you've just --

13 THE CHAIR: Ms. DiPaolo, that was Mr. Hebert,
14 you got that? Okay, great, thanks. Sorry, sorry to
15 interrupt you.

16 Q. MS. LOUDEN: So Dr. Buchanan, I believe you
17 just stated that there are still or perhaps it was
18 Mr. Hebert, I can't quite recall, I'm sorry, but there
19 are still components of the historical resources
20 assessment that need to be completed; that's correct?

21 A. DR. BUCHANAN: Yes.

22 Q. And so can you explain how the significance
23 determination regarding historic resources was able to
24 be arrived at if the assessment has not been completed?

25 A. DR. BUCHANAN: As is typical for projects,

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1 historical resources assessment is guided by the
2 *Historical Resources Act* and is the responsibility
3 under the responsibility of the Ministry of Alberta,
4 Culture, Multiculturalism and Status of Women.

5 The approvals required will be -- will be obtained
6 by -- from the appropriate minister prior to the
7 project moving forward.

8 Q. I understand that. Just to specify, in the environment
9 impact assessment, there is a significance
10 determination about the impact to historical resources.
11 And I'm just trying to understand how that conclusion
12 was able to be reached at if there has not yet -- if
13 there's still things that need to be done within the
14 historic resources assessment?

15 A. MR. BRESCIA: It's Mr. Brescia. So in the
16 historical resources assessment that was included in
17 the EIA, as Dr. Buchanan mentioned --

18 THE CHAIR: Excuse me, extremely difficult to
19 hear.

20 A. MR. BRESCIA: Is that better?

21 THE CHAIR: Yeah, and just pick up your voice
22 a bit.

23 A. MR. BRESCIA: So in the historical resources
24 impact assessment, there is a significance definition.
25 And as Dr. Buchanan mentioned, the assessment focuses

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1 on historical resources that are identified under the
2 *Historical Resources Act*, and as such, the definition
3 of "significance" is one that alters -- that results in
4 an unauthorized project-related disturbance that is
5 part of historical resource considered by
6 Alberta Culture to be of heritage value that is not
7 mitigated or compensated as required by the regulators.

8 And as part of our submission of the historical
9 resources impact assessment, Alberta Culture,
10 Multiculturalism and the Status of Women has already
11 identified certain mitigations that they require. And
12 so we understand that with any of the historical
13 resources that were identified, appropriate mitigations
14 will be identified by the ministry, and those will be
15 undertaken by Alberta Transportation.

16 Q. Has Alberta Transportation reviewed Stoney Nakoda's
17 evidence that its ceremonial, cultural, and sacred
18 sites are immovable?

19 A. DR. BUCHANAN: I believe it says that in the
20 interim T -- traditional land -- land use assessment
21 report.

22 Q. And sort of in I guess in a similar way, has Alberta
23 Transportation reviewed Stoney Nakoda's evidence that
24 once its ceremonial, sacred, or cultural sites are
25 disturbed or destroyed, they're culturally lost to the

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1 Stoney Nakoda?

2 A. DR. BUCHANAN: Subject to check, I think it says
3 that in the report.

4 Q. So then is it Alberta Transportation's understanding
5 that certain mitigation measures, for example, site
6 removal that are often proposed under the *Historic*
7 *Resource (verbatim) Act* and under assessments for
8 cultural heritage sites, that those may actually result
9 in additional impacts to the Stoney Nakoda?

10 A. MR. HEBERT: Mr. Chairman, it's the position of
11 Alberta Transportation that we engage with Indigenous
12 groups, in this case, speaking specifically about
13 Stoney, to understand the location of those sites. We
14 do acknowledge that some of those sites may be lost in
15 the eventual construction if the project should be
16 approved.

17 We have made certain commitments to Indigenous
18 groups related to opportunities to perform ceremonies
19 ahead of construction, and the commitment to the elders
20 visit that we made relates specifically to the
21 completion of the traditional land use study. Alberta
22 Transportation would certainly invite the Stoney Nakoda
23 elders and other members of the -- of the Nation to --
24 to take the opportunity that may be available for site
25 visits ahead of the construction of the project.

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1 Q. Can Alberta Transportation explain how it determines
2 the level of heritage value that a site has; so in
3 other words, how it distinguishes between moderate,
4 high, or very high heritage value?

5 A. MR. BRESCIA: Mr. Chairman, it's Dave Brescia
6 here. I can't explain the specifics, but those values
7 are defined under the *Historical Resources Act* and its
8 associated processes.

9 Q. Are you able to specify whether Aboriginal knowledge is
10 included as a factor in that determination?

11 A. MR. BRESCIA: One moment. Mr. Chairman, it's
12 Alberta Culture that makes that determination.

13 Q. So I'd like to turn now to the proposed future land use
14 plan and associated First Nations land use advisory
15 committee. How will representation on the First
16 Nations land use advisory committee be selected?

17 A. MR. HEBERT: Mr. Chairman, there's -- there are
18 additional details regarding the land use -- proposed
19 land use principles in general at Exhibit 216, which
20 was a response from Alberta Transportation to the
21 Impact Assessment Agency of Canada information request,
22 Package 4, technical review, Round 2, March 23, 2020.
23 It describes the process through which the government
24 of Alberta has proposed to launch the work of the
25 First Nations advisory committee.

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1 I assume that counsel is -- is inquiring on how
2 Alberta Transportation at this phase of the project, it
3 should be approved through construction and then
4 operations over to AT who would contemplated that we
5 would be approaching the First Nations that would make
6 part of the advisory committee to identify individuals
7 to represent their Nations on the -- on the advisory
8 committee.

9 Q. So at this time, there's -- there's no clarity on which
10 First Nations would be included in that committee; is
11 that correct?

12 A. MR. HEBERT: Mr. Chairman, I believe in our --
13 I'm not sure if it's evidence, but in our response to
14 the IAAC, the federal agency, in response to their
15 draft environmental assessment report, Alberta
16 Transportation advised that agency that it would be the
17 First Nations that Alberta Transportation has either
18 consulted with in the case of Treaty 7 First Nations or
19 in the case of the Treaty 6 First Nations, those that
20 we engaged with on -- on the advancement of the
21 application of the project.

22 Q. Would the Stoney Nakoda be appointed as the Chair of
23 that committee?

24 A. MR. HEBERT: Mr. Chairman, we've not reached a
25 point in the development of the committee to determine

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Cross-examined by Ms. Louden

1 the Chair position. I would suggest that would be an
2 element that would be open to engagement at the point
3 in time at which the committee was assembled.

4 Q. What level of authority will the advisory committee
5 have? I understand in the draft principles that you
6 referred to, there's a mention of the committee
7 providing recommendations.

8 Will the committee be restricted to simply making
9 recommendations?

10 A. MR. HEBERT: Mr. Chairman, as described in
11 greater detail in Exhibit 216 that I -- that I just
12 mentioned, the intent of the First Nations advisory
13 committee is to ensure that the First Nations I
14 referenced are in a position to use the land use area
15 in an effective manner.

16 Certainly at a principle stage, there's a
17 significant amount of detail relative to the limitation
18 that'll have to be informed.

19 So our expectations to engage with those First
20 Nations, to understand their perspectives, to get
21 insights on how government of Alberta can effectively
22 advance the commitments that it's made in these draft
23 principles. We contemplate receiving recommendations.

24 But we expect that between the First Nations
25 involved, Alberta Transportation, Alberta Environment

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1 is a department responsible for land management in
2 Alberta to engage in a respectful and collaborate
3 manner in an effort to advance this particular or
4 proposed aspect of the project.

5 Q. So who would have the final say on whether or not
6 recommendations are implemented?

7 A. MR. HEBERT: Mr. Chairman, ultimately
8 Alberta Environment and Parks is the department within
9 the government of Alberta responsible for land
10 management and land use would be the department with
11 the authority under -- under applicable legislation and
12 under the *Government Organization Act*.

13 Q. Is the proposed future land use plan intended to serve
14 as a mitigation measure or a part mitigation measure
15 for, among other things, impacts to the Stoney Nakoda?

16 A. MR. HEBERT: So Mr. Chairman, in our filings,
17 we've not referred to it specifically as a mitigation.
18 As I explained earlier and as is referenced in our
19 materials, this does present a unique opportunity in
20 the sense that it is the creation of Crown land.
21 Government of Alberta recognizes that it has certain
22 obligations relative to the Treaty uses that accompany
23 Crown land. And it'd viewed this as an opportunity for
24 the Stoney Nakoda Nations and the other First Nations
25 that I've -- that I've referenced to practice Treaty

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1 rights and traditional uses.

2 Q. Under the proposed plan, would First Nations, including
3 the Stoney Nakoda, be restricted in terms of which
4 rights and traditional uses they could practice and at
5 what times they could practice those rights and uses?

6 A. MR. HEBERT: Mr. Chairman, as outlined in the
7 draft principles, there are certain conditions in which
8 the site can be used. Foremost is safety, and safety
9 in this context is the ability to safely use reservoir,
10 if needed, during a flood season.

11 If it were to be used in a flood season, the
12 ability for the operator to conduct reclamation
13 activities and any sort of repairs that would need to
14 be done to the site or infrastructure. But I would
15 also reference that any -- any particular -- the
16 particular Treaty rights on the site would be subject
17 to any of the applicable laws in Alberta that govern
18 hunting, for example.

19 Q. And under the draft guiding principles that you've
20 mentioned and I think you just mentioned again, the
21 primary use is for flood mitigation; correct?

22 A. MR. HEBERT: Mr. Chairman, that's correct.

23 Q. And a secondary use is the exercise of practice of
24 Aboriginal and Treaty rights. What are some of the
25 other secondary uses contemplated under the plan?

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Cross-examined by Ms. Louden

1 A. MR. HEBERT: Mr. Chairman, again, I'd refer the
2 Panel to Exhibit 216; I'll just make sure I reference
3 the page correctly.

4 THE CHAIR: You want that brought up,
5 Mr. Hebert.

6 A. MR. HEBERT: I don't have to bring it up,
7 Mr. Chair. I just want to ensure that you and your
8 Panel members are aware of what I'm referring to.

9 THE CHAIR: Thank you.

10 A. MR. HEBERT: What I'm about to point to. I
11 just want the PDF page number.

12 So again, Exhibit 216, PDF page 24 would be the
13 last page, it lists specifically the other activities
14 that are contemplated on the site. I already
15 referenced the need that was related to managing the
16 site following a flood event.

17 Beyond that, there's a limited number of uses that
18 are contemplated. One of them, it relates to the
19 ability to have non-motorized recreational access. The
20 other relates to the need to have grazing within the
21 project development area as others, particularly
22 landowners, have referred to. Significant amount in
23 the area is pasture or grassland. The operator needs
24 to be in a position where it could effectively manage
25 the growth and accumulation of grass so as to reduce

ALBERTA TRANSPORTATION TOPIC # 2 PANEL

Cross-examined by Ms. Louden

1 the risk of fire.

2 And beyond that, it just -- for clarity of the
3 Panel, government of Alberta foresees no other
4 dispositions that would be granted on the site on
5 account of primary and secondary uses contemplated.

6 Q. And you can confirm that some of those uses are likely
7 competing uses to the exercise of rights and
8 traditional land and resource use?

9 A. MR. HEBERT: Mr. Chairman, Alberta
10 Transportation and Environment and Parks is the
11 department that will be responsible for finalizing the
12 land use approach should the project be approved,
13 recognize that some of these uses may be in conflict.

14 The commitment we've made as part of these
15 principles, it's actually the section following the
16 other activities I described, Alberta Environment and
17 Parks contemplates that there would be engagement with
18 First Nations, the public, Indigenous groups on the
19 means and mechanisms to attempt to reconcile the
20 conflicting uses where they may arise.

21 MS. LOUDEN: Mr. Chair, I note that it is
22 12:30. I am certainly near the end, but you noted
23 perhaps a break at 12:30 is a good time. So I'll pause
24 and turn it to you.

25 THE CHAIR: Alberta Transportation, you're

1 good to reconvene after lunch, then? We'll take a
2 one-hour lunch break. And Ms. Louden, how long do you
3 think you'll require after lunch?

4 MS. LOUDEN: I should be done within
5 20 minutes, sir.

6 THE CHAIR: Great, that's fantastic. Thank
7 you very much everyone. Let's reconvene at 1:30.

8 (PROCEEDINGS ADJOURNED AT 12:32 P.M.)

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10 PROCEEDINGS ADJOURNED TO 1:30 P.M.

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1 Volume 3
2 March 24, 2021
3 P.M. Session

4
5 (PROCEEDINGS RESUMED AT 1:30 P.M.)

6 THE CHAIR: Okay. I think we can get started.
7 I see Mr. Kruhlak is in Speaker View. Is that
8 because -- did you have an interjection or does
9 Mr. Wiebe just have you up there to -- people thought
10 they needed a closer look, Mr. Kruhlak?

11 MR. KRUHLAK: I'm sure they don't, sir. I'm
12 simply waiting.

13 MR. WIEBE: I think he was just a random
14 selection there until we got it going.

15 THE CHAIR: He's the door prize winner.

16 MR. WIEBE: Yeah.

17 THE CHAIR: Okay. Ms. Louden, you mentioned
18 you would likely need another 20 minutes or so to wrap
19 up on land use, so are you ready to continue on?

20 MS. LOUDEN: Thank you, sir. Yes, I am, and I
21 should be certainly done within 20 minutes.

22 THE CHAIR: Okay. Thank you.

23

24

25

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Ms. Louden

1 M. HEBERT, M. SVENSON, W. SPELLER, D. BRESCIA, M. WOOD,
2 D. SOL, M. PERRET, J. HALLSON, C. BUCHANAN (For Alberta
3 Transportation), previously sworn/affirmed

4 MS. LOUDEN CROSS-EXAMINES THE PANEL:

5 Q. So, I just have a couple more questions about historic
6 and cultural resources and then we'll kind of move to
7 my final few questions.

8 Based on our exchanges earlier, is it Alberta
9 Transportation's evidence that in its consultation
10 efforts about historic and cultural resources,
11 particularly in regard to site-specific concerns, that
12 Alberta Transportation firstly takes direction from
13 Alberta Culture and, only after that, may seek input
14 from the Stoney Nakoda?

15 A. DR. BUCHANAN: So, Alberta Transportation follows
16 the *Historical Resources Act*, and sites that are
17 designated as historical resources under the act follow
18 provincial guidelines and legislation. If the sites
19 identified by Stoney Nakoda or any other Indigenous
20 groups are not recognized as resources, historical
21 resources under the act, then Alberta Transportation
22 will work with these groups to identify, as I said
23 earlier -- you know, identify the nature and importance
24 of the sites and work with the groups to develop
25 appropriate recording mitigation or commemoration of

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Ms. Louden

1 **the sites.**

2 Q. So for the sites that are captured under the act,
3 Alberta Culture is the body that Alberta Transportation
4 takes direction from in that regard. Is that fair to
5 say?

6 A. **DR. BUCHANAN:** **As required under the *Historical***
7 ***Resources Act*, yes.**

8 Q. Why, then, did Alberta Transportation not include any
9 of the evidence from Alberta Culture in its application
10 and, quite frankly, not include a representative of
11 Alberta Culture on the panel?

12 A. **DR. BUCHANAN:** **I'm not sure I understand the**
13 **question.**

14 Q. I guess I'm really seeking clarification. If Alberta
15 Transportation is taking its direction in terms of
16 assessment and consultation as it comes to historic
17 resources, why wasn't any of that evidence,
18 particularly the evidence submitted to Alberta Culture
19 and from them included within Alberta Transportation's
20 application?

21 A. **DR. BUCHANAN:** **Well, there's a very regular and**
22 **regulated process for undertaking historical resource**
23 **impact assessments in Alberta. A proponent needs**
24 **approval and a permit from Alberta Culture,**
25 **Multiculturalism and Status of Women to initiate**

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Ms. Loudon

1 historical resources assessment.

2 The assessment is done according to the direction
3 under the *Historical Resources Act* and reporting is
4 provided back to Alberta Culture as required.

5 This is a normal process on every project and
6 Alberta Transportation on this project has followed
7 this process, as required by law.

8 Q. And I just wanted to clarify something that we had gone
9 through earlier.

10 I had asked if Alberta Transportation would
11 provide the report that it provided to Alberta Culture,
12 and my understanding, and, again, please correct me if
13 I'm wrong, is that your position is that that is under
14 the control of Alberta Culture and cannot be provided
15 by you.

16 A. DR. BUCHANAN: Well, that's not Alberta
17 Transportation's position, that's the law of Alberta.
18 And the *Historical Resources Act* requires that these
19 reports be provided to Alberta Culture and they're the
20 custodians of the reports. Stoney Nakoda Nations is
21 able to request those reports from Alberta Culture.

22 Q. And those reports originated from Alberta
23 Transportation, just to confirm, and were submitted to
24 Alberta Culture; correct?

25 A. DR. BUCHANAN: They were produced by a licensed

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Ms. Louden

1 archeologist, licensed to practice in the province of
2 Alberta, that were employed by Alberta Transportation.
3 That's correct.

4 Q. Alberta Transportation has stated that it will commit
5 to working with the Stoney Nakoda to support
6 Stoney Nakoda completing its traditional land use
7 assessment. What tangible assistance will Alberta
8 Transportation provide to the Stoney Nakoda to complete
9 this assessment?

10 A. MR. HEBERT: Mr. Chairman, as referred to
11 earlier, we welcome the opportunity to discuss that
12 matter with the Stoney Nakoda Nation.

13 My understanding is that the Stoney Nakoda Nation
14 has budget remaining within funds that were authorized
15 at an earlier point for the purpose of completing this
16 study, but as I've said and I'll reiterate again, we'd
17 welcome the opportunity to discuss with Stoney the
18 means through which they would complete this work.

19 Q. How will Alberta Transportation incorporate any new
20 information from the Stoney Nakoda that might arise out
21 of a completed traditional land use assessment?

22 A. DR. BUCHANAN: So, Alberta Transportation, I
23 think, would undertake the same process that they have
24 with other Indigenous groups that have submitted
25 traditional use studies. We would review that study,

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Ms. Louden

1 we would provide a written response that considers the
2 concerns and issues of potential effects identified by
3 Stoney Nakoda Nations. We would discuss where, if,
4 these concerns and issues have been discussed or
5 addressed in the EIA or in any of the filed material
6 from Alberta Transportation. We would identify
7 mitigation that appears to Alberta Transportation to
8 avoid or reduce effects, and then meet with
9 Stoney Nakoda Nations to discuss this response, and
10 specifically, if the mitigation proposed is adequate or
11 additional refinements are required.

12 Q. Is it possible that any of Alberta Transportation's
13 conclusions regarding potential effects of the project
14 could change after receiving the completed traditional
15 land use assessment report and further information from
16 the Stoney Nakoda?

17 A. DR. BUCHANAN: It's, of course, possible. That
18 would depend on the results of the final traditional
19 land use assessment.

20 Q. But it is possible?

21 A. DR. BUCHANAN: Of course.

22 Q. Can I ask for Exhibit 324 at PDF page 7, I believe, to
23 be pulled up. That's perfect.

24 So at paragraph 9, there's an excerpt from a
25 meeting that occurred between a Stoney Nakoda

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Cross-examined by Ms. Louden

1 consultation representative William Snow and Alberta
2 Transportation, and in it, Mr. Snow raises concerns
3 about how previous information of the Stoney Nakoda was
4 ignored for other projects, and a concern that this
5 evidence isn't included.

6 I wonder after receiving that comment from
7 Mr. Snow and hearing those concerns, whether Alberta
8 Transportation worked with the Stoney Nakoda or
9 proposed any alternate strategies to resolve or address
10 Stoney Nakoda's concerns.

11 **A. MR. HEBERT:** **Mr. Chairman, I understand at that**
12 **time there were additional efforts made to attempt to**
13 **obtain or to encourage the completion of the TUS**
14 **notwithstanding the position stated by Mr. Snow in the**
15 **meeting in February of 2019. I believe those follow-up**
16 **letters are referred to in the next -- in the next**
17 **paragraph.**

18 I would reiterate for the Board our willingness to
19 discuss with the Stoney Nakoda the completion of the
20 final TUS, and we equally reiterate our interest in
21 having the discussion with the results.

22 **Q.** I understand that, and I note that, again, Mr. Snow's
23 concerns were particularly about the incorporation of
24 the Stoney Nakoda's evidence, and so besides just
25 reiterating and encouraging the Stoney Nakoda to

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Ms. Loudon

1 complete their report, if there was any conversation
2 about confirming with Mr. Snow that the evidence would
3 be considered and discussing possible alternatives to
4 address that concern raised by Mr. Snow.

5 **A. MR. HEBERT:** Mr. Chairman, I reiterate that we
6 continue to be open to talk about this matter with the
7 Stoney Nakoda. I'm not aware of any alternatives that
8 were proposed at the time, but as I said, I would
9 submit to the Board the best method of discussing the
10 completion of the report and the application of any
11 of -- of any mitigation would be best addressed through
12 the means that Alberta Transportation has proposed to
13 this proceeding.

14 **Q.** And the last sentence of paragraph 9 there, says:
15 (as read)

16 "Mr. Svenson -- sorry, if I stated that
17 incorrectly -- stated that Alberta
18 Transportation was expecting the Stoney
19 TUS two or three years ago, and the EIA
20 was submitted a year ago. There is
21 little that they can change now."

22 So is it fair to say that Alberta Transportation has no
23 intention of adjusting project plans in response to new
24 information that might be received by the Stoney Nakoda?

25 **A. MR. HEBERT:** Yes, Mr. Chairman, we would be

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Ms. Loudon

1 interested in understanding the Stoney's concerns. As
2 we've committed, we would propose and discuss
3 appropriate mitigation and, where appropriate, make
4 adjustments to the project.

5 Q. What firm commitments has Alberta Transportation made
6 to some of the other nations, in particular Tsut'ina,
7 Ermineskin and the Blood Kainai, regarding this
8 project?

9 A. MR. HEBERT: Mr. Chairman, I can advise the
10 Board that, in the case of the nations mentioned,
11 Alberta Transportation has concluded agreements with
12 those nations. They are confidential in nature, and
13 I'm not in a position to disclose the contents.

14 Q. Will the commitments made to those nations within those
15 agreements impact what might be available within the
16 Indigenous participation program to other nations?

17 A. MR. HEBERT: Mr. Chairman, as I stated, I'm not
18 in a position to disclose the contents of those
19 agreements; however, the opportunities available to the
20 Indigenous groups' litigation program under the
21 Indigenous participation program, which are principally
22 construction-related opportunities, are available to
23 all the nations that are engaged in the project. It
24 would have no impact on what's available to the
25 Stoney Nation.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Ms. Loudon

1 Q. Is Alberta Transportation committed to reconciliation?

2 A. MR. HEBERT: Mr. Chairman, I think it would be
3 a fair statement to say that Alberta Transportation is
4 committed to reconciliation.

5 I think, in fairness, reconciliation is an ongoing
6 process. It involves -- a specific case, Alberta
7 Transportation and the Indigenous groups involved to
8 have dialogue, Alberta Transportation has expressed its
9 willingness a number of times to meet with Indigenous
10 groups and understand their concerns further and, where
11 possible, propose appropriate -- appropriate
12 mitigation.

13 Q. Is Alberta Transportation committed to the principles
14 under the United Nations Declaration on the rights of
15 Indigenous Peoples?

16 MR. KRUHLAK: Ms. Loudon, I might just
17 intervene -- it's Ron Kruhlak -- to say that if the
18 province of Alberta has a stated position on that, I'm
19 sure it would also apply to Alberta Transportation.

20 Q. So can you provide an example of how those principals
21 may have been incorporated in project planning?

22 A. MR. HEBERT: Mr. Chairman, we'd be pleased to
23 take that as an undertaking subject to any advice of
24 counsel.

25 MR. KRUHLAK: We'll undertake to consider that

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Ms. Louden

1 and provide a response.

2 **UNDERTAKING - TO PROVIDE AN EXAMPLE OF**
3 **HOW ALBERTA TRANSPORTATION IS COMMITTED**
4 **TO THE PRINCIPLES UNDER THE UNITED**
5 **NATIONS DECLARATION ON THE RIGHTS OF**
6 **INDIGENOUS PEOPLES**

7 MS. LOUDEN: Thank you. That would be
8 appreciated.

9 MS. LOUDEN: Mr. Chair, that concludes my
10 questions.

11 THE CHAIR: Thank you, Ms. Louden.

12 Mr. Secord, SCLG, are you or Ms. Okoye asking
13 questions?

14 MR. SECORD: I will be conducting all of the
15 cross on Topic Blocks, 2, 3, and 4, and then Ms. Okoye
16 and I have divided up Topic Block 5.

17 THE CHAIR: Okay.

18 MR. SECORD: I'm ready. And how is my voice
19 sounding, Mr. Chair? Is it clear?

20 THE CHAIR: It is clear. Thank you.

21 MR. SECORD: So, Mr. Chair, as you'll recall at
22 page 265 of the transcript, I had indicated that I had
23 a few cost questions left over and suggested I put them
24 to AT in Topic Block 2, and I think that met with your
25 approval.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 So I just have a couple of quick cost questions
2 for AT.

3 **MR. SECORD CROSS-EXAMINES THE PANEL:**

4 Q. And I'm not sure you need to turn this up, but the
5 reference is Exhibit 254, PDF page 30. It indicates
6 that when Rocky View County states that if SR1
7 proceeds, that county receives \$10 million as a result
8 of lost tax revenue for the land that is going to be
9 converted from private land to public land.

10 So, do I understand, then, that, is it on approval
11 of this application that AT writes a cheque to Rocky
12 View County for 10 million for lost tax revenue or has
13 that money already been paid?

14 A. **MR. HEBERT:** **Mr. Chairman, the agreement**
15 **between Alberta Transportation and Rocky View County is**
16 **subject to a confidentiality clause. We're not in a**
17 **position to discuss the details of the agreement.**

18 Q. So maybe we should turn up Exhibit 254, page 30. And
19 this is from Ms. Hunter's presentation. It indicates a
20 date of Friday, May 29th, 2020. It indicates Rocky
21 View County has signed an agreement with the Alberta
22 government. It says that if SR1 proceeds, Rocky View
23 County will receive 10 million from the province.

24 Are you saying, Mr. Hebert, that this information
25 is not in the public domain?

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 **A. MR. HEBERT:** No, Mr. Chairman, that is
2 information in the public domain, but, as I referred to
3 earlier, I'm not in a position to provide details on
4 the specifics of the agreement subject to a
5 confidentiality clause.

6 **Q.** And in relation to the \$10 million to be paid for
7 lost -- future loss in municipal property taxes, is
8 that something that has been included in the cost
9 benefit analysis done for SR1?

10 **A. MR. HEBERT:** Mr. Chairman, the agreement in
11 question came after the completion of the benefit cost
12 agreement that was conducted for SR1.

13 **THE CHAIR:** Mr. Secord, your voice is clear,
14 we don't have the static that we had yesterday but if
15 you could just speak up just a little bit, I think that
16 would be appreciated by -- well, the rest of us and the
17 court reporter as well.

18 **MR. SECORD:** Thank you.

19 **Q.** Now, I understand that AT has also made a payment to
20 the Ermineskin First Nations for their withdrawal of
21 its opposition to SR1. Can you tell me how much was
22 paid to the Ermineskin First Nations?

23 **A. MR. HEBERT:** Mr. Chairman, as I referred to a
24 moment ago with counsel of Stoney Nakoda Nation,
25 Alberta Transportation has reached an agreement with

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 the Ermineskin First Nations. However, I'm not in a
2 position to disclose the contents of that agreement on
3 account of the agreement having a confidentiality
4 clause.

5 Q. And has the amount of the -- has the amount of money
6 that AT paid to Ermineskin, has that been factored into
7 the cost benefit analysis for SR1?

8 A. MR. HEBERT: As I referred to, Mr. Chairman,
9 I'm not in a position to disclose the terms of the
10 agreement; however, I would note that the agreement
11 comes after the point which the last BCA was completed.

12 Q. And I understand that AT has also made a payment to the
13 Kainai for the withdrawal of its opposition. Can you
14 advise how much was paid to the Kainai, and was this
15 payment factored into the cost benefit analysis done
16 for SR1?

17 A. MR. HEBERT: Mr. Chairman, I can confirm to the
18 Board that Alberta Transportation has entered into an
19 agreement with the Kainai Blood Tribe. As I've
20 indicated in the testimony to Stoney Nakoda Nations,
21 the agreement is subject to a confidentiality clause,
22 and I'm not in a position to disclose the contents of
23 the agreement.

24 Q. Are there any other facilitation payments that AT have
25 made or that have been required for the withdrawal of

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 opposition to SR1 from any of the other stakeholders?

2 A. MR. HEBERT: Mr. Chairman, there are no
3 additional agreements I can refer to at this time.

4 Q. Has AT offered any money to the Stoney Nakoda for the
5 withdrawal of their opposition to SR1?

6 A. MR. HEBERT: Mr. Chairman, we continue to
7 engage with the Stoney Nakoda Nations and it would be
8 inappropriate for me to provide comment on the nature
9 of those discussions.

10 Q. What is the expected financial damages that AT expects
11 to pay to Calalta as a result of SR1?

12 A. MR. HEBERT: Mr. Chairman, as we referred to in
13 our hearing submission and my opening statement and the
14 testimony this morning, Alberta Transportation is open
15 to discussing the impacts of the project on Calalta's
16 franchise area.

17 Alberta Transportation continues to obtain
18 information from Calalta on the nature of that impact.
19 And I would submit to the Board, it would be
20 inappropriate for me to speculate on a number at this
21 time.

22 Q. All right. On land cost estimates, AT states that the
23 total cost for land is now 140 million. Originally as
24 mentioned, I think in Exhibit 100, page 6, the costs
25 were estimated at 40 million. Does including the full

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 140 million mean that you are buying more than 6,900
2 acres, or is that \$140 million the price for 3,600
3 acres?

4 **A. MR. HEBERT:** Mr. Secord, you're referring to
5 **PDF page 6?**

6 **Q.** Right.

7 **A. MR. HEBERT:** Yeah. So Mr. Chairman, as we
8 confirmed at that time, the 140 million is the
9 estimated amount of money to assemble the project area
10 based on the best information we have available to the
11 department at this time.

12 **MR. SECORD:** Document manager, there's no need
13 to pull something up unless I ask you to do so. Okay?

14 So I'm going to refer to documents, and unless,
15 Mr. Hebert, you think you need to look at it, I'm just
16 going to give a transcript reference. I'm assuming
17 you're familiar with these numbers so. But if you need
18 to look at something, by all means.

19 **Q.** So, the 140 million, is that the cost to purchase 6,900
20 acres of land? Can you walk us through the latest
21 numbers and how much land are we talking about for this
22 estimate?

23 **A. MR. HEBERT:** So Mr. Chairman, the \$140 million
24 is our best estimate of the funds required to assemble
25 the project development area, which is the approximate

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 **3,600 acres required for the project.**

2 Q. So you're just planning to acquire the entire footprint
3 of the project area; is that correct?

4 A. **MR. HEBERT:** **Mr. Chairman, the 140 million**
5 **represents an estimate of the cost required to assemble**
6 **the project development area.**

7 As referenced in our land acquisition program,
8 landowners do have the option of returning to
9 discussions at their request about purchasing
10 additional adjacent lands. Should we pursue those
11 discussions with those landowners, Alberta
12 Transportation intends to resell that land after the
13 project is completed.

14 Q. So the 140 million, then, is the price for 3,600 acres?

15 A. **MR. HEBERT:** **Mr. Chairman, that represents our**
16 **best estimate to assemble the lands necessary for the**
17 **project development area.**

18 Q. And are you able to tell us how much land you've
19 acquired already and at what cost and what the price
20 per acre would be?

21 A. **MR. HEBERT:** **Just bear with me one moment. I'm**
22 **just grabbing our hearing submission. I'll give you**
23 **the precise numbers.**

24 Q. You might want to look at your Exhibit 325, paragraph
25 50?

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 **A. MR. HEBERT:** Thank you, Mr. Secord. That's
2 what I was searching for.

3 **MR. FITCH:** Mr. Chairman, it's Gavin Fitch.
4 If it's of any assistance, I believe we have a number
5 of acres in our reply submissions. I remember the
6 number of acres, I just don't remember what the
7 paragraph number is.

8 **A. MR. HEBERT:** Sorry, Mr. Secord, I'm a bit slow
9 this afternoon.

10 Mr. Chairman, it is in paragraph 18 of
11 Exhibit 325. So far we've acquired some 1,024 acres of
12 which that represents approximately 25 percent of the
13 project's total lands.

14 **Q. MR. SECORD:** And what was the price paid for
15 the 1,024 acres?

16 **A. MR. HEBERT:** Mr. Chairman, I'm not able to
17 provide the specific details of the purchase prices --
18 or I mean of the settlements entailed in purchasing
19 those acres. Those agreements are with third parties
20 and are subject to confidentiality agreements. But our
21 current estimated amount to purchase those properties
22 is approximately \$41 million.

23 **Q.** So 41 million has been paid?

24 **A. MR. HEBERT:** To date, sir, yes.

25 **Q.** So then, would it be fair to say that you expect to pay

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 100 million dollars for the remaining, if I do the
2 math, 3600 minus 1024, so we're talking about 100
3 million for the remaining 1600 acres? Sorry, for the
4 remaining -- let me do that math again.

5 So you're going to acquire 3600 acres, you've
6 bought a little over 1,000, you've got approximately
7 2600 left. You're expecting to pay about 100 million
8 dollars for the remaining 1600 acres?

9 **A. MR. HEBERT:** Mr. Chairman, as I said, that's
10 within our best estimate of the amount of funds
11 required to complete the land acquisition program.

12 Again, as I would remind the Panel, there are a
13 number of individual landowners or associate companies
14 owned by individual landowners. We continue to attempt
15 to negotiate with those landowners on a voluntary
16 basis, and the principals to which we buy those lands
17 are outlined in the land acquisition program which is
18 among our -- which was included within our hearing
19 submission.

20 **Q.** And I think my last question on costs was to do with
21 Kamp Kawanis -- that's K-A-M-P, Kiwanis, K-I-W-A-N-I-S.
22 Does the remaining budget for acquisition of land, does
23 that include the replacement of any of the capital
24 infrastructure at Kamp Kiwanis, or is it just land
25 costs?

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Cross-examined by Mr. Secord

1 A. MR. HEBERT: So, Mr. Chairman, the estimate
2 we've made for land values reflects our best estimates
3 of the lands and properties that would be replaced at
4 that site. I won't speculate on the details. Our
5 intent is to continue discussions with Kawanis
6 directly.

7 Q. Sorry, Mr. Hebert.

8 A. MR. HEBERT: No, I was just going to add,
9 Mr. Secord, Mr. Chairman, that the intent to continue
10 discussions with the Kamp Kiwanis, the operator of that
11 site regarding the impacts to the project on their
12 property and infrastructure.

13 Q. And what, in particular, is the full cost of the
14 Kamp Kiwanis impacts?

15 A. MR. HEBERT: Mr. Chairman, I'm not going to
16 speculate on the particular costs. We have an estimate
17 that we've developed based on the best information we
18 have. And, as I said, our preference is to continue
19 discussions with Kamp Kiwanis, a third party, to deal
20 with the impacts of the project on their lands and
21 infrastructure.

22 Q. Is that estimate something that has been disclosed to
23 the Natural Resources Conservation Board?

24 A. MR. HEBERT: Mr. Chairman, we've disclosed the
25 estimate of the land value for the project based on the

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 best information we have available to us at this time.
2 We've not disclosed the individual breakdowns out of
3 respect for the process of negotiations that we intend
4 to pursue with impacted landowners.

5 Q. So are you saying, Mr. Hebert, that replacement of
6 capital infrastructure at Kamp Kiwanis, buildings,
7 water, and waste water servicing, that that is included
8 in the \$140 million?

9 A. MR. HEBERT: Based on the best information we
10 have available to us at this time, we have assumed the
11 costs related to that site, but, again, out of respect
12 to the discussions we'd like to have with that
13 particular -- with that particular group, we would like
14 to continue those discussions in an effort to resolve
15 the impacts of the project on their site.

16 Q. Okay. Thank you, Mr. Hebert.

17 I'm now moving to Topic Block 2, and I don't think
18 you need to turn it up, but by all means if you need
19 to, Mr. Hebert, let me know.

20 My reference is to Exhibit 325, PDF 24, the second
21 bullet point.

22 THE CHAIR: Mr. Secord?

23 MR. SECORD: Yes.

24 THE CHAIR: It's the Chair. Let me check in
25 with Ms. Vespa. And welcome, Ms. Vespa, to the

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 afternoon.

2 Can you hear Mr. Secord? Are you okay?

3 COURT REPORTER: I can hear him. I find the same
4 as you. His volume is a little low. The sound is
5 crystal-clear, but the volume might be a little low for
6 parties.

7 THE CHAIR: Right. The sound is nice and
8 clear this time, Mr. Secord. I wonder if you wouldn't
9 mind if you could just real quickly -- because you're
10 going to be on for a few minutes here. I'm not sure if
11 you know where to check this but where your -- under
12 the mute or unmute button, there's a little arrow --

13 MR. SECORD: I'm there right now.

14 THE CHAIR: Then audio settings and then
15 microphone level. We might want to turn your
16 microphone level up a bit. Is it low there, do you
17 notice?

18 MR. SECORD: I've got my microphone array, but
19 microphone level. I don't see anything on that where
20 it talks about levels.

21 THE CHAIR: And you went to audio settings?

22 MR. SECORD: I went to audio set -- there we
23 go. Settings.

24 THE CHAIR: There will be speaker and
25 microphone?

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 MR. SECORD: It says my mic is at max.

2 THE CHAIR: Okay. Well, that's about as good
3 as we can do then. All right.

4 MR. SECORD: Thank you. I'll just speak up.

5 THE CHAIR: Right, right. That would be
6 great. Thank you. Sorry for the interruption.

7 Q. MR. SECORD: So Mr. Hebert, we were referring
8 to the response evidence which states -- AT states and
9 I quote: (as read)

10 "The land use plan for the project area
11 has not been finalized and will be the
12 subject of further and ongoing
13 consultation consistent with the draft
14 land use principles for the project."

15 And then in Exhibit 99, Alberta Transportation sets out
16 the draft land use plan, and the guiding principles for
17 future use of the project area. And I don't think you
18 need to turn it up, but Exhibit 99 mentions that the
19 draft land use plan was prepared following consultation
20 with Indigenous groups and stakeholders.

21 First of all, who drafted Exhibit 99? And maybe,
22 document manager, you could pull it up.

23 So who drafted the document, Mr. Hebert?

24 A. MR. HEBERT: Mr. Chairman, that was a document
25 prepared by Alberta Transportation.

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Cross-examined by Mr. Secord

1 Q. But it's under cover of Stantec?

2 A. MR. HEBERT: That's correct. Stantec was the
3 consultant working for Transportation under our
4 direction to prepare the application. However, this
5 document specifically was prepared by Alberta
6 Transportation.

7 Q. And who at AT prepared this document?

8 A. MR. HEBERT: Mr. Chairman, as I indicated the
9 other day in terms of the preparation documents in
10 government, they're prepared by department officials
11 and they're issued to the departments.

12 Q. And is there anybody here who had a hand in the
13 preparation of this document, Mr. Hebert?

14 A. MR. HEBERT: Specifically, Mr. Chairman, I had
15 responsibility for overseeing the preparation of the
16 document with our officials.

17 Q. So which stakeholders at AT engaged in preparing the
18 land use plan as noted in Exhibit 99?

19 A. MR. HEBERT: Mr. Chairman, one moment. Sorry,
20 I'm just conferring with individuals who were on the
21 project before the filing of the document, before the
22 preparation of the plan.

23 Mr. Chairman, stakeholders refers to feedback that
24 was received at open houses that occurred in the period
25 leading up to the finalization of this document.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 Q. And who in the local communities did AT engage in
2 developing the draft land use plan and its principles?

3 A. MR. HEBERT: As I referenced, Mr. Speaker,
4 there were comments that the department received from
5 individuals at the open houses the department conducted
6 on the project, and I believe that represents the
7 individuals that were engaged about the land use
8 principles or the land use concept that would have been
9 filed as part of the environmental impact assessment.

10 Q. Which principle or principles in Exhibit 99 did AT
11 include as a result of input from the Springbank
12 community residents and landowners?

13 A. MR. HEBERT: Just one moment.

14 Q. Maybe, document host, you could pull up the page with
15 the principles on it so we can look at them. You went
16 too far. There we go. Just go up a little bit. There
17 we go. So primary use and secondary use. Just go up a
18 little bit.

19 Mr. Hebert?

20 A. MR. HEBERT: So Mr. Chairman, the principal
21 element of feedback that was received from community
22 and stakeholders related to the ability to access the
23 PDA -- or the ability for the public to access the PDA.
24 That reflected feedback on a land use concept that was
25 part of the filings in the initial EIA.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 I'd also just point out for the benefit of the
2 Board that this set of draft principles has been
3 superseded by revisions to the draft -- or evolution of
4 the draft principles that's occurred through your
5 interactions with the federal regulator in review of
6 the project.

7 Q. And has AT presented any land use concepts to the
8 Springbank community at an open house or information
9 session?

10 A. MR. HEBERT: Mr. Chairman, I'll just confer
11 with the individuals that have the stakeholder records
12 so I can give you a direct response.

13 MR. SECORD: Document host, you can take down
14 the exhibit. Thank you.

15 A. MR. HEBERT: So Mr. Chairman, I believe in just
16 a moment a member of our panel, Michele Perret, will
17 refer to some of the instances where the initial land
18 use plan was shared with the community at open houses.

19 But for the benefit of the Panel, I'll refer to
20 our hearing submission. This would be within the
21 Exhibit 327, the chronology of meetings, interactions
22 with the SCLG or the Springbank Community Association.

23 We had shared a version of the guiding principles
24 with the SCA in December of 2019, and an invitation to
25 meet to discuss those principles in further detail.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 Q. And did that include presenting land use concepts to
2 the community?

3 A. MR. HEBERT: So, Mr. Chairman, just to provide
4 a specific answer, I'm told that the initial land use
5 concept was presented at open houses in August of 2017.

6 Q. Did AT ever discuss specific public benefit or public
7 amenities with the Springbank community?

8 A. MR. HEBERT: So, Mr. Chairman, I believe in
9 those early open houses there was an opportunity for
10 individuals in the Springbank community to make
11 representations or to invite feedback on specific
12 community amenities.

13 As I referred to in my remarks this morning,
14 Alberta Transportation is available and open to
15 discussing community amenities with the Springbank
16 community or potential options that we could explore
17 that would be of interest or benefit to the community
18 as project development continues.

19 Q. What specifically did AT share at these open houses
20 about public benefit or public amenities for the
21 Springbank community?

22 A. MR. HEBERT: Just one moment, Mr. Chairman,
23 we'll see if I can find a specific reference.

24 MR. SECORD: While Mr. Hebert is consulting,
25 document host, could you turn up, please, Exhibit 254,

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 PDF page 114 from Ms. Hunter's PowerPoint presentation?

2 **A. MR. HEBERT:** Mr. Chairman, we're looking for a
3 reference. It's taking us a moment. It's in a large
4 document, so we'll be back in a moment.

5 **MR. SECORD:** I'm assuming, Mr. Chair, you're
6 not counting the consultation time against my budget.

7 **THE CHAIR:** Well, if I do, I'll need to count
8 any of your thinking time for questions as well.

9 **MR. SECORD:** That's already occurred, sir.

10 **A. MR. SVENSON:** Mr. Chair, this is Mark Svenson.
11 I can respond to that question.

12 During the open houses in 2017, we had open house
13 boards, boards Number 20 and 21 that specifically
14 referenced the future land use of the area. It talked
15 about the primary purpose of the Springbank project to
16 mitigate flooding along the Elbow River and then also
17 proposed secondary land uses that may be incorporated
18 into that.

19 **MR. FITCH:** Mr. Svenson, maybe you can provide
20 an exhibit number for that evidentiary reference you
21 just gave.

22 **COURT REPORTER:** Who was speaking, please?

23 **MR. FITCH:** Sorry, Madam Reporter, it was
24 Gavin Fitch.

25 **A. MR. SVENSON:** Yes, I can provide the

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 Exhibit Number. So it's Exhibit Number 64, and
2 pages -- PDF pages 378 and 379.

3 Q. MR. SECORD: All right. So if we could look at
4 PDF page 114 of Exhibit 254, and I guess, document
5 host, I want you to go slowly down. Does that work?

6 So, yes, keep going. That's great. And is it
7 possible to get -- is it possible to enlarge that or is
8 that as good as we can do with the -- I'm talking about
9 the actual size of the document on the screen.

10 I guess that's fine. I guess maybe go down a
11 little bit so we've got the bottom as well. There we
12 go. So if you get the total page as best you can in
13 the frame, please. I just want one slide at a time.
14 There we go. So that's slide 11. That's probably as
15 good as we're going to do, I think.

16 So, here, Mr. Hebert, we have the northeast corner
17 of the project area, and can you tell me, in relation
18 to the yellow line, what does the yellow line depict?

19 A. MR. HEBERT: So, Mr. Chairman, I believe the
20 yellow line is the project -- there's a representation
21 of the project development area. It looks quite
22 familiar to what the boundary of the project
23 development area looks like.

24 Q. And what is the purple line?

25 A. MR. HEBERT: The purple line, subject to check,

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 represents the road works that are proposed as a result
2 of the SR1 project.

3 Q. And what road works are proposed in the northeast
4 corner of the project area?

5 A. MR. HEBERT: That would be the north -- I
6 believe that's the northwest corner of the project
7 area. That would be the elevation of Highway 22 and I
8 believe any sort of associated work to reconnect the
9 elevated highway with Springbank Road.

10 Q. And when you say the yellow line represents the project
11 area, that would show what would be -- where the water
12 would be expected to go to in the event of a design
13 flood?

14 A. MR. HEBERT: Mr. Chairman, Mr. Wood could
15 provide an answer to that question.

16 A. MR. WOOD: Thank you, Mr. Chairman.

17 The yellow line that you see there, as Mr. Hebert
18 mentioned, is the project development area. In this
19 case, it has been straightened for land purchase
20 reasons.

21 But what that line represents, and the reason why
22 it looks like fingers extending up the draws there is
23 that is the top of the dam, the elevation of the top of
24 the dam. And as Mr. Menninger had explained the other
25 day, the water will not reach that level because of the

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 emergency spillway.

2 And so what's not shown here is a second line set
3 inset much further within that yellow area that is the
4 potential level of the reservoir if it were ever full.

5 Q. And so from a land acquisition point of view, does AT
6 acquire everything that is shown in the yellow line?

7 A. MR. HEBERT: Mr. Chairman, out of respect for
8 the landowners involved, we would wish to pursue -- we
9 would be quite open to pursuing discussions with the
10 landowners in question.

11 I would certainly wish to pursue those discussions
12 in a way that addresses any concerns or issues they may
13 have with the impact of the PDA on their property.
14 We're sensitive to the fact that their residences exist
15 within -- within and in between those fingers. I'm
16 just looking at the blow-up. I don't quite think the
17 yellow line cuts through their -- sorry, the PDA
18 doesn't cut through their properties. Their two
19 residences are outside but near the PDA.

20 But I would just reiterate for the Panel, our
21 strong interest is to pursue conversations about the
22 impact of the project with these particular landowners.

23 Q. But just to be clear, the area within the PDA, that
24 will either be -- shown by the yellow line, that will
25 be either acquired voluntarily or expropriated?

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 **A. MR. HEBERT:** Mr. Chairman, generally the land
2 acquisition program outlines the approach that Alberta
3 Transportation would take to assemble the project
4 development area. But I would reiterate that our
5 strong interest is to work with the landowners involved
6 in question on this particular property to resolve the
7 land acquisition needs for the project.

8 **Q.** So in relation to the parcel that we see here on Slide
9 Number 10, obviously the PDA covers a large portion of
10 what appears to be a quarter section. Does either
11 a quarter section -- is it a quarter section that is
12 shown in that -- in that area, Mr. Hebert, or Mr. Wood?

13 **A. MR. HEBERT:** Mr. Secord, just for clarity,
14 you're referring to the parcels on which the two
15 properties sit?

16 **Q.** I'm just referring to the slide that we see, the first
17 slide, showing the area which appears to go
18 through -- what appears to be a quarter section,
19 Mr. Hebert; is that right?

20 **A. MR. HEBERT:** Mr. Chairman, I believe it's two
21 quarter sections. Again, I'm -- without the grid, I'm
22 having a hard time making it out. But based on my
23 knowledge of the property, the area in question is over
24 two quarter sections I believe.

25 **Q.** Okay. And so from a property acquisition point of

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 view, does AT acquire both quarter sections, or are
2 they only acquiring what is in the finger, the yellow
3 finger area?

4 MR. FITCH: Mr. Chairman, it's Gavin Fitch
5 speaking. I think the witness has tried to be clear
6 with my friend that, you know, the negotiations with
7 specific landowners are confidential.

8 The land acquisition program does acknowledge that
9 the government, will at a landowner's request, consider
10 purchasing land outside the PDA if that is their
11 desire, but we're not going to get into specific
12 negotiation -- you know, disclosing to my friend
13 whatever negotiations are going on with respect to that
14 parcel of land.

15 Q. Mr. Secord: I guess the question I had,
16 Mr. Fitch, was can you actually acquire just the area
17 shown by the yellow line and leave the remaining lands
18 available to the landowner? Is that part of the --

19 So would there be some type of subdivision of this
20 strange-looking yellow area out of the two quarter
21 sections? I'm just wondering? Or would it simply be a
22 matter of acquiring both quarter sections? I guess
23 that's what I was trying to get at. Maybe the land use
24 policy deals with that, Mr. Hebert?

25 A. MR. HEBERT: Well, this particular instance,

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 this would be a reference to the approach towards land
2 acquisition.

3 As I -- as I've said, our strong preference is to
4 have a land acquisition discussion with the landowners
5 involved. We've outlined a set of principals that
6 address how we would pursue negotiations. It is one of
7 our -- one of our attachments in our exhibit. And I
8 think out of respect for the particular landowners
9 involved, that's best a conversation between the
10 landowners in question and Alberta Transportation.

11 Q. All right. So as I understand it, what is inside the
12 yellow line would be the 3,600 acres that you have
13 budgeted \$140 million to acquire. Once you've acquired
14 the 3,600 acres, would you then be selling the land
15 that is outside of this strange configuration that we
16 see in the northwest corner of the project area? Would
17 that then be offered for sale, the lands outside of the
18 yellow?

19 A. MR. HEBERT: So, Mr. Chairman, in general, land
20 outside of the yellow, what would be the project
21 development boundaries, would be -- if Alberta
22 Transportation received a request, and subject to
23 negotiation, purchased, would then resell.

24 However, I think out of respect to the landowners'
25 question recognizing the unique contours of that

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 property, it would be Transportation's strong
2 preference to conduct specific discussions about this
3 particular property with the landowners in question.

4 Q. Could you, document host, move very slowly down, keep
5 going.

6 All right. So this again is on Slide 11. And you
7 have, it would appear, homes that have access routes
8 cut off by the project area.

9 A. MR. HEBERT: Mr. Chairman, one moment.

10 Thank you, Mr. Chairman, and for the benefit of
11 the court reporter, Matt Hebert.

12 Mr. Chairman, I'm looking at the Exhibit on -- and
13 this is PDF page 116 on my screen. This does not match
14 the maps that we have. In the case of both of these
15 particular properties, they fall -- and by "properties"
16 in this specific incidence, I'm referring to the
17 residences sit outside of the PDA.

18 That said, and as we indicated or confirmed in the
19 case of Mr. Copithorne earlier today, Alberta
20 Transportation is committed to working with landowners
21 whose access points are impacted by the project to
22 either find alternative routes or to otherwise mitigate
23 the impact of the project's impact on individual
24 landowner's access.

25 Q. And what is the -- what cost has been budgeted for

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 finding new or alternative access for the landowners
2 who are impacted?

3 **A. MR. HEBERT:** Mr. Chairman, in terms of the
4 individual discussions with particular landowners, we
5 would tend to -- we have and have intended to pursue
6 those discussions with landowners whose access is
7 impacted. The costs of modifications or changes would
8 be addressed within the project's construction budget.

9 Q. And is that part of the G-2 Exhibit that we looked at
10 Exhibit 159, Appendix G-2?

11 **A. MR. HEBERT:** Mr. Chairman, it would be
12 addressed in the construction cost estimate.

13 Q. And could you give me the line number or numbers where
14 that would be found? Maybe just to speed things up,
15 could you undertake to give that to me at the break?

16 **A. MR. HEBERT:** Yes, Mr. Chairman.

17 **UNDERTAKING - TO ADVISE WHERE THE**
18 **CONSTRUCTION COST ESTIMATE WOULD BE**
19 **FOUND IN EXHIBIT 159, APPENDIX G-2**

20 Q. MR. SECORD: Thank you. Document host, could
21 we go back up to the top again? Thank you.

22 So the question that my clients have had is public
23 use versus private use and has Alberta Transportation
24 thought this through from a land use perspective.

25 So when you have this irregular shape, as I

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 understand it, you're proposing public use inside the
2 PDA.

3 Can you tell me how will private homes and lands
4 be protected from the public lands?

5 **A. MR. HEBERT: So this --**

6 **Q.** Just to give you a context, the project runs across
7 lands, yards, driveways. And we understand there's
8 been approximately ten property accesses identified
9 close to the PDA that may require replacement or
10 modifications as a result of land procurement.

11 So, I'm just wondering how does this -- how do you
12 protect the private lands from the public use lands?

13 **A. MR. HEBERT: So, Mr. Chairman, as I referenced**
14 **in the case where the impact of access points are**
15 **disrupted by a project, Alberta Transportation is**
16 **committed to discussing with the landowners in question**
17 **the -- either replacement access points or modified**
18 **access points.**

19 In terms of the buffer between the boundary of the
20 project area and private lands, we also have indicated
21 our commitment to discussing the interaction of the
22 project -- excuse me -- with the landowners in
23 question. And certainly would be open to the -- the
24 reviews of those landowners to ensure that there's
25 appropriate interactions between the project and their

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 **private property.**

2 Q. Now, I had thought that this yellow shape that we see
3 on the -- and we -- I believe these are your -- your
4 maps that were used by Ms. Hunter. We had understood
5 that this would be -- that this is the PDA, and this is
6 where the water would likely reach in the event of a
7 design flood.

8 If the SR1 water does not behave as it is expected
9 to, could these -- the shape of the water inundation at
10 the edges, I mean it's already very strange. You know,
11 what are the consequences of being wrong here?

12 MR. FITCH: Mr. Chairman, it's Gavin Fitch.
13 There's an assumption in the question which is that the
14 yellow line is where the water will get to. Mr. Hebert
15 has already explained that's not correct.

16 So perhaps my friend would like to rephrase the
17 question.

18 Q. MR. SECORD: So where will the water get to,
19 Mr. Hebert, in this -- in this project development area
20 that we see in this diagram?

21 A. MR. HEBERT: Mr. Wood can provide a response on
22 the water aspects of the question.

23 A. MR. WOOD: Mr. Chairman, appreciate the
24 question. I did explain that earlier, that the water
25 would not be reaching the extent of this yellow line.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 While not shown on this map, the water inundation
2 area, when or if SR1 is full, is located in the
3 south-east or to the south-east of that line. The
4 difference between that line and this line is the
5 difference between the elevation of the full supply
6 level or the emergency spillway and the top of the dam.

7 I would also like to point out that, as Mr. Hebert
8 noted, we are not entirely familiar with this line as
9 we don't believe it is one of Alberta Transportation's
10 maps.

11 Q. So do you have a drawing which shows the -- where the
12 water will reach in the project development area? I
13 guess the other question is, why -- why do you -- yeah,
14 why do you need -- well, let me just ask that question.
15 Do you have a map which actually will show where the
16 water will reach to in the event of a design flood in
17 the PDA?

18 A. MR. WOOD: Mr. Chairman, we have several of
19 those maps. If you'll allow us to, we can find one
20 that may be suitable.

21 MR. FITCH: Mr. Chairman, I would suggest that
22 we can find my friend one of those maps. I'll look
23 while he's questioning, but if not, we can get back to
24 him after the break.

25 THE CHAIR: I was going to suggest,

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 Mr. Secord, if you've got other questions you can kind
2 of continue on with, let them look for that perhaps in
3 the background, and we can save a little time that way.
4 Does that work?

5 MR. SECORD: That works well, sir, thank you.

6 THE CHAIR: Thank you.

7 **UNDERTAKING - TO PROVIDE A MAP WHICH**
8 **ACTUALLY WILL SHOW WHERE THE WATER WILL**
9 **REACH TO IN THE EVENT OF A DESIGN FLOOD**
10 **IN THE PDA**

11 Q. MR. SECORD: All right. Let's move to land use
12 future states.

13 The proponent does not -- would you agree the
14 proponent does not provide much detail regarding the
15 future state of the SR1 PDA lands over time?

16 What will the PDA lands look like in 50 years?
17 And maybe by way of background, I can give you a little
18 bit of a preface.

19 We understand that sediment will continue to
20 accumulate in each flood and therefore it will become
21 deeper and more broadly dispersed over time. We
22 understand that it may need to be managed post-flood
23 for dust and drainage.

24 So can you tell me, do you know what the SR1 PDA
25 lands will look like, say, in 50 years' time after --

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1 let's say after construction?

2 A. MR. HEBERT: One moment, Mr. Chair.

3 Mr. Brescia will provide a response.

4 A. MR. BRESCIA: Thank you. It's Mr. Brescia.

5 So I think we've pointed out in the filed
6 materials that over the last hundred years of record
7 the project would have only operated ten times, and
8 almost every single one of those floods would have been
9 at the small size of flood in the sort of one in
10 ten-year size of flood.

11 That kind of flood floods a very small area, would
12 certainly not reach this area of the reservoir that
13 we've been looking at or even close to it.

14 The amount of sediment that would be deposited
15 would be a very thin amount, likely not even reaching
16 above the vegetation.

17 So in about 50 years, this would look similar to
18 what it looks like now. If in areas where there had
19 been sediment deposition that was deeper, those would
20 have been revegetated either with some form of
21 agronomic species mix of vegetation or a native species
22 mix, depending on the area that had been filled with
23 sediment.

24 Q. Well, as I understand it, 7.7 million tons of sediment
25 is projected in Exhibit 159 or there's that margin of,

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Cross-examined by Mr. Secord

1 I guess, capacity that is bookmarked for sediment.

2 We know that there were big floods in 1995, 2005,
3 2013. Do you know how much sediment would have
4 accumulated in those three floods had SR1 been in
5 operation, and would that be a fair comparison?

6 **A. MR. BRESCIA:** Mr. Chairman, so some of those
7 floods were smaller. The 2013 flood obviously is the
8 large one. That would have contributed an amount of
9 sediment which has been displayed (phonetic) in the
10 IAAC Round 2 SIRs and I don't believe they have an
11 exhibit number, IR4-01. And I can provide a PDF number
12 if anybody wants to reference it later. But PDF page
13 85.

14 And it would cover a large portion of the
15 agricultural lands that are south of Springbank Road
16 and a small portion of the agricultural lands that are
17 north of Springbank Road.

18 And again, with the proposed sediment management
19 revegetation that's planned by Alberta Transportation,
20 we would expect to see grass reestablishing there
21 within a matter of years.

22 **Q.** Now, will the sedimentation accumulation result in a
23 simplification of the ecosystems in SR1?

24 **A. MR. BRESCIA:** Overall, there would be somewhat
25 of a simplification, but we still expect to see a

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1 representation of a variety of different vegetation
2 communities. And part of that will be based on the
3 fact that the sediment will not be deposited uniformly.
4 So there will be opportunities to have a mix of
5 vegetation communities coming back based on different
6 moisture conditions and topographic positions.

7 Q. And, Mr. Brescia, you're saying that over the next 100
8 years, you would expect most of the floods to be small.
9 Did I hear you say that correctly?

10 A. MR. BRESCIA: Statistically speaking, yes, we
11 expect the large flood events to have a substantially
12 lower probability of occurring.

13 Q. And you're saying that over the next 100 years we might
14 expect ten floods in the range of, what, one in ten or?
15 Did I understand that correctly?

16 A. MR. BRESCIA: No, Mr. Chairman, I believe what I
17 said is over the past 100 years, the project would have
18 operated ten times.

19 Q. And the size of the floods would have been, you said
20 relatively small?

21 A. MR. BRESCIA: Yes, relatively small.

22 Q. Meaning what? What are we talking about? One in ten?

23 A. MR. BRESCIA: One moment, please.

24 Mr. Chairman, Mr. Wood will address that.

25 A. MR. WOOD: I think -- thank you,

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1 Mr. Chairman. I think it's best addressed using
2 Exhibit 173 on page 28. That is the 2020 PDR,
3 Appendix B.

4 THE CHAIR: So once again for document
5 manager, please?

6 A. MR. WOOD: Oh, my apologies, Mr. Chairman.
7 It's Exhibit 173, page 28.

8 THE CHAIR: So, Ms. Gagnon, that may
9 be -- yes, I don't think it was requested previously.

10 A. MR. WOOD: It was not, it's a new --

11 THE CHAIR: You just answered the question, so
12 thanks. We'll get it. Thanks. Just takes a couple
13 more minutes. And the page number?

14 A. MR. WOOD: Page 28. That is correct, yes.
15 Thank you.

16 So what we're looking at here is a graph of the
17 historic events of record on the Elbow River, and I
18 believe Mr. Secord's question was in relation to the
19 size of those events.

20 On the far right of that graph, you can see the
21 2013 event which occurred in this period, obviously.
22 That was just over a 200-year event.

23 Of note is the event in the 1930s. I don't have
24 the return period of that off the top of my head, but I
25 know that event peaked at approximately 660, I believe,

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1 which is about a 50-year flood. And in relation to
2 those two, you can see that the size of the others --
3 we have some floods just under 400, so that would put
4 them in a return period of about 20-year flood,
5 somewhere between a 20 year and a 50 year and you can
6 see the frequency of them there.

7 As Mr. Brescia mentioned, we have estimated that,
8 in this record, SR1, if it were on the landscape, would
9 have operated ten times.

10 Q. MR. SECORD: Thank you for that.

11 Mr. Hebert, sorry to go back to you for a cost
12 question, but can you tell me, will Alberta
13 Transportation be filing a report as required under the
14 *Canada Extracted Sector Transparency Measures Act* which
15 lists its payments to the Tsut'ina, Ermineskin and
16 Kainai First Nations?

17 And maybe you want to take that question to your
18 counsel and maybe get back to me after the break? Is
19 that agreeable?

20 MR. KRUHLAK: It's Ron Kruhlak, Mr. Chairman.
21 We'll undertake to make an enquiry and respond, I'm not
22 sure after the break, but we'll look into it.

23 MR. SECORD: Thank you, Mr. Kruhlak.

24 **UNDERTAKING - TO ADVISE IF ALBERTA**
25 **TRANSPORTATION BE FILING A REPORT AS**

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Cross-examined by Mr. Secord

1 **REQUIRED UNDER THE CANADA EXTRACTED**

2 **SECTOR TRANSPARENCY MEASURES ACT**

3 MR. SECORD: Sorry.

4 THE CHAIR: So I mean after the break, if we
5 get that, then we'll put it on record. Otherwise if we
6 need to list this undertaking just to follow it, we'll
7 need to get that Act again because I did not get that
8 written down. I'm not sure if Ms. Vance or Mr. Kennedy
9 did, but you can even just forward that by email or
10 something. Thank you.

11 MR. SECORD: I'll send Ms. Vance an email with
12 the description of the undertaking.

13 THE CHAIR: Thank you.

14 MS. VANCE: Can you please copy Mr. Kruhlak as
15 well?

16 MR. SECORD: I always do.

17 MS. VANCE: Thank you.

18 A. MR. SPELLER: And, Mr. Secord, I apologize to
19 interrupt. It's Wayne Speller. We do have that figure
20 you asked for if you wanted to cover that now.

21 MR. SECORD: That would be great. Thank you.

22 A. MR. SPELLER: Mr. Wood is going to direct us to
23 it and talk about it.

24 A. MR. WOOD: Thank you, Mr. Speller, and thank
25 you, Mr. Chairman.

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1 Yes, if possible, if we could bring up Exhibit 20,
2 and it is PDF page 75. Perfect. Thank you very much.
3 That is the one.

4 So this map was included in the environmental
5 assessment, and what it shows is the reservoir's
6 filling levels or filling extents under three different
7 flood scenarios. The first is a 1 in 10-year flood.
8 That is the very light blue that is in the furthest
9 southeast pocket up against the dam there. You can see
10 it's such a small volume event that it fills the lowest
11 parts of the reservoir and its spacial extent of
12 flooding is not really all that large.

13 Q. So, Mr. Wood, that would be those two light blue
14 squiggly lines right near the outlet?

15 A. MR. WOOD: That is correct, yes.

16 Q. That's a 1 in?

17 A. MR. WOOD: 1 in 10.

18 Q. 1 in 10?

19 A. MR. WOOD: Yes. And the reason why they're
20 squiggly is because it's filling in some of the lower
21 areas in there in the Unnamed Creek channel.

22 The next one is 100-year flood. That's sort of
23 that medium blue shade that spans a good part of the
24 reservoir area and a little bit of area north of
25 Springbank Road shown in yellow there. That is a

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1 100-year event.

2 I might want to add that, aside from the 2013
3 flood, which exceeded the 100 year at a 200-year event,
4 the Elbow in that record I brought up earlier has not
5 experienced a flood of this size in the known record.

6 And then the other one is the design flood.
7 That's the 2013 event. And SR1 would have filled to
8 this amount if it were on the landscape during that
9 event, and that's that dark blue.

10 And, please, if I may circle back to one of your
11 original questions about that yellow line --

12 Q. That's good, Mr. Wood, because we're going to go there
13 right away. Thank you. Please do.

14 A. MR. WOOD: So, yeah, the representation, the
15 yellow line that was in the previous exhibit, is, I
16 believe, a representation of this black line here.
17 This black line is the PDA, project development area,
18 and up in this part where we were discussing up in the
19 fingers, as we've been referring to it for quite some
20 time as well, that is representative of the top of the
21 dam.

22 So again, just like you see here, the serviceable
23 level of SR1 doesn't ever reach that black line or
24 flood anyone out. And, as explained the other day by
25 Mr. Menninger, the water level, because of the

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Cross-examined by Mr. Secord

1 emergency spillway should never reach the top of the
2 dam, so flooding should -- physically cannot extend --
3 it cannot reach that line nor can it extend beyond that
4 line.

5 Q. But I think, if we look at the transcript, we can fight
6 over this later, but I believe your evidence is wrong.
7 I will let the record speak for itself, but my point
8 that I was trying to make as a result of Ms. Hunter's
9 slide was that in a design flood, the water would reach
10 into these strange fingered areas in the northwest
11 corner of the project development area, and this is
12 exactly what Exhibit 20, PDF page 75 shows; correct?
13 It's not the top of the dam.

14 A. MR. WOOD: Correct. In a spatial extent,
15 yes, but what you don't see is if we were to zoom in on
16 that location and the figures, perhaps the document
17 manager could do so -- there's a considerable amount of
18 elevation change there. That is the Unnamed Creek's
19 floodplain and valley. And so while the water may
20 reach back up there into the fingers, the black line
21 represents -- even though it's not set further away, it
22 represents a point that is much higher up. Again, it's
23 the top of the dam projected back to the contour at
24 this elevation.

25 Q. I wasn't really terribly bothered about the black line.

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1 I was more interested in the fact that the water was
2 going to reach into these fingers. And this is what
3 this exhibit shows; correct?

4 **A. MR. WOOD:** That is correct, and I may add,
5 **these fingers are depressions created by the existing**
6 **Unnamed Creek watercourse.**

7 **Q.** Okay. So let's look at land use and this scenario
8 where we have water reaching -- somebody speaking?

9 **THE CHAIR:** I think that may have been
10 Mr. Kruhlak. I think it's muted now.

11 All right. Proceed, please.

12 **Q. MR. SECORD:** So let's look at this scenario
13 from a land use proposition. How long will it take for
14 water in the PDA area to drain out of the reservoir? I
15 guess my clients would like to know will it drain
16 totally? Will there be -- you know, will water remain
17 in the lake? Sorry, or the mud pit, as I think
18 Marshall Copithorne described it, the mud bowl?

19 **A. MR. BRESCIA:** Mr. Chairman, if I could provide
20 that information.

21 So in the EIA, we have assessed two scenarios,
22 early release scenario and a late release scenario
23 based on different conditions in the Elbow River. And
24 the time -- the full time required to release a design
25 flood from a start of filling would be 39.2 days in an

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1 early release scenario or 61.5 days in a late release
2 scenario. And if I could just clarify a point there.

3 That area of the reservoir north of Springbank
4 Road will not likely be a mud pit. The sediment
5 modelling does not show a substantive sediment north of
6 the Springbank Road.

7 THE CHAIR: Ms. Vespa, court reporter, that
8 was Mr. Brescia speaking. In this view with documents
9 up, it's a little bit more critical that you say your
10 name. When there's only a few people and speaker view,
11 she can see you pretty easily, but in this view, if you
12 can let us know who's speaking, thanks.

13 A. MR. BRESCIA: My apologies, I'll do that next
14 time.

15 Q. MR. SECORD: So from a land use perspective, I
16 would like AT to walk us through the post-flood
17 remediation procedures in each of the key areas.

18 A. MR. HEBERT: Mr. Chairman, one moment.

19 Mr. Chairman, we are prepared to speak to that on
20 Topic Day 5. We will have witnesses that are in a
21 better place to answer those questions.

22 Q. Okay. Thank you for that.

23 So Alberta Transportation has proposed a draft
24 land use plan, Exhibit 216. Can you advise how certain
25 is this land use plan? And the reason for the question

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Cross-examined by Mr. Secord

1 is, in Exhibit 325, Alberta Transportation states that
2 the land use plan will be finalized by Alberta
3 Environment and Parks?

4 **A. MR. HEBERT:** So, Mr. Chairman, as outlined
5 essentially on the title of the document itself, these
6 are draft guiding principles and direction for future
7 land use. As Mr. Secord references, Alberta
8 Environment and Parks is ultimately responsible within
9 the government of Alberta of determining land use
10 planning. They have the legislative responsibility for
11 certain land use instruments and are the department
12 responsible for engagement on land use -- land use in
13 Alberta.

14 And as indicated in this and previous filings on
15 this topic have indicated that this would occur
16 following the approval of the project, should the
17 regulators agree to approve the project.

18 **Q.** And this may -- in terms of land use, this may be a
19 question for Topic Block 5. But in terms of the
20 management of the elk herd, who is responsible for
21 managing the herd and ensuring its sustainability?

22 **A. MR. HEBERT:** Mr. Chairman, excuse me, AEP is
23 responsible for the management of the elk herd.

24 **Q.** And are you aware that the Springbank community is
25 vehemently opposed to firearm hunting in the PDA and

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 that the community considers the elk herd an important
2 part of the Springbank community?

3 **A. MR. HEBERT:** **Mr. Chairman, I'm aware of the**
4 **position you've referenced.**

5 **Q.** And what does AT intend to do about that? Or do you
6 pass that ball off to AEP, as well?

7 **A. MR. HEBERT:** **So as I referenced, Mr. Chairman,**
8 **Alberta Environment and Parks is responsible for the**
9 **management of the elk herd.**

10 As I referenced earlier today in testimony to the
11 Stoney Nakoda Nation, the practice of Treaty rights
12 includes hunting, but as I equally referenced, that
13 hunting still has to occur under applicable laws
14 governing the use of firearms.

15 In Alberta, there's additional guidance that's
16 provided that relates to the practice of hunting by
17 individuals with Treaty rights in Alberta to document
18 that's issued by Alberta Environment and Parks.

19 **Q.** All right. I have a number of proposed conditions on
20 land use that I'd like to put to you, Mr. Hebert.

21 Would AT be prepared to put earthen berms around
22 the entire footprint of the PDA, treed, landscaped,
23 fenced with attractive wildlife-friendly fencing, with
24 an appropriate setback from land uses for safety, and
25 obviously subject to agreement with the landowners?

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1 A. MR. HEBERT: Sorry, Mr. Chairman, Mr. Secord.
2 What I would reference is that the draft principles are
3 also under consideration by the Impact Assessment
4 Agency of Canada. So there's an active review underway
5 by that regulator relating to these conditions.

6 We've provided feedback to that regulator
7 regarding -- regard their draft environmental
8 assessment reports.

9 So I think for the benefit of the Chairman and
10 Panel, there's a parallel process underway relating to
11 the review of this particular land use document.

12 Mr. Chairman specifically on the condition raised
13 by Mr. Secord, subject to the advice of counsel,
14 Alberta Transportation will take it under advisement.

15 Q. And taking it under advisement, we lawyers do that all
16 the time, Mr. Hebert. Usually what that means is we'll
17 take it under advisement, and then we never deal with
18 it or think about it ever again.

19 So I'm just trying to get -- perhaps it means
20 something different from Alberta Transportation?

21 A. MR. HEBERT: So I was coached on the words I
22 should use at moments like this. I take I might have
23 wanted to use the words "undertaking," as opposed to
24 "advisement."

25 MR. FITCH: Yeah, and just so we're clear,

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Cross-examined by Mr. Secord

1 what we're undertaking to consider is Mr. Secord's
2 request whether Alberta Transportation would berm and
3 tree and fence the perimeter of the project area? Is
4 that basically it, Mr. Secord?

5 MR. SECORD: Yes, with attractive
6 wildlife-friendly fencing.

7 MR. FITCH: All right. I think we understand
8 it, and we will treat it as an undertaking, not a
9 lawyer's blow-off.

10 MR. FITCH: Mr. Fitch, thank you for that.

11 **UNDERTAKING - TO ADVISE WHETHER ALBERTA**
12 **TRANSPORTATION WOULD BERM AND TREE AND**
13 **FENCE THE PERIMETER OF THE PROJECT AREA**
14 **WITH ATTRACTIVE WILDLIFE-FRIENDLY**
15 **FENCING**

16 Q. MR. SECORD: Next, Mr. Hebert, would you
17 accept, you know, in the event of a recommendation that
18 SR1 be approved by the NRCB, would you accept as a
19 condition that AT construct a pathway around the entire
20 perimeter of the PDA, subject to appropriate setbacks
21 and agreements with the landowners?

22 A. MR. HEBERT: Mr. Chairman, as I referenced this
23 morning, Alberta Transportation does have an interest
24 in speaking to representatives of the Springbank
25 community as it relates to potential community benefits

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 or features that could be contemplated within the
2 development of the PDA.

3 As it pertains specifically to whether that should
4 be a condition of approval, subject to the advice of
5 counsel, we will undertake to -- take that as an
6 undertaking.

7 Q. So that would be a second undertaking, then, for the
8 record.

9 UNDERTAKING - TO ADVISE WITH REGARD TO
10 WHETHER APPROVAL FROM LANDOWNERS IS
11 REQUIRED IF ALBERTA TRANSPORTATION
12 CONSTRUCTS A PATHWAY AROUND THE ENTIRE
13 PERIMETER OF THE PDA

14 MR. FITCH: Yes, that's fine.

15 Q. MR. SECORD: Next, would AT consider moving
16 Springbank Road to allow uninterrupted access for
17 residents in the event of a design flood or a flood of
18 record?

19 A. MR. HEBERT: Mr. Chairman, similar to the
20 previous two items, subject to the advice of counsel,
21 Alberta Transportation will take that as an
22 undertaking.

23 UNDERTAKING - TO ADVISE IF AT ALBERTA
24 TRANSPORTATION WOULD CONSIDER MOVING
25 SPRINGBANK ROAD TO ALLOW UNINTERRUPTED

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 **ACCESS FOR RESIDENTS IN THE EVENT OF A**
2 **DESIGN FLOOD OR A FLOOD OF RECORD**

3 Q. MR. SECORD: Would AT accept as a condition of
4 an approval to move landowners' driveways such that
5 they are unaffected by SR1?

6 A. MR. HEBERT: Mr. Chairman, as previously
7 indicated this afternoon, Alberta Transportation does
8 have an interest in talking to the landowners whose
9 access would be impacted by SR1. Our preference would
10 be to come to arrangements with the landowners in
11 question.

12 However, Transportation would be open to providing
13 a formal response, subject to an undertaking, subject
14 to the advice of counsel.

15 MR. SECORD: Thank you.

16 MR. FITCH: So just for the record, Mr. Brian
17 Copithorne yesterday -- sorry, I discovered my video
18 wasn't on. Mr. Brian Copithorne confirmed I guess it
19 was this morning that Alberta Transportation has
20 already committed to him to ensure that he has
21 continued access to his residence. So I think that's
22 already dealt with on the record.

23 But we will, I guess, take the undertaking for the
24 balance of the driveways. I mean, it's a little -- I
25 think we know which driveways we're talking about.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 MR. SECORD: Right.

2 MR. FITCH: So, yes, we'll undertake to get
3 back to you on that.

4 MR. SECORD: Thank you.

5 **UNDERTAKING - TO ADVISE IF ALBERTA**
6 **TRANSPORTATION WOULD ACCEPT AS A**
7 **CONDITION OF AN APPROVAL TO MOVE**
8 **LANDOWNERS' DRIVEWAYS SUCH THAT THEY**
9 **ARE UNAFFECTED BY SR1**

10 Q. MR. SECORD: Would AT accept as a condition for
11 safety rescue protocol that a boat launch for the fire
12 department and the public be installed with public
13 access on the Elbow River in the Springbank community?

14 A. MR. HEBERT: Mr. Chairman, is it possible for
15 counsel to clarify the request? I just -- I'm trying
16 to understand it, but I'm just making the connection
17 back to the Springbank project.

18 Q. So for the purpose of a safety rescue protocol, would
19 AT consider installing a boat launch for the fire
20 department and the public on the Elbow River in the
21 Springbank community?

22 A. MR. HEBERT: Sorry, Mr. Secord, I'm just -- I'm
23 not trying to be difficult; I'm trying to understand
24 the connection to the SR1 project.

25 Q. It would just be under the -- under the heading of

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 "community benefit."

2 A. MR. HEBERT: Sorry, Mr. Secord, I now
3 understand. We will add that to the list of items for
4 the undertaking.

5 MR. SECORD: Okay.

6 UNDERTAKING - TO ADVISE IF ALBERTA
7 TRANSPORTATION WOULD CONSIDER
8 INSTALLING A BOAT LAUNCH FOR THE FIRE
9 DEPARTMENT AND THE PUBLIC ON THE
10 ELBOW RIVER IN THE SPRINGBANK COMMUNITY

11 Q. MR. SECORD: Would AT accept as a condition of
12 an approval that the land use advisory committee
13 include members of the Springbank community?

14 A. MR. HEBERT: Mr. Chairman, the commitment we've
15 made so far specifically addresses First Nations, and
16 we've provided a rationale for that -- for that purpose
17 within the most recent land use filing which -- sorry,
18 most recent filing on land use principles, which is at
19 Exhibit 216.

20 But what I will indicate is that Alberta
21 Transportation will -- is quite open to engaging with
22 the Springbank community in the -- in the -- continued
23 discussion about the land use principles. And
24 certainly, we would expect that they would be among the
25 stakeholders that AEP would engage when they finalize

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 the land use plan.

2 Q. Is there some reason why AT would not want a member or
3 members from Springbank to be on the land use advisory
4 committee?

5 A. MR. HEBERT: Mr. Chairman, the land use
6 advisory committee, the First Nations land use advisory
7 committee to be more precise, deals specifically with
8 the practice of Treaty rights.

9 As I've described, the conversion of lands to
10 Crown lands that are contemplated, should the project
11 be approved, creates some considerations that relate to
12 the practice of Treaty rights. That is one of the
13 purposes of the committee.

14 But as I've indicated, and I would reiterate, that
15 Transportation and AEP would -- excuse me -- would
16 welcome engagement with Springbank community
17 representatives against -- sorry, against -- regarding
18 the land use principles on the ultimate land use plan
19 for the project.

20 Q. Would AT accept as a condition of an approval that the
21 area be -- that the PDA be off limits for firearms?

22 A. MR. HEBERT: Mr. Chairman, as previously
23 indicated, if the practice of Treaty rights will be
24 entertained on Crown land, that includes hunting.
25 First Nations are able to hunt with firearms.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 As I've indicated to the Board that hunting, if
2 they hunt with firearms, would occur under applicable
3 provincial legislation.

4 There's also a document entitled "Hunting by
5 Treaty Indians in Alberta: Rights and
6 Responsibilities" that's issued by Alberta Environment
7 and Parks that describes the conditions under which
8 individuals with Treaty rights hunt on Crown land in
9 Alberta.

10 Q. So would AT, then, accept as a condition of an approval
11 that it provide the Springbank community with a map
12 setting out where the proposed firearm areas are within
13 the PDA which then presumably would include appropriate
14 setbacks from public roads and private property? Is
15 that something that AT would commit to providing to my
16 clients?

17 A. MR. HEBERT: Sorry, one moment, Mr. Chairman.
18 Mr. Chairman, we'll add it to the undertaking
19 that's currently underway.

20 UNDERTAKING - TO ADVISE IF AT WOULD
21 ACCEPT AS A CONDITION OF APPROVAL THAT
22 IT PROVIDE THE SPRINGBANK COMMUNITY
23 WITH A MAP SETTING OUT WHERE THE
24 PROPOSED FIREARM AREAS ARE WITHIN THE
25 PDA

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 Q. MR. SECORD: Now does AT understand that
2 Springbank is a popular eco tourism corridor west of
3 Calgary?

4 A. MR. HEBERT: Mr. Chairman, I've seen the
5 reference.

6 Q. Does the SR1 project footprint provide opportunities
7 for community benefit in terms of parks, river access,
8 winter sports, pathways, connectivity? Maybe you could
9 take them one at a time.

10 Does SR1 provide opportunities for community
11 benefit as a park?

12 A. MR. HEBERT: Mr. Chairman, it's not
13 conceptualized as a park. We're referring to the
14 project development area itself. What we have
15 contemplated is non-recreational access to the project
16 development area. But as I said this morning, we would
17 welcome the opportunity to discuss with Springbank
18 community representatives any questions or concepts
19 they may have in reference to using the PDA in that
20 manner.

21 Q. Does the SR1 project footprint provide any
22 opportunities for river access?

23 A. MR. HEBERT: Mr. Chairman, just one moment.
24 I'll make sure we have the right person answer that
25 question.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 Mr. Chairman, just to clarify for the Board, there
2 is a portage at the diversion structure with
3 availability around the structure if that's what
4 Mr. Secord is thinking.

5 Q. Does SR1 provide -- the footprint provide any
6 community -- opportunities for community benefit in
7 terms of winter sports?

8 A. MR. HEBERT: Mr. Chairman, is counsel able to
9 clarify what's meant by "winter sports"?

10 Q. Cross-country skiing, skating, tobogganing,
11 snowshoeing?

12 A. MR. HEBERT: So, Mr. Chairman, when we
13 conceptualized non-motorized recreational access, we
14 did list -- I'm just going to part of the document
15 where these things are listed. We have listed
16 cross-country skiing. I suppose the other winter
17 sports that Mr. Secord mentioned, subject to the
18 appropriate considerations and safeguards, could
19 include tobogganing, skating, I'm not sure, but that
20 would be subject to discussions with Transportation,
21 Environment and Parks as the operator and interested
22 parties.

23 THE CHAIR: Mr. Secord, sorry to interrupt.
24 We're coming up on 3:30 which would be probably not a
25 bad time for a quick break, but also you started at

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 about 10 to 2 so pretty close to -- well, would be 90
2 minutes plus. But I know that you had some -- we were
3 borrowing some other time from Section 1 and there was
4 a couple -- a couple of gaps, but what were you
5 thinking in terms of time?

6 MR. SECORD: I'm thinking, Mr. Chair, that I
7 have a few more conditions to put to Mr. Hebert and
8 then I would like to take a break and then I expect to
9 come back and tell you I have no more questions.

10 So I think if we could go, I've just got I think
11 three or four more conditions to discuss and then if we
12 could take our break, I expect I will be back. But I
13 would just like to confer with my clients --

14 THE CHAIR: Sure, absolutely.

15 MR. SECORD: -- during the break just in case
16 I've missed something.

17 You know, it's awkward. We're working remotely
18 and so, it's not like it is if you're in the hearing
19 room. So that would be appreciated.

20 But if the court reporter -- I don't want to get
21 into Ms. Vespa's bad books, I already am, I'm sure. Is
22 she okay to go for another --

23 THE CHAIR: Just looking for Ms. Vespa. Where
24 are you?

25 MR. SECORD: She's put her thumbs up, so she's

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 okay.

2 So thank you, Ms. Vespa.

3 THE CHAIR: Okay. So you have a couple more
4 conditions.

5 MR. SECORD: I'd like to end the conditions and
6 then if we could break.

7 Q. Mr. Hebert, can you tell me how much money is AT
8 prepared to put towards public amenities for the SR1
9 project?

10 A. MR. HEBERT: Mr. Chairman, there's no specific
11 allocation at this time. Again, we are learning about
12 some amenities for the first time today in the manner
13 they're being proposed. So I'd hesitate to speculate
14 until I understood more clearly what was possible, and
15 again, balancing that with the -- with the need to
16 ensure that we're respecting the overall budget
17 framework for the project.

18 Q. Okay. So in relation to the plan for grazing, will
19 cattle be moved into these areas once the June flood
20 season has passed? And you heard landowners are
21 concerned about fire risk, and grazing is one way to
22 manage fire.

23 So would AT accept as a condition of an approval
24 that -- that farmers be allowed to move cattle into the
25 PDA after the flood season is passed?

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 **A. MR. HEBERT:** Mr. Chairman, we'll add that to
2 the undertaking, although I would clarify that we -- we
3 provide some detail around the notion of grazing
4 permits in Exhibit 216, I believe it's the final page
5 of the exhibit under Item B6.

6 **Q.** And, Mr. Hebert, will you accept, subject to check,
7 that the Springbank community is currently under a fire
8 advisory in Rocky View County as we sit here today?

9 **A. MR. HEBERT:** Subject to check, I'll agree. I
10 wasn't -- I'm not aware, but I'll check.

11 **Q.** Okay. And just going back to the money that AT would
12 be prepared to put towards public amenities for the
13 project, is there anything in the budget in
14 Exhibit 159, Appendix G-2?

15 **A. MR. HEBERT:** Mr. Chairman, there is no
16 allocation made for public amenities at this time. As
17 I referenced in my last answer, it's something we'll
18 have to consider based on, I would suggest, discussion
19 with appropriate community representatives.

20 **Q.** And is there a rule -- a standard or a rule of thumb
21 for Alberta Transportation in terms of community
22 benefit as a percentage of the total project costs?

23 **A. MR. HEBERT:** Mr. Chairman, Alberta
24 Transportation does not have a policy in that regard.

25 **Q.** Would AT accept the following condition with respect to

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 fire suppression and control, and that is, that
2 following construction, the PDA will be cleaned,
3 managed according to fire smart principles and
4 trespassing controlled through surveillance to keep
5 down the risks of brush fires?

6 **A. MR. HEBERT:** Mr. Chairman, we'll add that to
7 the undertaking.

8 **UNDERTAKING - TO ADVISE IF AT WOULD**
9 **ACCEPT THE FOLLOWING CONDITION WITH**
10 **RESPECT TO FIRE SUPPRESSION AND**
11 **CONTROL; THAT IS, FOLLOWING**
12 **CONSTRUCTION, THE PDA WILL BE CLEANED,**
13 **MANAGED ACCORDING TO FIRE SMART**
14 **PRINCIPLES AND TRESPASSING CONTROLLED**
15 **THROUGH SURVEILLANCE TO KEEP DOWN THE**
16 **RISKS OF BRUSH FIRES**

17 **Q.** And could you advise when you are responding to that
18 undertaking, would that involve hiring security to
19 reduce fire risks, and that would be over the life of
20 the project, especially given that the project is close
21 to the City of Springbank and we expect the project
22 area will be popular for public users.

23 **A. MR. HEBERT:** Mr. Chairman, we'll add that to
24 the undertaking.

25 **UNDERTAKING - REFERRING TO PREVIOUS**

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 **UNDERTAKING, WOULD THAT INVOLVE HIRING**
2 **SECURITY TO REDUCE FIRE RISKS, AND THAT**
3 **WOULD BE OVER THE LIFE OF THE PROJECT**

4 Q. MR. SECORD: And can you tell me, in terms of
5 land use, will people be able to come into the
6 Springbank community and camp in the PDA, set up tent
7 communities, or just camp in general? Will that be
8 something that AT will be permitting or can you speak
9 to that?

10 A. MR. HEBERT: Mr. Chairman, AT is not -- at
11 least in the draft principles that have been prepared,
12 does not contemplate camping within the project
13 development area.

14 Q. Now, just going back, I'm almost done here on the
15 conditions, but right now, the PDA does not show access
16 to the river, whereas the 2016 project summary does.
17 Can you tell me, does the project -- does the
18 project allow for river access? You mentioned the
19 portage?

20 A. MR. HEBERT: So, Mr. Chairman, just one moment.
21 I want to make sure I get the answer correct.

22 So, Mr. Chairman, I don't have the map right in
23 front of me, but there is a separation between the
24 boundary of the project development area and the river
25 that exists in the current project plan.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 MR. SECORD: Mr. Chair, we have reached 3:30,
2 and I expect that Ms. Vespa would like a break, I'm
3 sure.

4 So is it okay if we take our break and I come
5 back, and I would like to just have a quick word with
6 my clients, and I expect I'll be done very shortly
7 after our afternoon break.

8 THE CHAIR: Agreed. Let's come back at 3:45.
9 Thanks, everyone.

10 (ADJOURNMENT)

11 THE CHAIR: Okay. I think we're all back.

12 Mr. Secord, did you have time to confer?

13 MR. SECORD: I did, sir. Thank you, and I have
14 four items left.

15 So if it's okay with you, I'll proceed.

16 MR. FITCH: Mr. Chair, before Mr. Secord gets
17 going, we have a response to one undertaking. The one
18 dealing with the *Extractive Sector Transparency*
19 *Measures Act*, whether there will be a report on
20 payments. If my friend would like, I can provide the
21 response now.

22 MR. SECORD: Yes, please. That will save me
23 sending an email to Ms. Vance.

24 MR. FITCH: Fair enough. So Alberta
25 Transportation notes that the *Extractive Sector*

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 *Transparency Measures Act* applies to the commercial
2 development of oil, gas or minerals. This is, of
3 course, not a project for the commercial development of
4 oil, gas or minerals, and, therefore, the position of
5 Alberta Transportation is that the Act does not apply.

6 MR. SECORD: Thank you, Mr. Fitch.

7 Q. Mr. Hebert, I'm going back to the conditions in the
8 event of an approval.

9 Would AT agree to a condition that it provide
10 public parking lots in addition to First Nations'
11 parking lots with washrooms?

12 A. MR. HEBERT: Mr. Chairman, we'll add that to
13 the undertaking.

14 **UNDERTAKING - TO ADVISE IF AT WOULD**
15 **AGREE TO A CONDITION THAT IT PROVIDE**
16 **PUBLIC PARKING LOTS IN ADDITION TO**
17 **FIRST NATIONS' PARKING LOTS WITH**
18 **WASHROOMS**

19 Q. MR. SECORD: And, as part of that, could you
20 provide a map of where these parking lots are going to
21 go?

22 A. MR. HEBERT: Which parking lots? Sorry, sir.

23 Q. My understanding is you have committed to a parking lot
24 for First Nations. So if you do commit to having
25 public parking lots in addition to First Nations

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 parking lots, would you commit to provide a map of
2 where these parking lots would be located so the
3 community can see where you're proposing to put them?

4 **A. MR. HEBERT:** Mr. Chairman, we'll add that to
5 the undertaking.

6 **UNDERTAKING - WILL AT COMMIT TO**
7 **PROVIDING A MAP OF WHERE THE PARKING**
8 **LOTS WOULD BE LOCATED**

9 **Q. MR. SECORD:** Should this project be approved,
10 would AT accept as a conditional approval that the
11 historical resources in the PDA be protected, salvaged
12 and moved to a historic park honouring the history of
13 this area, paid for by the government for both
14 Indigenous -- for both the Indigenous and settler's
15 history, as it is intertwined?

16 Would the proponent commit to performing an
17 historical analysis of the PDA lands so that the
18 history of the lands can be preserved once it is taken?
19 And, as part of that, would AT work with the Springbank
20 Historical Society to document the history of the lands
21 in the PDA area?

22 **A. MR. HEBERT:** Sorry, excuse me, Mr. Chairman.
23 We'll add that response to the undertaking.

24 **UNDERTAKING - TO ADVISE IF AT WOULD**
25 **COMMIT TO PERFORMING AN HISTORICAL**

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 ANALYSIS OF THE PDA LANDS INCLUDING
2 WORKING WITH THE SPRINGBANK HISTORICAL
3 SOCIETY TO DOCUMENT THE HISTORY OF THE
4 LANDS IN THE PDA AREA

5 Q. MR. SECORD: And then the penultimate condition
6 deals with Kamp Kiwanis. This camp is very important
7 to the Springbank community.

8 My understanding is that, because it's located
9 so close to the -- basically the working part of the
10 SR1, my understanding is there's going to be a cement
11 plant there.

12 And so the concern that the community has is that
13 the Kamp Kiwanis may not be able to operate while the
14 cement plant is, you know, operating adjacent to the
15 Kawanis -- Kamp Kiwanis.

16 So would AT accept as a condition of an approval,
17 that it will do everything it can to help Kamp Kiwanis
18 stay in the Springbank community?

19 A. MR. HEBERT: Well, Mr. Chairman, I appreciate
20 the concern of the community. As I referenced in my
21 testimony today, Alberta Transportation has been in
22 discussions with Kamp Kiwanis.

23 Out of respect of the representatives of
24 Kamp Kiwanis, it wouldn't be appropriate to divulge the
25 discussions that we've had with the camp. But

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 certainly our strong preference is to work to find a
2 solution with Kamp Kiwanis relative to their continued
3 ability to provide their programming.

4 I'm not sure if it necessarily is required to be a
5 condition of approval, but I want to submit to the
6 chairman and to the Panel that we are paying very close
7 attention to the needs of Kamp Kiwanis and are
8 committed to working with them to assure that any
9 impacts of the project on their operations are
10 addressed.

11 Q. And so the last condition that I would like to put to
12 you, Mr. Hebert, is as follows: I heard you say
13 earlier that AT has had 99 meetings with First Nations,
14 and my understanding is you -- I think you said you
15 attended at least 33 of them.

16 My understanding, and you'll correct me if I'm
17 wrong, and maybe you'll hear from my clients tomorrow,
18 but my understanding is that AT has had no meetings
19 with the Springbank community concerning land use. I
20 know you've mentioned an open house or something, but
21 you'll hear I think from Ms. Hunter about that
22 tomorrow.

23 But my understanding is there have been no
24 meetings with the Springbank community to discuss land
25 use and public amenities.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 So with that background, would AT accept as a
2 condition of an approval that AT will set up and pay
3 for a series of facilitated workshops with the
4 Springbank community to review land use opportunities
5 and public amenities and that those workshops would be
6 set up and conducted within -- you know, within 12
7 months of the -- of receiving an approval for the
8 project?

9 Is that clear, Mr. Hebert? So basically the idea
10 would be that you would have meetings with the greater
11 Springbank community. It wouldn't just be you sending
12 emails to the president of the Springbank Community
13 Association. This would be going into the community,
14 having a broad base of the community coming in and
15 having, you know, these workshops with AT to discuss
16 potential -- you know, to discuss land use issues and
17 to discuss public amenities?

18 **A. MR. HEBERT:** Thank you, Mr. Chairman. I'll get
19 to the condition in a moment. I'll just back up on a
20 couple of items just for the benefit of the Board.

21 The reference to the 99 meetings with Indigenous
22 groups is the total number of meetings that relates
23 either to the consultation that was directed by the
24 Aboriginal consultation office or the engagement that
25 was required by the federal regulator on a broad scope

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Secord

1 of topics that relate to the project. Just for the
2 benefit of the Board, the numbers reflect the overall
3 number of meetings, not just exclusively for land use.

4 As noted in our chronology, we -- to be more
5 specific, I, provide an invitation to Ms. Hunter to
6 talk about land use in December 2019. We've shared the
7 previous land use filings in an effort to have that
8 discussion. And as I referenced this morning, Alberta
9 Transportation does have an interest in discussing
10 these potential opportunities with Springbank community
11 representatives, and I think we have to define what
12 "Springbank community representatives" would mean in
13 the context of this discussion.

14 The land use document we've been referring to
15 today contemplates engagement with community
16 stakeholders as part of the finalization of the land
17 use plan or land use instruments for the area.

18 And finally, with reference to the specific
19 condition that's been proposed by counsel,
20 Transportation will add that to the undertaking.

21 **UNDERTAKING - TO ADVISE IF AT WOULD**
22 **ACCEPT AS A CONDITION OF APPROVAL THAT**
23 **IT WILL SET UP AND PAY FOR A SERIES OF**
24 **FACILITATED WORKSHOPS WITH THE**
25 **SPRINGBANK COMMUNITY TO REVIEW LAND USE**

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Wagner

1 **OPPORTUNITIES AND PUBLIC AMENITIES**
2 **WITHIN 12 MONTHS OF RECEIVING APPROVAL**
3 **ON THE PROJECT**

4 Q. MR. SECORD: Thank you, Mr. Hebert.
5 Mr. Chairman, those are all of my questions, thank you.
6 And I hope I didn't go too far over my time allocation.

7 THE CHAIR: Not bad, Mr. Secord. Thank you
8 very much.

9 MR. SECORD: Thank you.

10 THE CHAIR: Mr. Williams I don't believe is
11 here this afternoon and indicated he has no cross on
12 this area for Alberta Transportation.

13 Mr. Wagner, did you have any cross-examining
14 questions?

15 MR. WAGNER: I do, Mr. Chairperson.

16 THE CHAIR: Okay. And how long did you need?

17 MR. WAGNER: I asked for 15 minutes; I think I
18 should be well within that.

19 THE CHAIR: Okay. Thank you.

20 **MR. WAGNER CROSS-EXAMINES THE PANEL:**

21 Q. I thought I'd start off, because I didn't do this the
22 other day, if you could bring up Document 329, page 8,
23 I just wanted to give the Panel an idea of who I am and
24 where I'm located. It should be a map of all
25 landowners.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Wagner

1 THE CHAIR: Is it 249?

2 MR. WAGNER: 329, Document 329, page 8.

3 Hopefully I got this right today.

4 THE CHAIR: One of us must have it wrong,
5 either the document manager or perhaps your reference.
6 I seem to recall 247 or 249 had the map with most
7 landowners on it; is that not right?

8 MR. WAGNER: That could be.

9 THE CHAIR: Someone else, Mr. Kennedy, or
10 someone else recall or anyone actually, just to help us
11 expedite getting this exhibit up?

12 MS. VANCE: This is Fiona Vance. 249 sounds
13 familiar.

14 THE CHAIR: Yeah, let's try that one.

15 MR. WAGNER: I have it open here; it's 249.

16 THE CHAIR: Ah, okay, thank you.

17 MR. WAGNER: This will do. Yeah, it's not the
18 one that I was looking for, but this will be just fine,
19 any of these maps.

20 Q. So working on the fingers. So that's been a big topic
21 of conversation with Mr. Secord.

22 So if you look at that, that's actually, just to
23 clarify, that area west of Highway 22 with all of the
24 fingers, that's a section of land, not a half section
25 or a quarter as was stated in the communication.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Wagner

1 We moved out here in '92 and built a house in
2 2001.

3 If we could bring up Document 329, again, I hope I
4 got this right, page 310. 329 is over on the
5 right-hand I think, second one in. Obviously that's
6 not 329 that I was looking at.

7 THE CHAIR: What was the exhibit, Mr. Wagner?
8 What did it contain at least? Maybe we can get a clue
9 there?

10 MR. WAGNER: Yes, I'll bring it up. I have it
11 up on my screen as 329.

12 THE CHAIR: Does it have a title? We might be
13 able to do it by title.

14 MR. WAGNER: I apologize. I believe it's 327.

15 THE CHAIR: Is this correct?

16 MR. WAGNER: Yes. If it's possible, can we
17 expand that to show the fingers over the right-hand
18 side or on the left-hand side just expand it a bit.
19 Just show that full section.

20 MS. OKOYE: I believe -- this is Ifeoma Okoye.
21 I think he may be referring to PDF 8 of the document.

22 MR. WAGNER: That could be.

23 MR. OKOYE: No, PDF 8.

24 MR. WAGNER: Thank you. If we just expand that
25 and show the left-hand side up at the top?

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Wagner

1 THE CHAIR: Ms. Gagnon, I think you've got the
2 right one, if we just expand that page.

3 MR. WAGNER: Yeah, just make it bigger. So we
4 don't need to see the whole map, just the section
5 there. There we go. That's probably big enough.

6 Q. So I just wanted to ask a question. This morning with
7 the Stoney Nakoda or actually early afternoon,
8 Stoney Nakoda showed a map of Indigenous sites.

9 And I've asked this question before, and the
10 location that -- we've only had one dig on our site,
11 and it is literally a hundred metres in front of our --
12 or to the west of our house. And for the first time I
13 saw Indigenous locations on our property; I've never
14 seen those before. And there was three locations on
15 the Stoney Nakoda map.

16 And I was just wondering how the GoA chose the
17 location 100 metres from our house when about 100
18 metres south of there appears to be a Stoney Nakoda
19 First Nations Indigenous site?

20 A. MR. HEBERT: Mr. Chairman, and good afternoon,
21 Mr. Wagner. I believe the map you're referring to was
22 a map that was produced by the Stoney Nakoda Nation.
23 The sites that were identified on the map are or were
24 identified by the Nation.

25 So I'm -- as we referred to this morning, we

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Wagner

1 received that map, upon filing, we received or had the
2 opportunity to review that map, and as referenced, it
3 was subject to a discussion with the Stoney Nakoda
4 Nation as part of the processes we were referring to
5 earlier.

6 But Mr. Chairman, I'm -- Alberta Transportation
7 did not identify the sites that the Stoney Nakoda
8 presented in their map.

9 Q. We've only had one dig on our site -- or on our
10 property, on the whole section, and there's supposed to
11 be more coming. And I'm just wondering how that
12 particular location was chosen?

13 A. MR. HEBERT: Mr. Wagner and Mr. Chairman, are
14 you referring to the --

15 Q. The already-dug situation. It obviously didn't involve
16 the Stoney Nakoda Nation because I doubt very much if
17 they would have chosen that particular location when
18 about 100 metres south of that, it appears that they
19 have an Indigenous location already identified.

20 A. MR. HEBERT: Just one moment, Mr. Chair.
21 Mr. Chairman, Mr. Brescia will provide a response.

22 A. MR. BRESCIA: Thanks. One moment.

23 Thank you. So I can provide a little bit of an
24 explanation to that.

25 As part of the historical resources testing

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Wagner

1 requirements under our *Historical Resources Act*
2 application, there are requirements to do what's called
3 "deep testing." And one of -- one of the locations
4 that they selected, the archaeologist, based on their
5 experience in finding historical sites, was adjacent to
6 a wet area, which would explain the location that was
7 selected for that dig.

8 Q. The statement by the GoA over the last couple of days,
9 they talked about consultations with stakeholders prior
10 to the 2014 decision and selection of SR1. Every
11 landowner that I know in the area didn't know anything
12 about this. I'm just wondering what engagement that
13 the GoA had with the landowners prior to the 2014
14 decision?

15 A. MR. HEBERT: Sorry, just one moment,
16 Mr. Wagner.

17 Sorry, Mr. Wagner, I was just looking for a
18 reference in one of our documents.

19 Q. No problem.

20 A. MR. HEBERT: But 2014, the project was among
21 one of three potential projects that was under
22 consideration by the government of Alberta at the point
23 in time you're referencing.

24 Q. So would it be reasonable to say that there was no
25 engagement with landowners prior to the decision?

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Wagner

1 A. MR. HEBERT: Mr. Chairman, I understand that in
2 July of 2014, there was a meeting with -- excuse
3 me -- with landowners that provided an update of the
4 current status of the proposed project and provided an
5 opportunity to ask questions and provide feedback to
6 the government of Alberta.

7 At that meeting, and this is referenced in
8 Exhibit 327, Appendix C, the government of Alberta had
9 acknowledged that the engagement up to that point had
10 not been satisfactory and offered an apology to the
11 landowners involved in it.

12 The July meeting, an opportunity was taken to
13 update and provide information on the project itself,
14 and I also understand that there were some follow-up
15 items that AEP at the time, being the department
16 responsible for the screening and selection of flood
17 projects, had committed to certain actions to the
18 participants in that meeting.

19 Q. Is it fair to say that that was roughly six months
20 after the decision was made and announced?

21 A. MR. HEBERT: Mr. Chairman, if I recall the
22 chronology, at that point in time, the government of
23 Alberta had three projects that were under review. I
24 don't recall -- I don't believe this is part of our
25 submitted evidence.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Wagner

1 The signalling that the Springbank project was
2 being advanced as a preferred option came for the first
3 time in a news release issued by -- under the name of
4 the then-Premier Prentice. I believe that was the end
5 of September 2014.

6 Q. Next question. I'm going to get the document numbers
7 incorrect here. I'm looking for the GoA response, Item
8 Number 212. I've got it as Document 325.

9 THE CHAIR: Mr. Wagner, when you're talking
10 about item or document, are you meaning exhibit number?

11 MR. WAGNER: Exhibit, yes. It would be the
12 GoA's response with Item Number 212.

13 MR. FITCH: Mr. Chairman, it's Gavin Fitch. I
14 think Mr. Wagner is referring to the reply submission
15 of Alberta Transportation which is Exhibit 325, and I
16 think he's looking for paragraph 212. Does that sound
17 right, Mr. Wagner?

18 MR. WAGNER: That is -- yeah, that's correct.
19 So I did get the right document number.

20 MR. FITCH: You did.

21 MR. WAGNER: Win. First win.

22 Q. In this particular area, it is stated that the GoA has
23 responded to my request for information.

24 I have reviewed all of the documentation that I
25 have, and I can find nothing with regards to water

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Wagner

1 wells, water table concerns, sewer backup, swelling
2 clay. In fact, I think one of the paragraphs in here,
3 the one just below it in 213, actually kind of takes
4 the words "swelling clay" out of it. And I'm just
5 wondering, when can we expect some solutions from the
6 GoA?

7 A. MR. HEBERT: Just one moment, Mr. Chairman,
8 excuse me, I'm just reviewing a document.

9 Mr. Chairman, I believe, if one refers to the next
10 paragraph, paragraph 214, there were materials provided
11 to the Wagners through legal counsel. However, as I've
12 indicated again this morning, would welcome to discuss
13 with Mr. and Mrs. Wagner any outstanding concerns that
14 may not be addressed as a result of our communications
15 to date.

16 Q. As I've stated, I have reviewed all of our
17 documentation, and we don't have solutions. There's
18 nothing being communicated.

19 Last question. I'm struggling with something here
20 in some of the submissions, and one is the capacity of
21 the dam at, is it 70,000 cubes. I see a design of
22 roughly 77,000. There was another number that was
23 brought up that was higher than that; I think it's the
24 top of the dam, and I can't remember exactly how much
25 capacity that is going to the top of the dam from the

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Cross-examined by Mr. Wagner

1 77, but it was mentioned over the last couple of days.
2 Can I get some clarification around that?

3 A. MR. WOOD: Yes, Mr. Chairman, I can provide
4 most of that clarification. I think, unfortunately, I
5 may have to defer one item to Mr. Menninger but --

6 THE CHAIR: This is Mr. Wood, Court Reporter.

7 A. MR. WOOD: Yes, please, Mr. Wood.

8 So Mr. Wagner, yes, there was a few numbers.
9 What's important to know is the storage capacity of the
10 dam at 77,000 dam cubes. When you heard the 70, that
11 was the amount required to store the 2013 flood.

12 But the storage capacity of the dam is 77,000, and
13 that results in an elevation of 1,210.75. It's what we
14 call the "full supply level." It's what you saw in the
15 larger blue in that map, and that coincides with the
16 elevation of the service spillway, sorry, the emergency
17 spillway.

18 What Mr. Menninger was describing was in the
19 unlikely scenario that SR1 is full and there's a
20 failure of the diversion gates and water is still
21 coming into the reservoir, that's when it would pass
22 over that emergency spillway. And what he was
23 describing was the routing of that event as it's coming
24 in, there would be an increase from that spillway
25 elevation. As you can imagine, there's some depth over

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Cross-examined by Mr. Wagner

1 that spillway as it's spilling water.

2 And again, I would have to defer to him for that
3 exact elevation, but that elevation sits above the
4 emergency spillway but below the top of the dam. And
5 so like I said earlier, that that black line is set at
6 the top of the dam, there's a certain amount of what we
7 call freeboard above that elevation. I believe John
8 had said it was a metre and a half, but that is subject
9 to check. And that elevation projected back to your
10 property is what you see on that black line.

11 So, again, it's -- the water is not
12 designed -- the system is not designed to ever reach
13 that elevation of that black line. And then if --
14 again, it is kind of like the top of the bucket. So
15 physically water could never ever even pass that black
16 line.

17 Q. So, again, asking more clarification questions around
18 that, at a 200-year flood, I think I've got a better
19 understanding over the last week and a half of where
20 that water line is finally, and it's about halfway up
21 our lawn.

22 At what capacity is the dam at a 200-year flood?

23 A. MR. WOOD: At a 200-year flood, at the design
24 flood, which is approximately a 200, my caution is just
25 because as time passes, flood frequency estimates

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Cross-examined by Mr. Wagner

1 change. I know we've kicked around a lot of numbers
2 here.

3 But the 2013 flood was estimated as a 200-year
4 flood. So when you hear us say "design flood," that's
5 what it's set at, and that elevation is 1,210.75.

6 Q. Sorry, one more time.

7 A. MR. WOOD: Sorry, repeat it?

8 Q. Sorry, 1,210 point -- sorry, what's the elevation of
9 that?

10 A. MR. WOOD: The 1,210.75. And through
11 subsequent discussions, you may hear us refer to it as
12 "full storage level," "design flood," it's all the same
13 thing. It's that elevation of that -- the top of the
14 emergency spillway, it's like the low point in the
15 bucket is sometimes how I've referred to it as is that
16 you, you know, if a bucket's starting to fill, it first
17 starts spilling at that low point. That that elevation
18 is right there.

19 Q. And at a 77 capacity of the dam, what's the elevation
20 level of that?

21 A. MR. WOOD: Sorry, I'm realizing that I've
22 just made some confusion.

23 The elevation of the spillway is that 77. So
24 that's the 2013 flood, the design flood, plus that
25 10 percent storage. That is the design level that is

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Cross-examined by Mr. Wagner

1 the full storage level.

2 So if --

3 Q. What I'm looking for, Matt, is the difference between
4 the elevation for 70,000 and 77,000?

5 A. MR. WOOD: I don't have that on hand,
6 Mr. Chairman, but perhaps it's something we can get
7 back to you with.

8 Q. And to give you context, I know where the 200-year
9 flood line is. And I don't know, I stand down there,
10 and I look into the basement; I might be off, but it's
11 about 3 feet difference between that and our basement.
12 So anything more than 3 feet going from 70 to 77 means
13 that we have flooding in our basement.

14 And I've been asking about this for a long time,
15 and it's one of those questions. You know, we're
16 trying to make decisions on where we are, and we seem
17 to be last on the list to get all this stuff.

18 A. MR. WOOD: If I may, Mr. Chairman and
19 Mr. Wagner, I would recommend viewing the water level
20 as being the 77 because that is how full the reservoir
21 could get. I know we've talked about how much water it
22 can store. So it is the 77,000 dam cubes and the
23 elevation of 1,210.75.

24 So again, we can get back to you with an elevation
25 that's lower but the full storage level is 12 --

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Cross-examined by Mr. Wagner

1 Q. But I only where the 200 -- where the water is with the
2 200 line, so it's going to be higher than that,
3 and -- is it not, the 77, as opposed to the 70?

4 A. MR. WOOD: Okay. So the 77 is the full
5 storage level. That is where in a flood-fighting
6 situation during flood operations, if it were to fill
7 in a very large event like larger than the 2013 event,
8 again, this is that elevation that includes that 10
9 percent extra volume, that's where it would go to.

10 If the reservoir were full before it starts
11 spilling over the emergency spillway, the operator
12 would shut the diversion inlet and stop the diversion
13 into the reservoir.

14 The -- any elevation above -- sorry, I just want
15 to make sure I keep giving you the same number --
16 1,210.75 is a non-desirable scenario, not operational.

17 So again, that's why this line projects back to
18 the top of the dam, we keep showing that black line.
19 While it's not at operational levels between 1,210.75
20 and above, there is potential in an unplanned situation
21 for water to rise up above that and fall back down to
22 that spillway level.

23 Q. Well, with due respect, that black line in some of the
24 maps is on the other side of our house, so we're -- if
25 it's the black line that we're talking about in some of

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Cross-examined by Mr. Wagner

1 the maps, it's roughly equivalent to our main floor,
2 which means we have 8 feet of water in our basement.

3 MR. HEBERT: Mr. Chairman, if I may interject,
4 and perhaps for the benefit of the Panel, we could
5 undertake to provide the information that Mr. Wagner is
6 seeking. We should be in a position to assist.

7 MR. WAGNER: And I do believe that my
8 brother-in-law is in exactly the same because we're
9 almost identical elevation levels at that level, and I
10 suspect he's going to be very keen on that information
11 as well.

12 MR. FITCH: Mr. Chairman, it's Gavin Fitch
13 speaking. I have to say I've been listening to this,
14 and I'm just a little perplexed because, as is
15 indicated in paragraph 214 of the exhibit that we're
16 looking at, information of exactly the sort that
17 Mr. Wagner is asking after right now was provided to
18 him.

19 And so we're a little, we can't understand -- like
20 it sounds like he didn't get it, which is surprising.

21 And I'm wondering -- I think what we could do is
22 we could produce a couple of maps that were included in
23 the information that was provided to the Wagners
24 through their legal counsel on October 29, 2020, which
25 I believe shows sort of exactly where the water will be

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1 in a design flood in relation to both Mr. Wagner's
2 residence and Mr. Brian Copithorne's residence. Would
3 that be helpful, Mr. Wagner?

4 MR. WAGNER: With due respect, Gavin, and
5 responding to paragraph 214, and I have to be very,
6 very careful of how I respond here, I have reviewed all
7 documentation, Gavin, and there's stuff missing, and
8 solutions have not been provided.

9 And we're trying to make decisions after seven
10 years, well, close to eight years now, of having this
11 hanging over our head, and we're -- we're really
12 struggling here.

13 THE CHAIR: So...

14 MR. FITCH: Sorry, Mr. Chairman, can I make
15 one suggestion? And if Mr. Wagner would be open to
16 this, I could literally send him a document right now
17 which I think contains some of the information that
18 he's looking for. I'm not going to represent that it
19 has all the solutions; it just contains some of the
20 information that I think he's looking for.

21 MR. WAGNER: As I've stated, Gavin, I have
22 reviewed a lot of documentation, and 214 is not
23 accurate. It doesn't answer our questions.

24 THE CHAIR: Okay. So Mr. Wagner, if there's a
25 specific request or question that you have, maybe that

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1 would be the best way to proceed.

2 MR. WAGNER: It's a whole --

3 THE CHAIR: And then if you can't be answered
4 right now, I would ask AT to undertake to get the
5 information; that would be before close of hearing, of
6 course, if it can't be today. And there would be
7 another opportunity. This does relate to public
8 safety. I think, what is that, Section 3, 4, somewhere
9 in there.

10 So this will not be the last opportunity to ask
11 the question or get an answer. So let's start there,
12 if we could.

13 MR. WAGNER: Unfortunately, I think,
14 Mr. Chairman, or Mr. Chairperson, I think these are
15 more complex issues than something that can be dealt
16 with in a day or two. There's engineering requirements
17 and we've been asking for this for some time, you know,
18 how do we deal with this at our house, and we're still
19 outstanding.

20 If I can make a suggestion that -- I really
21 believe that the NRCB -- we'd like some engagement from
22 the government on our real issues on this, and, you
23 know, postponing the decision kind of looks like
24 expropriation to me. It is their endgame so they don't
25 have to deal with these issues. That's what it appears

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Cross-examined by Mr. Wagner

1 like. And if they get approval on this, they get
2 rights to expropriate and what are we left with? A
3 house with 8 feet of water in our basement? I don't
4 know. I don't have the answers.

5 **A. MR. HEBERT:** **Mr. Chairman, I was paying**
6 **attention to my counsel. It appeared he was leaning**
7 **into click, so I was -- it's not that I don't want to**
8 **answer the question; I was just -- in this**
9 **environment -- I'm preparing to act accordingly.**

10 **MR. FITCH:** Well, I offered to send Mr. Wagner
11 some information. He doesn't seem to think it would be
12 useful.

13 **MR. WAGNER:** Gavin, if there's new information,
14 then I'm missing. But I think I have reviewed the
15 documentation that you have -- I mean, how should I put
16 this? I reviewed the documentation. It's not there,
17 there's no solutions.

18 **MR. FITCH:** Okay. And I'm going to drop this
19 in a moment, Mr. Chair, because we're starting to go
20 around in circles.

21 **MR. WAGNER:** Yes, we are.

22 **MR. FITCH:** So what I will say is I never
23 intended to represent that we provided a document that
24 has solutions. What I intended to say, and what I
25 think I said, was that we had provided Mr. Wagner with

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Cross-examined by Mr. Wagner

1 information that provides some of the concrete
2 information that he's been discussing; that is,
3 proximity of water levels to his residence, elevations
4 between his residence, and the top water level. That
5 information we have and we can produce --

6 MR. WAGNER: I do recognize I do have that
7 information.

8 MR. FITCH: Okay.

9 MR. WAGNER: And I did miss that, Gavin, and I
10 think that gives you a hint of where I'm driving at. I
11 have reviewed that documentation.

12 So I know that the 200-year waterline is 35 metres
13 from the corner of our house or thereabouts, give or
14 take a metre.

15 MR. FITCH: Okay. I don't think I'm going to
16 add anything more, Mr. Chair. I don't know,
17 Mr. Hebert, if you have anything you want to add.

18 A. MR. HEBERT: Well, Mr. Chair and Mr. Wagner,
19 clearly Alberta Transportation has indicated that it
20 will work with the directly impacted landowners on
21 impacts of the project on their properties.

22 You know, we've had the debate about the
23 information provided to date. I don't want to prolong
24 or exacerbate the situation, other than to say that,
25 Mr. Wagner and Mrs. Wagner, we're prepared to discuss

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Questioned by Ms. Vance

1 this item with you. If there's additional information
2 that needs to be provided, if there's a discussion to
3 be had about mitigation, we've made it pretty clear
4 that we're open to discussing those matters with you.

5 MR. WAGNER: Well, let's get on with it. I
6 don't want this to become an expropriation item.

7 A. MR. HEBERT: Mr. Chairman, as I indicated our
8 preference is to deal with these matters through the
9 pathway of voluntary negotiations.

10 MR. WAGNER: Thank you. I have no other
11 questions, Mr. Chair.

12 THE CHAIR: Thank you, Mr. Wagner. So the
13 Board Staff and the Board Panel do have a few
14 questions.

15 Well, I think -- Mr. Kennedy, do I have it right?
16 I think we're starting with Ms. Vance; is that correct?

17 MR. KENNEDY: Ms. Vance.

18 MS. VANCE QUESTIONS THE PANEL:

19 Q. Thank you, Mr. Chair. I just have a few questions.

20 So when I read the submission from the
21 Stoney Nakoda, it appears to me that they are calling
22 the consultation deficient.

23 So they're raising, and I can give you an exhibit
24 number just for reference. Document manager, I don't
25 need this. Exhibit 283, PDF page 26. This is one of

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Questioned by Ms. Vance

1 the elements of their submission. So it appears that
2 they are raising the issue of the adequacy of the
3 consultation in this process.

4 And document manager, could you please bring up
5 Exhibit 308? So 308, that's correct, and it may be the
6 second page.

7 So this is the letter from the Aboriginal
8 Consultation Office to the NRCB dated March 3 of 2021.

9 As per this letter, the ACO, which we can
10 understand is the Alberta consultation -- Aboriginal
11 consultation office, the ACO provides advice and
12 support to Alberta ministries with statutory and
13 regulatory but responsibilities related to Crown land
14 and natural resource management. You can read that,
15 that's up there.

16 So my questions -- I've got two questions related
17 to this: Has the ACO given an indication of when it
18 will advise whether Alberta's consultation is adequate?

19 **A. MR. HEBERT:** Ms. Vance, they have not done so
20 yet, partly because Transportation, as the proponent,
21 has to request that from the ACO at a point in time
22 that we would believe the consultation is completed.
23 We haven't done so yet. And we've not yet estimated
24 when that point would be exactly.

25 **Q.** Okay. So that -- you don't know. Fair enough.

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Questioned by Ms. Vance

1 Because you haven't asked. So you would ask the
2 question and then they would answer you somehow after
3 that?

4 **A. MR. HEBERT:** That would be correct, yes.

5 **Q.** So that answers my "when" question.

6 And I guess the next question would be, when this
7 happens, if the Board, you know, finds the project to
8 be in the public interest and prior to the
9 authorization from the Lieutenant-Governor in council,
10 do you -- I guess does the ACO, does the government
11 anticipate that advice from the ACO being provided to
12 the NRCB?

13 **A. MR. SPELLER:** It's Wayne Speller, Mr. Chairman.
14 So our understanding is the ACO provides their adequacy
15 determination to Alberta Environment and Parks, which
16 they consider for the -- tied to EI completeness, tied
17 to a future *Water Act* application, and tied to *Public*
18 *Land Act* applications. We're not aware of them
19 providing it officially to NRCB as part of the process,
20 but I also -- it's -- once it's issued I believe it's a
21 public document, so it would be available or could be
22 made available.

23 **Q.** Okay. Thank you. That helps me understand at least
24 the chronology of how things are expected to happen, I
25 think.

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Questioned by Ms. Vance

1 I also had a question -- thanks, document manager.
2 I think if you have Exhibit 164 -- look at that, you're
3 way ahead of me. 164, PDF page 18. So this is the
4 potential conditions from the federal regulator, IAAC,
5 and understanding it's a draft, they're potential,
6 they're not final, but I thought I would ask the
7 question in relation to potential condition 8.8, if you
8 read that, and I'm not going to read the whole thing
9 because it's wordy, but it does talk about: (as read)

10 "Shall develop, prior to construction
11 and in consultation with Indigenous
12 groups, a land use plan to support and
13 prioritize Indigenous groups' practice
14 of traditional activities, et cetera,
15 within the PDA."

16 And then it gets into some specifics.

17 I'm just wondering if Alberta Transportation could
18 provide me with what your understanding of "prioritize"
19 in this draft potential condition.

20 **A. MR. SPELLER:** Wayne Speller again. It might be
21 helpful to pull up an exhibit for this, if it's
22 possible. It's Exhibit 219. It's Alberta
23 Transportation's response to IAAC about the conditions.
24 And it's PDF -- the bottom half of PDF page 4.

25 **Q.** Okay. So to me this tells me that there's a

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by Ms. Vance

1 distinction between First Nations and Indigenous groups
2 which I understand. I'm wondering about the use of the
3 word "prioritize." What is your understanding? And
4 understanding it goes on to talk -- there's some
5 specifics listed underneath.

6 A. MR. HEBERT: So, Ms. Vance, the language or
7 terminology relating to "prioritize" comes directly
8 from our document, so our document references the
9 prioritization, the First Nations use, if that's
10 helpful.

11 What we could clarify -- I think it's beneficial,
12 likely, for the Panel and for NRCB counsel staff to
13 appreciate is that we have provided commentary on some
14 of the terminology and concepts used by the federal
15 regulator as it relates to definitions of Indigenous
16 groups, First Nations, et cetera. There's a
17 distinction between how government of Alberta defines
18 First Nations for the purpose of land management and
19 the application of Treaty rights relative to the use of
20 federal regulators. So that's what Mr. Speller has
21 pointed us to.

22 The concept of prioritization comes from our own
23 documents.

24 Q. So I should be able to find the answer to my question
25 in those documents?

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Questioned by Ms. Vance

1 **A. MR. HEBERT:** Let's just make sure. Hang on one
2 second.

3 Ms. Vance, I believe our document refers to the
4 prioritization of First Nations' use -- I don't recall
5 the exact spot in Exhibit 216. It is there somewhere.
6 If you want us to get you the specific reference, we
7 can follow up if that's helpful.

8 **THE CHAIR:** Excuse me, Ms. Vance.

9 Mr. Wagner, you may want to mute your microphone,
10 please.

11 **MR. WAGNER:** Thank you.

12 **THE CHAIR:** Proceed, Ms. Vance.

13 **Q. MS. VANCE:** I can look through 216 later. If
14 the answer to my question is it's in 216, then that's
15 your answer.

16 **A. MR. HEBERT:** My apologies, I was muted. I
17 believe there's a reference in 216. What I would also
18 note is that among the secondary uses, it is still
19 amongst the first few items there.

20 **Q.** Okay. Thank you. And I just had one more question,
21 and this one -- I'm going from more complicated to less
22 complicated, I think, I hope.

23 There's a staging area that's mentioned in
24 relation to Indigenous groups, and I understand that
25 that staging area, maybe it's even on this document

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by Mr. Heaney

1 here, talks about temporary campsites.

2 So I wanted to clarify that, given -- and I can't
3 remember whose comment, it might have been yours
4 Mr. Hebert, earlier this afternoon that there was
5 nothing in your policy about camping in the PDA. So I
6 just wanted to make sure I was clear on that
7 distinction.

8 **A. MR. HEBERT:** Yes, so when I referred to camping
9 that was specifically within the project development
10 area itself. The staging area that's referenced in
11 Exhibit 216 is adjacent and outside of the project
12 development area, so it is not part of the project
13 itself.

14 **Q.** Thank you.

15 **MS. VANCE:** Those are all my questions,
16 Mr. Chair.

17 **THE CHAIR:** Thank you, Ms. Vance.
18 Mr. Kennedy.

19 **MR. KENNEDY:** I have no questions of this panel.
20 Thank you.

21 **THE CHAIR:** Thank you. Ms. Roberts.

22 **MS. ROBERTS:** I have no questions. Thanks.

23 **THE CHAIR:** Mr. Heaney.

24 **MR. HEANEY:** Just a couple of questions.

25 **MR. HEANEY QUESTIONS THE PANEL:**

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Questioned by Mr. Heaney

1 Q. The question of grazing and fire came up, and my
2 understanding is that grazing will be confined to --
3 away from the dam face. So, and it's also my
4 understanding, and correct me if I'm wrong, that the
5 dam face and the immediate area adjacent to the dam
6 will be vegetated. So my question is about fire -- you
7 know, vegetation -- or let's call it fuel accumulation
8 in those areas and how will it be managed?

9 A. MR. HEBERT: Mr. Heaney, we'll just identify
10 the correct person on the panel to provide a response
11 to the question. Just bear with us.

12 MR. HEANEY: Well, it's Dr. Heaney, but --

13 A. MR. HEBERT: My apologies, sir, sincere
14 apologies. Just bear with me one moment.

15 Dr. Heaney, I'll make reference back to 216, that
16 being B6, which provides at least the position at the
17 moment as it relates to when grazing would occur and
18 how it would go about.

19 In terms of your specific question, I would invite
20 Mr. Brescia to provide a response.

21 A. MR. BRESCIA: Thank you.

22 So I don't have the specifics, but there will be a
23 dam maintenance and safety requirements with respect to
24 vegetation on the dam. And as I said, I don't have the
25 specifics of that program. That would be with our dam

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Questioned by Mr. Heaney

1 engineering folks.

2 But it would also be the responsibility of Alberta
3 Environment and Parks to ensure those safety protocols
4 were undertaken to manage vegetation on the dam.

5 Q. Next question, and if I could have Exhibit 327, PDF
6 page 8. Yeah, that will do.

7 So my question is just around land use and passage
8 around this area along the river. Where is the portage
9 supposedly going to go?

10 A. MR. HEBERT: Dr. Heaney, Mr. Wood can provide a
11 response.

12 A. MR. WOOD: Thank you, Mr. Chairman. The
13 portage is located down on S.W. of 10-24-4-5 down at
14 the river near the diversion structure. And the
15 portage passes from, if I recall correctly, it's about
16 100 metres, 150 metres upstream of that structure on
17 the south bank. So folks would exit the river on the
18 south bank before arriving at diversion structure, pass
19 through the lands there on the south side of the bank
20 and over a -- the auxiliary spillway, which is covered
21 in earth.

22 So there's a little bit of a pathway provided
23 there to get around that diversion structure.

24 Q. Okay. And then so for foot traffic on river left or
25 the north side of the river, how does foot traffic get

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Questioned by Mr. Ceroici

1 around the project, or will it be able to get around
2 the project?

3 A. MR. WOOD: On river left, there has not been
4 provision for foot traffic coming down on river left.
5 But I should add perhaps the reason why this wasn't
6 included is largely that the diversion inlet is there,
7 but that is also a very steep bluff.

8 And so the river and the felway run right up
9 against the toe of that bluff at the diversion
10 structure.

11 And so currently, although someone could scramble
12 across that, it's not largely conducive to foot traffic
13 going through it.

14 Q. Okay. And just supplemental to that but the area,
15 let's see, it's S.W. 14-24, so that area is -- that
16 area in there, down slope from the dam or south of the
17 dam, that is accessible coming from the east?

18 A. MR. WOOD: Coming from the east, it would be
19 accessible from the bed and shore, which is public
20 land. Right now, the rest of it is private land.

21 MR. HEANEY: Thank you. That's all.

22 THE CHAIR: Thank you. Mr. Ceroici?

23 MR. CEROICI: Just a couple of short questions.

24 MR. CEROICI QUESTIONS THE PANEL:

25 Q. Alberta Transportation has had an interim TUS study

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by Mr. Ceroici

1 from the Stoney Nakoda, but it also submitted, I
2 understand, it's own archeological work to Alberta
3 Culture to obtain their certificate under the
4 regulations.

5 So I'm still not clear going forward, how will
6 this TUS information be used for historical resource
7 management going forward, the final TUS report?

8 A. MR. HEBERT: Just one moment, Mr. Ceroici.
9 Mr. Ceroici, Dr. Buchanan will provide a response.

10 A. DR. BUCHANAN: So we would work with Stoney
11 Nakoda Nations in the same way that we've worked with
12 other Indigenous groups when they've provided this same
13 kind of information. We would offer the opportunity to
14 visit these sites with representatives from Alberta
15 Culture, Multiculturalism and Status of Women to
16 investigate them and understand the nature of the sites
17 and the importance of these sites to Stoney Nakoda
18 Nations, identify which sites are recognized as
19 historical resources under the *Historical Resources Act*
20 and address those accordingly, according to the terms
21 of the Act and the direction from Alberta Culture.

22 Sites that are not recognized under the *Historical*
23 *Resources Act*, Alberta Transportation would work with
24 Stoney Nakoda Nations to find appropriate ways to
25 recognize, mitigate, or commemorate those sites.

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Questioned by The Chair

1 Q. Thank you. I have a second question about the SCLG
2 suggested a condition for boat launch on the Elbow
3 River, I believe, for emergency response. I was just
4 curious, was that -- was the intention for incidents
5 involving the project or have there been opportunities
6 in the past to use these craft for other purposes? I
7 was just curious about the -- some of the reasoning
8 behind that condition?

9 A. MR. HEBERT: Well, Mr. Ceroici, it's the first
10 time that I've heard of the request. I don't have a
11 significant amount of detail about the context as of
12 yet. So I -- Alberta Transportation will be taking
13 that item away and seeking to understand a bit further
14 what it may be referring to.

15 But at the moment, I'm just scanning the room to
16 see if there's any members of the Panel that could
17 assist in providing a response, but at the moment -- at
18 the moment, we don't have anything to add based on the
19 request made this afternoon.

20 Q. Okay, thank you.

21 THE CHAIR: Are those all your questions,
22 Mr. Ceroici?

23 MR. CEROICI: Yes.

24 THE CHAIR: Okay. Thank you.

25 THE CHAIR QUESTIONS THE PANEL:

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 Q. I do have a couple of questions, and I'm wondering,
2 we've made a request, and this partly is going a little
3 bit going backwards Topic 1, something came up in City
4 of Calgary presentation that I think might be best
5 answered by Mr. Sol. Now, is Mr. Sol available now or
6 not?

7 A. MR. HEBERT: Mr. Sol is in the room with us,
8 Mr. Chairman.

9 THE CHAIR: He is? Thank you.

10 Q. So you did some of the work, I understand, for City of
11 Calgary in terms of their cost-benefit analysis and
12 economic analysis, Mr. Sol; is that right?

13 A. MR. SOL: Yes, that's correct. Can you guys
14 all hear me? This is my first time speaking today.

15 Q. Yes, very clearly.

16 A. MR. SOL: Thank you, Chair and Board.

17 Q. So City of Calgary, Mr. Frigo indicated that he felt it
18 was most appropriate, and I don't know if that was
19 based on the work that you had done or not. But
20 appropriate to -- when they did the numbers after, and
21 this is another part of my question. But after they
22 had done some other damage avoidance, some other
23 infrastructure development unrelated to SR1 or not part
24 of SR1, per se, within the City of Calgary, that
25 changed some of the average annual damage numbers, they

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 reran the numbers in terms of cost of construction
2 today's dollars. They used, I believe, \$27 million in
3 today's dollars as an annual average damage avoidance
4 or the benefit. They multiplied that out by a hundred
5 years, and they gave some reasons, for not discounting.
6 They said in their situation under that scenario, they
7 felt that discounting wasn't really needed or
8 appropriate.

9 And I guess I'm a bit confused by that, and I was
10 wondering if that was on your advice, and if it was,
11 maybe you would better explain how that works and if it
12 wasn't, what would be the approach you would take in
13 conducting an analysis like that. Because they came up
14 something like a 5 to 1 sort of a benefit ratio. And I
15 don't think it was a complete benefit-cost analysis to
16 be fair, but we've had a lot of numbers been given to
17 us in the last few days and also in submissions. The
18 BCA was done three times I think. And then that number
19 comes out, and I guess the Panel is looking for a
20 little bit of clarification in terms of does that 5 to
21 1 make sense to IBI and where that might have come
22 from.

23 **A. MR. SOL:** Yes, thank you for the question
24 and the opportunity to clarify.

25 I think you asked Mr. Frigo about the 27.7, so

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 that is an annualized value that takes into account
2 multiple events, not necessarily time; it's based on
3 probabilities.

4 And then we've -- in the BCAs that were submitted
5 as part of this application, we used a 4 percent
6 discount rate annually over the course of the project
7 life.

8 The BCAs that we conduct for flood mitigation are
9 not -- I can stress this, they're not a net economic
10 welfare. They're a financial impact comparison.

11 And so it's a question that the decision-makers
12 use -- or ask of the BCA.

13 And so Mr. Frigo and the City of Calgary are free
14 to use those numbers as they like, but we certainly did
15 not recommend or provide that ratio with the
16 undiscounted value.

17 Q. And in your experience or if you were to do that
18 analysis, would you discount those flows or not?

19 A. MR. SOL: The annualized benefit flows
20 you're referring to?

21 THE CHAIR: Yes.

22 A. MR. SOL: That's a very contentious issue
23 with BCAs, particularly when they relate to public
24 projects such as this, rather than financial
25 investments.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 So I think a lower discount rate is appropriate
2 for public projects such as flood mitigation, lower in
3 relation to the financial instruments, for example.

4 I believe that our benefits are very conservative,
5 and I think that's what Mr. Frigo was alluding to with
6 their approach.

7 So I think the conservative benefits that we've
8 used and employed a 4 percent discount rate for this
9 application is appropriate.

10 Q. Right. So a 0 percent discount rate as Mr. Frigo was
11 using in his analysis, you would not necessarily agree
12 with or conduct yourself and put in front as evidence
13 as an example?

14 A. MR. SOL: I would say that the discount
15 rate -- the decision-maker needs to be aware of the
16 discount rate and how they're using it.

17 There are some who argue a 0 percent discount rate
18 might be appropriate when you factor in climate change
19 and other factors.

20 For public projects such as this, there's often
21 argument that future generations are better off than
22 current generations. And I don't know if that argument
23 can be consistently made right now.

24 So I think transparency is key, rather than any
25 particular discount rate. I hope that satisfies your

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 question. I don't pretend to have the answer to the
2 discount rate question.

3 Q. Well, and I've been involved in a few of those debates
4 in my career, so I hear what you're saying.

5 But in terms of your analysis, this is something
6 you did for Alberta Transportation's submissions that
7 it was 4 percent?

8 A. MR. SOL: Yes.

9 Q. As opposed to zero, so thank you for that.

10 A. MR. SOL: And in fact, in the -- sorry to
11 interrupt, but for clarity, in the City of Calgary
12 reporting that we provided, we discounted similarly,
13 except it was 3 percent instead of 4 percent.

14 So the benefit-cost ratios that appear in the City
15 of Calgary reporting, and keep in mind they're
16 city-wide, so they include multiple mitigation
17 scenarios and components of those scenarios. But the
18 information in that report was discounted over the
19 project life at 3 percent.

20 Q. Okay. Thank you.

21 A. MR. SOL: And that was the information
22 provided from IBI Group.

23 Q. All right, so then they made their own adjustments.

24 A. MR. SOL: Precisely.

25 Q. Fair enough.

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 So another question I have for you, Mr. Frigo, and
2 the information is shared back and forth, so I think
3 it's a fair question. And if not, you can tell me that
4 it isn't.

5 But in terms of the annual -- average annualized
6 damages, they were reduced to \$27 million per year from
7 I think 70 that was used in 2017 or '18, I believe, and
8 I think that's because the City of Calgary implemented,
9 designed, planned, and then implemented some other
10 flood mitigation measures within the city that
11 benefited flood mitigation on the Elbow.

12 So if I have it right, that means that early on,
13 SR1 may have been providing, say, X benefit, and then
14 later on, because some of those flood mitigation
15 projects were put in place within the city, it gives
16 less of a benefit because some of that -- some of those
17 damages were actually mitigated by City of Calgary
18 projects. Does that sound correct? Do I have that
19 right.

20 **A. MR. SOL:** **Yeah, that is correct. I believe**
21 **Mr. Frigo gave a really good indication of the**
22 **progressive and wholistic -- or as I think he called**
23 **it, synergistic approach to flood management with**
24 **combinations of efforts and responsibilities. And**
25 **we've heard that discussed several times about the Bow**

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 and Elbow, in particular.

2 I think he also made it clear that the city --
3 there were major constraints on the Elbow as to what
4 could be accomplished within the city limits. For
5 example, there isn't space for barriers and there's no
6 effective non-structural mitigation.

7 But to answer your question directly, we are very
8 careful to include all in-place or approved and
9 under-construction mitigation so as to not double count
10 the benefits. And so the benefits that we're reporting
11 for Springbank are the additional benefits for that
12 section of the river.

13 Q. That's kind of leading to my next question. You know,
14 after hearing Mr. Frigo's presentation, I was
15 wondering, then, the cost benefit analysis that you
16 conducted earlier on, were those using AAD numbers that
17 excluded the work that Calgary did only recently and
18 completed I think as of 2020, late 2020?

19 A. MR. SOL: Yeah. I think we've attempted to
20 explain the hazard information that was input to our
21 model, so the 2015 study was based on previous
22 hydrology which did not consider any of those
23 mitigations. We're fortunate for this application to
24 be able to piggyback on the City's work.

25 So we actually ran the hazard model. Our

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 consultants Golder Associates provided us with hazard
2 rafters that were -- the model was run including all of
3 the mitigation.

4 Q. That was the 2019 BCA that would have included all of
5 those or even earlier?

6 A. MR. SOL: The 2017 and '19 ones were based
7 on the City of Calgary study which ran a hydraulic
8 model for all the existing mitigation.

9 Q. Okay. That answers that question. Thank you very
10 much.

11 And I don't know if this is a fair question for
12 you or not, it came up today but you're here on land
13 cost.

14 I heard today, and if you're not the right person,
15 Mr. Hebert, I'd ask you to have the right panel member
16 answer the question. But I think I heard that the \$140
17 million land estimate for the 336 is derived for 3,600
18 acres of purchase and not -- and I think it was asked a
19 couple of times -- not the 6,800 acres.

20 So, as I recall, there will be a larger footprint
21 purchased because of potentially buying blocks instead
22 of fingers, as has been receiving a lot of discussion,
23 and then the province would then potentially sell back
24 land. But I've only seen the \$140 million number so if
25 it relates to the 3,600 acres, then that number could

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 be much larger, do I have that correct, to purchase the
2 entire land and then we'll see eventually perhaps how
3 much of the 6,800 acres could be sold, or was that just
4 a -- do I have that wrong?

5 **A. MR. HEBERT:** **So, Mr. Chairman, the \$140 million**
6 **represents the best estimate we have to purchase the**
7 **project development area.**

8 We've indicated within our land acquisition
9 program that landowners can request that Alberta
10 Transportation consider the purchase of all their
11 property, but that, again, is based on individual
12 landowner requests and preferences, and Alberta
13 Transportation will consider those depending on the
14 circumstances. But right now, the 140 million
15 represents our best estimate for the 3,600 acres
16 required for the project development area.

17 **Q.** Right. And when you look at some of those -- some of
18 the mapping, it does appear that, you know, there would
19 be -- well, I didn't count them but a number of quarter
20 sections or sections that would be split up pretty
21 extensively that would likely make sense to be a bigger
22 purchase, but that would be, as you say, an individual
23 landowner decision so you won't know until you make
24 those final negotiated purchases?

25 **A. MR. HEBERT:** **Mr. Chairman, that's correct. We**

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 would like to work with the landowners in question
2 regarding their own particular preferences.

3 I can inform you and your fellow Panel members
4 that we continue to have those discussions with
5 particular landowners and the preferences and requests
6 vary. But certainly our land acquisition program makes
7 that option available to landowners and, as I said
8 today, we'll continue to work through those on a
9 case-by-case basis.

10 Q. Okay. I've got a couple of questions specifically on
11 land use. I don't think they'll take too long. I see
12 that we're at 5, so I'll try to be fairly quick here
13 because we'll wrap up for the day.

14 In some of the responses to some questions asked
15 previously in terms of, I think it was by
16 Stoney Nakoda, about what guided consultation efforts,
17 and I didn't hear that ACO had provided any guidance
18 and I understand, though, that they would have -- I
19 think they have developed with you a plan, that they
20 approved a consultation plan and they also assist
21 Alberta government departments as you move through
22 consultations; is that correct?

23 A. MR. HEBERT: I'm just going to consult with
24 Ms. Hallson just to make sure I get the detail right.

25 So, Mr. Chairman, sorry, I was just trying to make

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 sure I had the detail correct.

2 The Alberta consultation office, as it pertained
3 to the Treaty 7 issuance, approved our consultation
4 plan, but in terms of the actual approach to engagement
5 and direction, Alberta Transportation takes that's not
6 advice that's provided on an ongoing basis but ACO
7 wants consultation...

8 Q. And they don't provide any resources on the ground for
9 you to do any of that consultation, either?

10 A. MR. HEBERT: No, that's the responsibility of
11 the proponent.

12 Q. And we heard a lot today about competing uses, given in
13 the project development area post-project if it were
14 approved. And it's potentially complicated with
15 recreational users' priority, and Ms. Vance asked some
16 questions about priority given to access for First
17 Nations and then grazing.

18 So there is a -- as we've seen and read about, the
19 First Nations land use advisory committee, and is there
20 somehow that that is going to be melded with
21 agricultural users and recreational users so that you
22 make all of this work together, this complicated access
23 to 3,000 acres?

24 A. MR. HEBERT: Yes, Mr. Chairman. So the
25 coming-together aspect is what's led by Alberta

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 Environment and Parks when they ultimately proceed to
2 the engagement to finalize the land use plan.

3 So that's the moment at which stakeholders,
4 landowners, First Nations, through the information
5 advice they've been providing through the First Nations
6 advisory committee would have proposed to reconcile
7 these very -- these varying uses.

8 So Mr. Chairman, you're correct. There are
9 competing uses, but Alberta Transportation submits that
10 with the mechanisms that we've proposed as part of the
11 draft principles, in conjunction with the engagement
12 that AEP would undertake being responsible for land use
13 planning, that it will be possible to reconcile
14 those -- those competing interests.

15 Q. And we've also heard and Mr. Heaney asked some
16 questions, as well, around the grazing access and for,
17 you know, a number of reasons, sustainability of the
18 land base, I suppose, but also been raised by
19 landowners as well for fire smarting or fire --
20 reduction of fire risk.

21 So in your view, will grazing leases be required
22 for that grazing, or will that be done on a contractual
23 basis or just as all other public land, they'll be put
24 up for bid for landowners to bid on? How will that
25 process work, do you know?

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 A. MR. HEBERT: Mr. Chairman, as part of the draft
2 principles, we've proposed a concept of grazing
3 permits. So these would be short-term in nature,
4 bearing in mind the primary use of the infrastructure
5 as flood reservoir, the specific process to determine
6 how the permits would be accessible, when, how long, at
7 what value have not yet been determined and would be
8 subject to engagement, assuming the project would get
9 approved.

10 Q. As you know, remain -- some grazing leases might remain
11 in families for a generation almost. So you don't see
12 these as operating in the same way; these would be
13 shorter term annual or five year or something along
14 that line?

15 A. MR. HEBERT: We've not specified an exact time,
16 but bearing in mind the primary use of the project as a
17 flood reservoir, we feel it's appropriate that there be
18 no form of long-term disposition over the property.

19 Q. And the *Public Lands Act* then doesn't override that
20 somehow and --

21 A. MR. HEBERT: Mr. Chairman, I don't know
22 specifically of an override. We could certainly
23 undertake to confirm that detail for you. It hasn't
24 come up in the decisions we've had to date but --

25 Q. And maybe "override" is an improper word. Will the

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 *Public Lands Act* not restrict you from doing something
2 different than grazing leases under the *Public Lands*
3 *Act* I guess would be a better way to ask the question?

4 **A. MR. HEBERT:** **I think that's a fair question.**
5 **My understanding is no, but as I said, the exact**
6 **mechanism to undertake the permit consult proposed is**
7 **subject to finalization, assuming the project is**
8 **approved.**

9 **Q.** And then the final question, the land use plan, I mean,
10 when it's -- you know, it is eventually completed and
11 however it's signed off, if it's consensus, I'm not
12 sure exactly the mechanics of that. But it's not a
13 statutory instrument, then? Would this be a government
14 policy or a government directive, or what sort of
15 status would this land use plan eventually have that
16 would be managing these competing uses?

17 **A. MR. HEBERT:** **So, Mr. Chairman, at the moment,**
18 **it's not determined what specific instrument would be**
19 **used. As part of -- just bear with me a moment. I**
20 **believe I know where a potential answer is, and I just**
21 **want to confirm it for you.**

22 So Mr. Chairman, I'm going by recollection, but
23 when Alberta Transportation file its response to the
24 federal regulator for I believe around two federal SIR,
25 we listed the possible land tools that would be used in

ALBERTA TRANSPORTATION TOPIC #2 PANEL

Questioned by The Chair

1 this instance. There's a table that lists the varying
2 options. There's context in the response itself, I
3 believe.

4 Right at the moment, it's not been fixed whether
5 it be statutory instrument or policy. That is likely
6 to be the subject of the engagement that would occur
7 through AEP, and ultimately AEP would have the tools
8 under its authority in order to promulgate whatever
9 final plan is determined.

10 Q. All right. Thank you. Those are my questions. Thank
11 you, Mr. Hebert and thanks to your Panel.

12 So Mr. Kennedy?

13 MR. KENNEDY: Well, I think that Alberta
14 Transportation may have an opportunity for redirect on
15 this Panel.

16 THE CHAIR: They do, yes.

17 MR. KRUHLAK: Mr. Chairman, it's Ron Kruhlak. I
18 can advise that Alberta Transportation has no redirect.

19 THE CHAIR: See, I guessed right twice now.

20 Okay. Thank you. And, thanks, Mr. Kennedy, for
21 the reminder, late in the day, get everybody on their
22 way.

23 If I have it right, tomorrow we'll start with
24 Stoney Nakoda's direct. City of Calgary is not
25 providing direct or the Calgary River Community

1 Association -- or Action Group, sorry.

2 So tomorrow morning, 8:30 start, will be
3 Stoney Nakoda on Topic Area 2, and sign-on time 7:45 as
4 it was this morning as well.

5 So thank you, everybody, for participation today
6 and see you tomorrow morning. Sign on 7:45.

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8 PROCEEDINGS ADJOURNED TO MARCH 24, 2021, AT 8:30 AM

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1 Certificate of Transcript

2

3 We, the undersigned, hereby certify that the foregoing
4 pages 592 to 859 are a complete and accurate transcript of
5 the proceedings taken down by us in shorthand and
6 transcribed from our shorthand notes to the best of our
7 skill and ability.

8 Dated at the City of Calgary, Province of Alberta, on
9 March 24, 2021.

10

11

12

"Lorelee Vespa"

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Lorelee Vespa, CSR(A) RPR CRR
Official Court Reporter

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"Deanna DiPaolo"

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Deanna DiPaolo, CSR(A)
Official Court Reporter

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