

NUNAVUT WATER BOARD
PUBLIC HEARING FOR LICENSE NO. 2AM-MRY1325

AMENDMENT NO. 1 APPLICATION

HEARING HELD AT
POND INLET, NUNAVUT
VOLUME 2
MAY 7, 2015

| | | |
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| 1 | TABLE OF CONTENTS | |
| 2 | | |
| 3 | Description | Page |
| 4 | | |
| 5 | Appearances | 171 |
| 6 | | |
| 7 | Opening Remarks by Nunavut Water Board | 174 |
| 8 | Chair | |
| 9 | | |
| 10 | Baffinland Iron Mines Further Questions | 175 |
| 11 | Aboriginal Affairs and Northern | |
| 12 | Development Canada | |
| 13 | Comments from Baffinland Iron Mines | 178 |
| 14 | Corporation | |
| 15 | | |
| 16 | Submission by Baffinland Iron Mines | 181 |
| 17 | Corporation (Motion from Aboriginal | |
| 18 | Affairs and Northern Development Canada) | |
| 19 | Submissions from Qikiqtani Inuit | 186 |
| 20 | Association (Motion from Aboriginal | |
| 21 | Affairs and Northern Development Canada) | |
| 22 | Nunavut Water Board Staff Questions | 194 |
| 23 | Aboriginal Affairs and Northern | |
| 24 | Development Canada (Motion from Aboriginal | |
| 25 | Affairs and Northern Development Canada) | |
| 26 | | |

| | | |
|----|--|-----|
| 1 | Further Submissions from Baffinland Iron | 200 |
| 2 | Mines Corporation (Motion from Aboriginal | |
| 3 | Affairs and Northern Development Canada) | |
| 4 | Further Submissions from Qikiqtani Inuit | 202 |
| 5 | Association (Motion from Aboriginal | |
| 6 | Affairs and Northern Development Canada) | |
| 7 | Ruling (Motion from Aboriginal Affairs and | 203 |
| 8 | Northern Development Canada) | |
| 9 | | |
| 10 | Comments from the Hamlet of Pond Inlet | 206 |
| 11 | | |
| 12 | Closing Remarks from Qikiqtani Inuit | 207 |
| 13 | Association | |
| 14 | | |
| 15 | Closing Remarks from Aboriginal Affairs | 213 |
| 16 | and Northern Development Canada | |
| 17 | | |
| 18 | Closing Remarks from Environment Canada | 215 |
| 19 | | |
| 20 | Closing Remarks from Hamlet of Pond Inlet | 216 |
| 21 | | |
| 22 | Closing Remarks from Baffinland Iron Mines | 218 |
| 23 | Corporation | |
| 24 | | |
| 25 | Closing Remarks from Nunavut Water Board | 226 |
| 26 | Chair | |

| | | |
|----|---------------------------|-----|
| 1 | Certificate of Transcript | 228 |
| 2 | Exhibit Index | 229 |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |
| 8 | | |
| 9 | | |
| 10 | | |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |
| 15 | | |
| 16 | | |
| 17 | | |
| 18 | | |
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1 APPEARANCES:

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3 NUNAVUT WATER BOARD

4 T. Kabloona Chair of Hearing

5 D. Aglukark, Sr. Member

6 R. Mrazek Member

7

8 NUNAVUT WATER BOARD STAFF

9 T. Meadows Legal Counsel

10 D. Hohnstein Technical Advisor

11 S. Joseph Technical Advisor

12 B. Kogvik Board Secretary

13 R. Ikkutisluk Licensing Administrator

14

15 APPLICANT BAFFINLAND IRON MINES CORPORATION

16 C. Kowbel Legal Counsel

17 E. Madsen Vice President Sustainable
 18 Development, Health, Safety,
 19 Environment

20 O. Curran Director Sustainable
 21 Development

22 J. Millard Environmental Manager

23 S. Potter Environmental Specialist

24

25

26

1 INTERVENORS

2 QIKIQTANI INUIT ASSOCIATION

| | | |
|---|-----------------------|-------------------------|
| 3 | E. Inuaraq | Board of Directors |
| 4 | S. Williamson Bathory | Director, Department of |
| 5 | | Major Projects |
| 6 | J. VanGulck, Dr. | Arktis Solutions Inc. |
| 7 | B. Ootoova | Community Coordinator |

8

9 ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT CANADA

| | | |
|----|------------|-------------------------|
| 10 | S. Muscati | Legal Counsel |
| 11 | A. Morgan | Senior Project Engineer |
| 12 | S. Forte | Water Management |
| 13 | | Coordinator |
| 14 | S. Burgess | Project Manager, Mary |
| 15 | | River Team |

16

17 ENVIRONMENT CANADA (VIA TELEPHONE)

| | | |
|----|-----------|--------------------------|
| 18 | M. Dahl | Environmental Assessment |
| 19 | | Coordinator |
| 20 | A. Wilson | Water Quality Specialist |

21

22 HAMLET OF POND INLET

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| 23 | C. Inuaraq | Representative |
|----|------------|----------------|

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1 INTERPRETERS/TRANSLATORS

2 B. Kogvik Inuktitut Translator

3 T. Arnakallak Inuktitut Translator

4 M. Arnakallak Inuktitut Translator

5

6 J. Macdonald, CSR(A) Court Reporter

7

8 C. Francis Sound Technician

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1 (PROCEEDINGS COMMENCED AT 9:12 AM)

2 Opening Remarks by Nunavut Water Board Chair

3 THE CHAIR: Good morning, everyone,
4 and welcome back. We have a procedural matter before
5 us, so I will turn it over to Teresa.

6 MS. MEADOWS: Thank you, Mr. Chair.
7 Teresa Meadows, legal counsel for the Nunavut Water
8 Board. It's my understanding that the exhibit that was
9 marked as Exhibit Number 7, which is AANDC's speaking
10 notes on security, we had not entered it as an exhibit.
11 We'd only marked it, and it's my understanding that
12 AANDC would prefer if that not be entered as a formal
13 exhibit in these proceeding; however, the parties are
14 encouraged to be able to consult it, but we're not
15 going to file it as a formal exhibit in these
16 proceedings, and, so, we will remove it from the
17 exhibit list and from the formal hearing record.

18 (Exhibit 7 Struck from Record)

19 On that note, as -- I almost want to say when
20 we left off yesterday. When we left off yesterday, as
21 the parties will know, we had indicated that we would
22 be giving the parties an opportunity to speak this
23 morning with respect to a reply submission to
24 Aboriginal Affairs and Northern Development Canada's
25 additional information that they provided yesterday
26 with respect to the quantum of security that should be

1 secured under the water license, and, so, we would like
2 to have those reply submissions addressing the question
3 of keeping the record open potentially for further
4 submissions on that point, but it's also my
5 understanding that before we do that, there is a
6 deferred response as Mr. Millard joined the hearing in
7 progress and has further questions and clarification
8 from Aboriginal Affairs' presentation yesterday, that
9 he would like to follow up with Aboriginal Affairs, so
10 if I can get Aboriginal Affairs to come to the
11 microphone, and maybe we can get their submission,
12 their presentation up on the -- up on the screen.
13 There was a slide that they wished to follow up, that
14 Baffinland wished to follow up with, out of their
15 presentation materials yesterday. I'm not sure which
16 slide that is specifically, but if we can just get
17 Robin to get the presentation up first, that would be
18 much appreciated.

19 Thank you, Mr. Chair.

20 THE CHAIR: Thank you.

21 Baffinland Iron Mines Further Questions Aboriginal
22 Affairs and Northern Development Canada

23 MR. MILLARD: Thank you, Mr. Chair.

24 It's James Millard from Baffinland.

25 I believe the slide we're looking for is
26 Slide 10 of the presentation. Oh, thank you, yes, it's

1 up there.

2 So we'd like to respond to this slide and
3 refer you back to page 7 of the hydrological assessment
4 by KP. That was included as Attachment 2 of our
5 original application.

6 Now, we retained KP as an expert, expert of
7 technical assistance to look at the requirement for a
8 hydro assessment and how we would go about it, so,
9 again, that's page 7 of the hydro assessment in
10 Attachment 2, and I'm just going to read, read that
11 section for the record. (As read):

12 It is recommended that an environmental
13 coordinator visually inspect the streams in
14 Table 7 and refer to ongoing stream-gauging
15 data as necessary to determine if flows are
16 representative of wet, mean, or typical, or
17 dry-year conditions. The stream flows are
18 averaging less than mean flows for the year,
19 this signals a drier year where caution
20 should be taken and the streams be subject
21 to inspection and confirmation by the
22 environmental coordinator as described above
23 before water withdrawals are made in August
24 and September.

25 So we feel that we will implement that recommendation
26 by our hydro consultant, and, furthermore, it is --

1 it's our intention to report the results of these
2 hydrological investigations and related hydrological
3 data within the Nunavut Water Board Annual Report due
4 at the end of March every year, and we disagree that
5 the program should form part of the Aquatic Effects
6 Monitoring Program Annual Report, and that is better
7 placed within the -- within the Nunavut Water Board
8 Annual Report.

9 THE CHAIR: AANDC.

10 MS. MORGAN: Andrea Morgan from AANDC.

11 Thank you for your comments, Jim, and, yes,
12 we're both referring to the same information that was
13 provided by Knight Piesold Consulting, and for us, I
14 brought it forward within our presentation because I
15 really want to emphasize the importance of having that
16 field verification to protect the watercourses during
17 low-flow periods, so I'm fine as long as it -- as long
18 as it remains as part of the document and we'll see
19 continual reporting on the field measurements that are
20 done annually.

21 THE CHAIR: Could you move the
22 microphone closer to you, please?

23 MS. MORGAN: Do you want me to start
24 from the beginning? Andrea Morgan from AANDC.

25 Jim, thank you for your comments, and we are
26 both referring, again, to the Knight Piesold Consultant

1 same report, and I included this reference within the
2 AANDC presentation to the Water Board because I want to
3 emphasize the importance of the field verification of
4 the hydrology estimates that were done by the
5 consultant, and for me, it's important that it's kept
6 on record and that we receive annual reporting on the
7 field measurements, and it's important to keep it
8 within the reporting. It's not important on which
9 document it's in, as long as it's kept there and
10 remained on an annual base. Thank you.

11 MR. MILLARD: Jim Millard, Baffinland.
12 No further comments except that Oliver Curran will be
13 speaking here on responding to the question on quanta
14 of water to be withdrawn. I think that was something
15 that came up yesterday.

16 THE CHAIR: Thank you.
17 Please go ahead.

18 Comments from Baffinland Iron Mines Corporation

19 MR. CURRAN: Thank you, Mr. Chair.
20 It's Oliver Curran with Baffinland.

21 So in response to the question from Sean
22 Joseph yesterday on the total quantum of water
23 withdrawal required under this new amended Type A
24 license, I just wanted to refer you, Sean, to our
25 document entitled "Consequential Amendments to the Type
26 A Water License".

1 So in that document, we present two revised
2 tables from our existing Type A water license, so the
3 first table is revised to show the construction phase
4 numbers, and the second table is for the operation
5 phase, and then we also added a third table which we're
6 calling Part E, New Item 25, which has that same table
7 showing the requirements for dust suppression along the
8 road.

9 So in my response now, what I'll give you is
10 the total number for the construction phase and a total
11 number for operation. So for the construction-phase
12 table that's in the document, there was a total quantum
13 of 1,898 metres cubed per day, so what we would be
14 asking for, for the construction phase, would be that
15 value plus the dust suppression value of 2,788.5, so
16 that total value that we're asking for under this
17 amendment for the construction phase is 4,685.5 cubic
18 metres per day.

19 And then for the operations phase, the total
20 for domestic and industrial use represented in that
21 amended table is 967 cubic metres per day, and we would
22 also require the same amount for dust suppression of
23 2,788.5 cubic metres per day, so the grand total that
24 we would be asking for under this amended Type A water
25 license for operations equals 3,755 cubic metres per
26 day, so I hope that clarifies that question.

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

2 Thank you, Oliver, for the clarification. I
3 think that would definitely help, and we're happy with
4 the answer. Thank you.

5 MS. MEADOWS: Thank you, Mr. Chair.
6 Teresa Meadows, legal counsel for the Nunavut Water
7 Board.

8 As the Board recalls from yesterday, and the
9 parties recall from yesterday, we had a second motion
10 associated -- we had a second motion associated with
11 the additional submissions provided by Aboriginal
12 Affairs and Northern Development Canada yesterday.
13 That motion was a motion to keep the record open of the
14 public hearing after the close of the in-person portion
15 of the public hearing to allow Aborig -- to allow the
16 parties to respond to Aboriginal Affairs and Northern
17 Developments additional submission yesterday, and, so,
18 I asked the parties to be prepared to speak to that
19 motion this morning, and, so, I would like to now turn
20 it over Baffinland Iron Mines Corporation to provide us
21 with their submissions with respect to the motion to
22 keep the record open, and then I will turn it over to
23 the Qikiqtani Inuit Association to provide their
24 submissions on that point. Thank you, Mr. Chair.

25 THE CHAIR: Thank you, Teresa.
26 Baffinland, go ahead, please.

1 Submission by Baffinland Iron Mines Corporation (Motion
2 from Aboriginal Affairs and Northern Development
3 Canada)

4 MS. KOWBEL: Christine Kowbel.

5 I'm going to let Mr. Madsen speak to the
6 motion, but I just wanted to clarify at the outset, I
7 know that we heard this morning that AANDC asked for,
8 essentially, their oral submissions on this to stand as
9 their submission, and I wanted to request the Board
10 expedite that portion of the transcript so that
11 Baffinland and QIA have a full understanding of the
12 submission they're responding to.

13 MS. MEADOWS: Thank you, Mr. Chair.
14 Teresa Meadows, legal counsel for the Nunavut Water
15 Board.

16 And, normally, I'll just -- for the
17 background of everyone here, our normal practice is
18 within two weeks of the close of the in-person portion
19 of the public hearing, we will normally post the
20 finalized transcripts associated with the public
21 hearing.

22 In the case, given the importance of the
23 additional information that was provided yesterday and
24 coupled with the fact that it is primarily provided in
25 oral form without a follow-up written submission or a
26 PowerPoint presentation supporting those submissions,

1 the Board will entertain the opportunity to expedite
2 that portion of the transcript.

3 At this point, I don't have the specific page
4 numbers and the extent of that portion of the
5 transcript. I believe it's about 30 pages in total.
6 We've spoken with the transcriptionist, and we should
7 be able to provide it in finalized form by Monday,
8 which would be May 11th, and, so, the Board is willing
9 to entertain that, and to provide it to all the
10 parties. We will circulate it to the parties, and we
11 will also post that portion of the excerpt when it is
12 in final form on the public registry as well and
13 provide notification that it is on the public registry
14 on Monday, May 11th to support the parties in providing
15 their submissions, so for the Qikiqtani Inuit
16 Association, please bear that in mind when you're
17 considering your own response timelines.

18 So thank you, Ms. Kowbel, for the request,
19 and we'll accommodate that request. I say "we". I
20 mean our transcriptionist will accommodate that
21 request, so thank you very much, and if I can have the
22 submissions of Baffinland, now, please.

23 MR. MADSEN: Good morning. It's Erik
24 Madsen with Baffinland. So I'll be responding with
25 regards to AANDC's request for a quantum increase in
26 security.

1 Baffinland wishes to, again, express its
2 disappointment in Aboriginal Affairs and Northern
3 Development Canada that provides us new information
4 requests to the Board's attention yesterday afternoon.
5 AANDC did not raise the issue of quantum of security in
6 any of their submissions to the Board during these
7 proceedings before yesterday.

8 AANDC has been an active participant in the
9 Board-mandated annual security review process in 2013,
10 2014, and in the recent 2015 process, which included
11 reclamation security associated with the early revenue
12 phase, and as noted, as they have not raised these
13 issues during any of these processes.

14 AANDC was specifically asked during the
15 technical meeting whether the reclamation security in
16 the 2015 ASR, annual security review, which included
17 the early revenue phase was acceptable to them, and
18 they confirmed it was. It is clear from the materials
19 they have filed that AANDC does not have any factual
20 evidence that the current process is not working or
21 placing the public interest at risk. Instead, they
22 have made a policy decision which is not relevant to
23 the specific amendments that are subject of this
24 application.

25 In our view, it is completely inappropriate
26 for Aboriginal Affairs and Northern Development Canada

1 to take advantage of this amendment process to raise
2 these very general policy issues which are clearly not
3 triggered by the early revenue phase.

4 We wish to correct one of Aboriginal Affairs
5 and Northern Development Canada's assertions at this
6 time.

7 In their statement, AANDC references the
8 Board's decision of June 12th, 2013, in relation to the
9 2013 work plan as being the best information available
10 for the apportionment between land and water and notes
11 that the Baffinland estimate of water-related costs was
12 approximately 6 percent of the then current reclamation
13 cost estimate.

14 This is an incorrect statement. As a
15 considerable amount of procedural and technical effort
16 went into the cost estimates in both 2014 and 2015,
17 while Aboriginal Affairs and Northern Development
18 Canada fully participated in those processes, they
19 obviously have not made any efforts to review the
20 information provided since the breakdown of costs for
21 both water and land, as well as a differentiation
22 between Inuit-owned lands and Crown lands have been
23 provided.

24 Baffinland can tell the Board and Aboriginal
25 Affairs Canada today that the 6-percent estimated --
26 estimate for water in 2013 has come down considerably

1 in the con -- subsequent 2014 and 2015 reviews.

2 Since Aboriginal Affairs and Northern Canada
3 provided this new information yesterday afternoon,
4 Baffinland is not in a position to give its final
5 submission on these matters today. Baffinland will be
6 in a position to formally respond to AANDC's submission
7 in writing within two weeks of these hearings.

8 However, again, we do wish to stress to the
9 Board that the annual security review process that the
10 Board placed in this license and the current approach
11 to security is indeed working and should not be
12 revised.

13 And in conclusion, it appears that Aboriginal
14 Affairs and Northern Development Canada is moving
15 backwards on the double-bonding issue instead of
16 forwards, and I did provide a copy of the most current
17 letter of credit that we have posted with the Qikiqtani
18 Inuit Association, and Mr. Stephen Bathory has a copy
19 of that today that indicates that we are in full
20 good-standing order of the security which is at -- is
21 approximately at 47,500,000, and he'll have a copy of
22 that, and I think he will suggest that it will be
23 placed on the exhibit file today, so thank you very
24 much.

25 THE CHAIR: Thank you.

26 MS. MEADOWS: Teresa Meadows, legal

1 counsel for the Nunavut Water Board. Thank you,
2 Mr. Chair. Yes, if I can have the Qikiqtani Inuit
3 Association provide their submissions with respect to
4 the issue of keeping the record open.

5 I've heard that Baffinland needs about two
6 weeks to respond, and perhaps in fairness to
7 Baffinland, I'm assuming that it would be two weeks
8 from the time that the finalized version of the
9 transcripts is available to you; is that correct?

10 MR. MADSEN: It's Erik Madsen from
11 Baffinland. I'm fine with two weeks from the end of
12 this hearing.

13 THE CHAIR: Thank you. Please go
14 ahead.

15 Submissions from Qikiqtani Inuit Association (Motion
16 from Aboriginal Affairs and Northern Development
17 Canada)

18 MR. WILLIAMSON BATHORY: (Other language spoken)

19 Stephen Williamson Bathory, QIA, and bear
20 with me. I'm just going to read off of something we've
21 prepared last night, so I'm just setting my computer up
22 so I can read the font.

23 Yesterday, at the scheduled Nunavut Water
24 Board hearing in Pond Inlet for the licensee's
25 application to amend License 2AM-MRY1325, the
26 department of Aboriginal Affairs and Northern

1 Development Canada, as a party before the Board, made a
2 motion to introduce new evidence and submissions in
3 support of AANDC's final submissions to the hearing
4 filed April 22nd, 2015. The basis of the request was
5 alleged by Aboriginal Affairs and Northern Development
6 Canada to be central to the Amendment Application.

7 QIA opposed this motion on the grounds that
8 the hearing had already commenced, and it had received
9 no prior warnings from Aboriginal Affairs that its
10 submission would be altered in the midst of hearings.

11 QIA wishes to express for the record that it
12 attended the hearings without incurring the cost of
13 legal representation on the basis of materials properly
14 filed by the parties under the timelines ordered by the
15 Board which were reviewed with counsel prior to the
16 commencement of hearings.

17 QIA objects for it had limited opportunity to
18 review Aboriginal Affairs' surprise motions with
19 counsel. Despite obvious limitations and being able to
20 immediately respond to Aboriginal Affairs' motions, QIA
21 was able to arrange counsel to attend a portion of
22 Aboriginal Affairs submissions before the Nunavut Water
23 Board. The Nunavut Water Board has nevertheless
24 consented to the motion.

25 Aboriginal Affairs has, yesterday afternoon,
26 made verbal representations as to the new evidence it

1 wishes to submit to the Board relating to the quantum
2 of security held by the Crown and possibly challenging
3 the jurisdiction of the Board relative to its approach
4 on the discounting of security as set out in the
5 license and the license conditions.

6 QIA submits that Aboriginal Affairs'
7 submissions dated April 22nd, 2015, reflect only
8 statements of policy. Aboriginal Affairs has not
9 introduced any evidence to support vague suggestions
10 that there's any material risk to the Minister in
11 relation to the discounting process set out by the
12 Board in the license and which was reviewed and issued
13 by the Minister in 2013 following board
14 recommendations.

15 QIA also notes that attempts to question
16 Aboriginal Affairs during cross-examination as to
17 whether additional evidence would be provided resulted
18 in no specific evidence.

19 QIA does not believe that Aboriginal Affairs
20 has prepared any detailed evidence to support the
21 general statements presented at these hearings.

22 QIA, therefore, questions whether there is a
23 valid and reasonable factual basis to support
24 Aboriginal Affairs' oral submissions.

25 In the absence of clear evidence to support
26 Aboriginal Affairs' request to amend the license

1 conditions relative to security discounting, QIA
2 submits that the reasonableness of Aboriginal Affairs'
3 position cannot be established and that the Water Board
4 should not entertain modifications to the terms of the
5 license.

6 Subject to further written submissions and
7 evidence on this point, which QIA submits should be
8 provided immediately by Aboriginal Affairs, it is QIA's
9 position that there is no evidence before the Board
10 that provides reasonable grounds to modify the terms
11 and conditions of the license on the issue of security
12 discounting.

13 QIA submits that the decisions properly
14 before the Board should be confined to the request for
15 an amendment by the licensee.

16 QIA does not agree with Aboriginal Affairs
17 that its submissions are central to the Amendment
18 Application before the Board. In the alternative, QIA
19 submits that Aboriginal Affairs has not provided
20 evidence to support its statements of policy and its
21 internal preferences regarding security discounting.

22 QIA further submits that the Board decision
23 establishing a 2015 security pursuant to its own
24 procedures and existing license terms and conditions is
25 a final determination for 2015. The Board, having
26 fulfilled its function with respect to the 2015

1 security, is not in a position to reopen that decision.

2 To exemplify QIA's position on this matter,
3 QIA draws reference to the following statement from the
4 direction issued by the Nunavut Water Board in relation
5 to the 2015 annual security review in a document dated
6 February 11th, 2015, and I'll quote from that document
7 now, (as read):

8 Aboriginal Affairs mentioned that it
9 believes the total amount of security
10 proposed by Baffinland at \$45,370,000 is
11 reasonable for the 2015 work plan. However,
12 during the second annual security review
13 teleconference, Aboriginal Affairs confirmed
14 that the updated amount of security proposed
15 in the Baffinland and QIA joint submission
16 of \$47,517,500 is also acceptable and
17 adequately reflects the land and water
18 reclamation required in light of the
19 proposed work in 2015/2016. The amount of
20 financial security proposed in the joint
21 Baffinland and QIA submission does not
22 include the \$166,000 held by AANDC for
23 reclamation activities.

24 The Board's decision for the 2015 security was made
25 following representations of all parties, including
26 Aboriginal Affairs, and the parties have pursued their

1 respective business and affairs on the basis of the
2 final Board decision in determining security for 2015.
3 QIA has already received amendments to its privately
4 held reclamation security for 2015 on the basis of the
5 Board decision.

6 QIA submits that reopening the Board decision
7 on 2015 security as well as being outside the Board's
8 -- as well as being outside the Board's competence
9 would be highly prejudicial and disruptive to QIA as
10 well as its licensee.

11 QIA also submits that any procedural matters
12 should be resolved, and the record for Amendment
13 Application should be closed within a reasonable period
14 of time following the completion of the hearing today.

15 QIA submits that it will interfere with and
16 be unduly prejudicial to its contractor relationship
17 with the licensee if Aboriginal Affairs' request to the
18 Board under the Amendment Application are left open to
19 continuous submissions over an extended period of time.

20 QIA relies on the security it holds under its
21 commercial license with the licensee to permit
22 primitive activities pursuant to the commercial lease.
23 Extended uncertainty as to the status of security held
24 by QIA, which will be directly impacted by any changes
25 to the license regarding security discounting will
26 directly affect its contractual relationship with the

1 licensee.

2 The foregoing is submitted by QIA following a
3 brief discussion with counsel and with legal counsel
4 being unavailable on short notice to attend the
5 resumption of these hearing today. Under the foregoing
6 described circumstances, QIA submits that Aboriginal
7 Affairs be required to immediately provide written
8 clarification as to the exact relief that is being
9 requested by Aboriginal Affairs.

10 Furthermore, QIA requests that Aboriginal
11 Affairs be required to provide detailed evidence to
12 support its application for changes to the license and
13 to the security ordered by the Board and further
14 substantiating its challenge to the Board approach to
15 security discounting as set is out in the license.

16 In the interest of procedural fairness, QIA
17 would require a minimum one week and possibly longer to
18 respond to any additional Aboriginal Affairs'
19 submissions and which requirement will be entirely
20 dependent on QIA's initial review of the scope of
21 Aboriginal Affairs' additional written submissions.

22 QIA may provide further verbal representation
23 to the Board on the time required for its response once
24 it receives in hand any additional Aboriginal Affairs'
25 submissions and/or evidence.

26 In summary, QIA submits that Aboriginal

1 Affairs' representations as to new evidence reflect
2 nothing more than statements of policy and imprecise
3 and unsubstantiated objections to the Board procedure
4 for the discounting of security as currently set out in
5 the license and accepted by Aboriginal Affairs since
6 2013.

7 QIA further submits that Aboriginal Affairs
8 be given no later than the close of hearings on today,
9 May 7th, 2015, to provide any written submissions or
10 evidence to be provided in support of its request to
11 the Board.

12 Finally, QIA would like to request that
13 Aboriginal Affairs begin participating in hearings and
14 matters before the Board in a prepared fashion to
15 arrive at either hearings or annual security reviews
16 with facts prepared such that discussions can be held.
17 It's QIA's perspective that until Aboriginal Affairs
18 can come to meetings prepared with actual security
19 estimates in hand, QIA does not see any further reason
20 to discuss these matters.

21 A specific example relative to this hearing
22 is the Water Board did entertain an extension request
23 of Aboriginal Affairs. That extension request resulted
24 in revised submissions which were continuously revised
25 until yesterday. QIA does not believe that that
26 approach to attending hearings or approach to

1 supporting the administration of a license will allow
2 for effective management of this project.

3 Furthermore, QIA would like to note that the
4 events of this week do not go without a greater context
5 for QIA. QIA believes that the representations and the
6 approach taken by AANDC serves to further erode
7 relationships surrounding the Mary River project and
8 the management of security in Nunavut. QIA finds that
9 approach, all together, unacceptable. (Other language
10 spoken)

11 THE CHAIR: Thank you.

12 Teresa.

13 MS. MEADOWS: Thank you, Mr. Chair.

14 Teresa Meadows, legal counsel for the Nunavut Water
15 Board.

16 I hear in there a couple of questions that I
17 think are best addressed by Aboriginal Affairs and
18 Northern Development Canada, so if I can have you step
19 up to the microphone, I have a couple of questions
20 arising from those submissions.

21 Nunavut Water Board Staff Questions Aboriginal Affairs
22 and Northern Development Canada (Motion from Aboriginal
23 Affairs and Northern Development Canada)

24 MS. MEADOWS: Thank you, Mr. Chair.

25 Teresa Meadows, legal counsel for the Nunavut Water
26 Board.

1 Thank you for joining us at the microphone.

2 I guess my first question is it was my understanding
3 from your submissions yesterday that the additional
4 information that you provided with respect to the
5 quantum was the last word in terms of the information
6 that you would be providing, but I want to confirm
7 whether or not there is additional information that
8 you're thinking of providing, i.e., reply submissions
9 or if you want to preserve the right to potentially do
10 reply submissions or whether or not the information
11 that was presented is the final word from AANDC with
12 respect to the quantum issue in this hearing?

13 MR. MUSCATI: Good morning. Sina
14 Muscati, legal counsel for the Government of Canada.

15 The information that we -- that we read into
16 the record yesterday is -- is the only information that
17 we are providing at this point. We did provide copies
18 of our speaking notes yesterday. That was not intended
19 to be, as you -- as you said, to go on the record. The
20 record consists of the oral statements that we provided
21 yesterday. That's because, I mean, we didn't have the
22 time to obtain the approval to provide those in an
23 official manner, but it was just to assist the parties
24 in being able to provide the response today.

25 We would like to reserve the right to respond
26 to some of the statements that we -- that were made by

1 the applicant and by QIA this morning, but we do not
2 plan on filing any other written submissions at this
3 hearing.

4 THE CHAIR: Teresa.

5 MS. MEADOWS: Teresa Meadows, legal
6 counsel for the Nunavut Water Board. Thank you,
7 Mr. Chair.

8 Well, that then raises for me the very next
9 question, and that is are you prepared to be able to
10 reply to the submissions of Baffinland and the QIA that
11 they have just provided to the Board with respect to
12 the motion to keep the record open at this time?

13 THE CHAIR: AANDC.

14 MR. MUSCATI: Sina Muscati, legal
15 counsel for Government of Canada.

16 In light of the fact that we did provide this
17 information very late, and we acknowledge the
18 difficulties and the frustration that that must have
19 caused, we don't object to keeping the record open to
20 allow parties time to provide a response.

21 THE CHAIR: Teresa.

22 MS. MEADOWS: Teresa Meadows, legal
23 counsel for the Nunavut Water Board.

24 I guess my question more directly is do you
25 anticipate that you will also be providing written
26 submissions, follow-up written submissions in this

1 process as well in response to the oral submissions
2 that you've just heard from the parties? You may not
3 object to the motion to keep the record open, but quite
4 frankly, that motion actually comes out of the
5 information that you provided yesterday, so I wouldn't
6 have expected you to object, but the second point
7 really is whether or not you are anticipating filing a
8 written submission as well at the same time or in
9 advance of the parties here providing their -- their
10 response submissions?

11 THE CHAIR: AANDC.

12 MR. MUSCATI: Sina Muscati, legal
13 counsel for Government of Canada.

14 Sorry, just for clarification, are you asking
15 if we plan to be providing any written submissions
16 today, or if the record is kept open, if we will be
17 providing any written submissions during the time that
18 the record -- that the Board decides to keep the record
19 open?

20 THE CHAIR: Teresa.

21 MS. MEADOWS: Thank you, Mr. Chair.
22 Teresa Meadows, legal counsel for the Nunavut Water
23 Board.

24 Either. Both. Are you providing any further
25 written submissions, is my question?

26 THE CHAIR: AANDC.

1 MR. MUSCATI: Sina Muscati, legal
2 counsel, Government of Canada. We are not providing
3 any further written submissions today. I would like --
4 I would ask that you provide us a bit more time to
5 confirm whether we will be providing written
6 submissions, should the record be kept, open in
7 response to the submissions by the other parties.

8 THE CHAIR: Teresa.

9 MS. MEADOWS: Thank you, Mr. Chair.
10 Teresa Meadows, legal counsel for the Nunavut water
11 board.

12 The difficulty that we have with that is,
13 quite frankly, one of timing in terms of an endless
14 feedback loop that we can now engage in, and I'm sure
15 that you heard the frustration of the parties, and I
16 think it's fair to say that all of the parties want to
17 have some clear indication of when the feedback loop
18 comes to an end on this matter, so, you know, our
19 expectation is that the information will be -- that was
20 provided yesterday was the information that will be
21 provided by Aboriginal Affairs and Northern Development
22 Canada with respect to this issue and that the
23 parties -- what we're contemplating right now, is
24 keeping the record open for the reply of the parties
25 here, so Baffinland and the Qikiqtani Inuit Association
26 only.

1 If you want to keep the record open with
2 reserving a right of reply to those further
3 submissions, I need to know that now, so that's really
4 my question, is whether or not you anticipate that
5 you're going to need a right of reply and your
6 expectation is that you'll have a right of reply, or
7 whether you're willing to have the submissions that
8 were provided be sort of the last word that Aboriginal
9 Affairs has on the point until the parties reply?

10 THE CHAIR: AANDC.

11 MR. MUSCATI: Sina Muscati, legal
12 counsel for Government of Canada.

13 I apologize if I wasn't being clear. We
14 don't anticipate filing any further written submissions
15 in advance of the parties responding to the submissions
16 we provided yesterday. We would like to reserve the
17 right to reply to any submissions that the parties make
18 while the record is kept open.

19 THE CHAIR: Teresa.

20 MS. MEADOWS: Thank you, Mr. Chair.
21 Teresa Meadows, legal counsel for the Nunavut Water
22 Board.

23 I would like to give the final word on this
24 particular point to Baffinland and the Qikiqtani Inuit
25 Association with respect to a response on that point
26 recognizing that the Board always reserves the right to

1 determine whether or not additional information is
2 required before the record is closed, so even if the
3 record is kept open for very specific purposes and the
4 Board provides direction on that point, when all
5 submissions are received, the Board makes the
6 determination as to whether or not there are further
7 submissions and further evidence that may be warranted
8 based on the procedural fairness requirements
9 associated with our proceedings, so the Board makes
10 that determination, but if parties are anticipating
11 that they are going to be bringing a request for
12 additional submissions at that point, it's very helpful
13 for us all to know that in advance. We don't like
14 surprises, generally, so if I can put the onus now on
15 Baffinland to provide a reply and then the Qikiqtani
16 Inuit Association.

17 Thank you, Mr. Chair.

18 THE CHAIR: Thanks, Teresa.

19 Baffinland.

20 Further Submissions from Baffinland Iron Mines
21 Corporation (Motion from Aboriginal Affairs and
22 Northern Development Canada)

23 MS. KOWBEL: Thank you. Christine
24 Kowbel.

25 Well, I think -- I think it's important to --
26 to remind my friend that this is Baffinland's

1 application, and the right of reply to evidence is that
2 Baffinland's the -- I don't believe that AANDC has a
3 right of reply to new evidence that they've brought in
4 a half-formed way. I think that the fact that AANDC
5 doesn't have an articulated reason for this request at
6 this point is a -- it draws sharp focus to the reason
7 why it's not a good idea to come to a hearing
8 unprepared and to change your position. The Board has
9 set up a very detailed process. This application has
10 been before the Board, and AANDC has participated in
11 the process related to this application since last
12 July, so, to me, that's quite a lot of time for AANDC
13 to articulate any evidence that they have to support
14 their positions, and to come up with a new idea at
15 literally the 11th hour and ask for more time to think
16 of reasons for that idea is a procedural abuse, in my
17 view, and I think in Baffinland's view, and, so, we
18 strenuously oppose that AANDC would have the right to
19 reply to any evidence that QIA and Baffinland should
20 file, and I want to clarify for the Board that our
21 request is the record be kept open only for QIA and
22 Baffinland to make additional submissions on evidence
23 at this time.

24 If you'd just give me one moment, I'm just
25 going to talk to Baffinland for one moment.

26 THE CHAIR:

Thank you.

1 QIA.

2 Further Submissions from Qikiqtani Inuit Association
3 (Motion from Aboriginal Affairs and Northern
4 Development Canada)

5 MR. WILLIAMSON BATHORY: Thank you. Stephen
6 Williamson Bathory, QIA.

7 Again, as we said in our statements earlier,
8 we do not see the need for this discussion to carry
9 beyond these hearings. Again, specifically, the
10 representations by AANDC do not give us an opportunity
11 to venture into the discussions it appears AANDC would
12 like us to venture into. Those people providing the
13 representations of AANDC unfortunately chose not to
14 attend this hearing. They chose not to file materials
15 in advance, and they chose not to engage parties prior
16 to the hearing. Those are all decisions that QIA, as
17 an intervenor, had no control of but yet we are now
18 being asked to respond to. What we have requested is
19 additional time to respond on the matters raised at the
20 hearing, and I believe Baffinland has just spoken to
21 the nature of that motion.

22 Again, we feel that this discussion is, quite
23 frankly, is outside the scope of this application. The
24 application was brought forward by Baffinland. There's
25 been ample opportunity to determine if security should
26 be made a topic of these hearings. That was confirmed

1 at the pre-hearing conference. AANDC made no
2 representations to the fact that they would entertain
3 this level of discussion on security at the pre-hearing
4 conference, which led to the establishment of the
5 agenda for this hearing, and it's unfortunate that this
6 type of discussion has to take place before the Board.
7 They need not hear this type of discussion. That's
8 what the process, as a whole, is meant to achieve.
9 They're here to convene on final decisions on an
10 application.

11 So we would suggest that a more proper avenue
12 would be for AANDC to file an application to amend the
13 license, and then we can focus on that discussion, and
14 we would have to opportunity to present our cases to
15 the Board for decision, but that's not the circumstance
16 today. Thank you.

17 THE CHAIR: Thank you. (Other
18 language spoken)

19 Panel will now adjourn to address the motion
20 to keep the record open for the purpose of the reply to
21 additional security submissions.

22 (ADJOURNMENT)

23 Ruling (Motion from Aboriginal Affairs and Northern
24 Development Canada)

25 THE CHAIR: Welcome back, everybody,
26 from our extended health break, and the Panel has

1 considered the motion to keep the hearing record open
2 and has decided the following:

3 The Panel directs that the hearing record for
4 the application to amend License 2AM-MRY1325 shall
5 remain open until Monday, May 25, 2015, at 3 PM
6 Mountain Daylight Time solely for the purpose of
7 receiving the reply submission of the Applicant,
8 Baffinland Iron Mines Corporation, and the intervenor
9 Qikiqtani Inuit Association with respect to the issue
10 of the quantum of security to be held under the license
11 as raised by Aboriginal Affairs and Northern
12 Development Canada.

13 Teresa, can you provide some administrative
14 details on this?

15 MS. MEADOWS: Thank you, Mr. Chair.
16 Teresa Meadows, legal counsel for the Nunavut Water
17 Board.

18 Further written direction from the Board on
19 this matter will be released on Monday, May 11th, along
20 with the finalized excerpt of the transcript of the
21 oral evidence that was provided by Aboriginal Affairs
22 and Northern Development Canada yesterday.

23 I've consulted with our court reporter, and
24 it is a transcript that is approximately 35 pages in
25 length, and, so, we'll provide further written
26 direction to the parties on Monday.

1 It is also my understanding, however, that
2 there is further written evidence to be provided by the
3 Qikiqtani Inuit Association, Baffinland having provided
4 the letter of credit that has been filed under the
5 annual security review for 2015, and, so, the Qikiqtani
6 Inuit Association has that and will be providing it for
7 the public record and as part of the public record in
8 this proceeding, and maybe I'll just ask when they
9 anticipate they'll be able to provide that, and once
10 it's posted on the -- once it's been provided to the
11 Board, we would then post it on the public registry as
12 an exhibit, an electronic exhibit, and circulate it to
13 the parties here, as well.

14 So, Stephen, I don't know when you may have
15 time to be able to provide it to us?

16 MR. WILLIAMSON BATHORY: Thank you. Stephen
17 Williamson Bathory, QIA.

18 We would provide that to the Water Board
19 essentially as soon as we can get to our office and
20 scan the copy. The only reason for the delay is there
21 was an error in the shipping address from the bank
22 issuing the letter of credit, and that had been
23 outstanding for several months. To ensure people are
24 aware, there's been no change to the value of the
25 security as presented during the 2015 ASR. We're just
26 confirming the actual instrument, the letter of credit,

1 in its original form has now been filed with the QIA.

2 Thank you.

3 MS. MEADOWS: Thank you, Mr. Chair.

4 Teresa Meadows, legal counsel for the Nunavut Water
5 Board.

6 So the parties here will receive -- like I
7 said, a copy of that -- will receive notice when it's
8 been received by the Board and posted on the public
9 registry, and we will file it as the next exhibit in
10 the public hearing record.

11 So thank you, Mr. Chair. Those are my
12 further follow-up administrative comments with respect
13 to what to expect next at the public hearing for this
14 matter.

15 EXHIBIT 9 - Electronic Copy of Certified
16 True Copy Irrevocable Standby Letter of
17 Credit, Applicant: Baffinland Iron Mines
18 Corporation; Beneficiary: Qikiqtani Inuit
19 Association, in the amount of \$47,517,500

20 THE CHAIR: Thank you, Teresa.

21 I would now like to ask either the Hamlet or
22 the HTO and see if they would like to formally make a
23 -- present to the Board?

24 Comments from the Hamlet of Pond Inlet

25 MR. INUARAQ: Thank you, Mr. Chairman.

26 I don't have a whole lot to say, but we want

1 to ensure that the Hamlet be kept in the loop of all
2 the proceedings, and we requested that the hearing be
3 held in Pond Inlet's hamlet, so we are not making any
4 recommendations, but we want to ensure that we are kept
5 up to date on all the information adequately. We would
6 prefer that. Thank you.

7 THE CHAIR: Thank you, Charlie.

8 HTO? I don't think there are any HTO
9 representatives.

10 We will now move on to the closing remarks.

11 QIA.

12 Closing Remarks from Qikiqtani Inuit Association

13 MR. WILLIAMSON BATHORY: (Other language spoken)

14 Stephen Williamson Bathory, QIA.

15 During the opening of QIA's presentation at
16 these final hearings for the Amendment Application, QIA
17 took care to ensure that the Nunavut Water Board
18 understood the basis of the material being presented by
19 QIA was that QIA was only presenting on remaining
20 issues whereby QIA was asking the Board to take into
21 account the most relevant and most recent information.
22 QIA was also clear to point out that there had been no
23 changes to QIA's materials since the submission of the
24 presentations prior to the hearing.

25 QIA does take very seriously the need to
26 prepare for hearings and the need to progressively

1 reduce the number of matters that require decision and
2 direction from the Nunavut Water Board. It has never
3 been QIA's approach to introduce new positions in the
4 context of a hearing unless those positions serve to
5 further reduce the number of items for the Board at the
6 close of a hearing.

7 With this approach in mind, QIA wishes to
8 offer the following statements on several matters which
9 QIA has presented before the Nunavut Water Board at
10 these hearings and for which QIA requests the Nunavut
11 Water Board issue a decision when preparing their final
12 recommendations on this amendment request.

13 To make things simple for the Board, we've
14 taken the approach of narrowing this down to five
15 topics, essentially a handful of items that the Board
16 can deliberate upon.

17 Topic Number 1 relates to financial security.
18 Upon reviewing Aboriginal Affairs' April 22nd
19 submission, 2015, QIA takes particular exception to
20 Aboriginal Affairs' statement that the Board would need
21 to establish that the landowner is accepting
22 responsibility to ensure that the purposes of the Act
23 are carried out, including responding to an Inspector's
24 direction under Section 87 of the Act.

25 QIA has consistently stated its position to
26 Aboriginal Affairs since at least late 2012 in the

1 context of double-bonding workshops, discussions with
2 Inuit organizations that QIA will not, under any
3 circumstance, accept a solution to overbonding that
4 requires QIA or other regional Inuit organizations to
5 be liable or responsible to the Crown for IOL
6 remediation and that QIA is solely liable and
7 responsible to its members, the Inuit beneficiaries of
8 this region, for whom QIA holds Inuit-owned lands as a
9 designated Inuit organization established under the
10 Nunavut Land Claims Agreement.

11 QIA will not take on legislative
12 responsibilities of the Crown under the Act and does
13 not believe that legislative responsibilities can be
14 delegated to QIA, whose role is that of an Inuit
15 organization under the Nunavut Land Claims Agreement.

16 Topic Number 2, the Aquatic Effects
17 Monitoring Program. QIA agrees with Baffinland that
18 the Aquatic Effects Monitoring Program should be
19 updated upon issuance of this amended water license.
20 QIA looks forward to working with Baffinland to ensure
21 QIA's November 2014 review comments of that draft of
22 the Aquatic Effects Monitoring Program are considered
23 in the updated Aquatic Effects Monitoring Program. QIA
24 requests the Nunavut Water Board capture this
25 commitment in their determination on this amendment.

26 The third item is waste discharge from the

1 Milne Inlet Port ore stockpile. It is Baffinland's
2 position that the proposed effluent quality for the
3 Milne Inlet ore stockpile effluent is protective of
4 aquatic life. The proposed criteria are those listed
5 in Part F, Item 26, Table 10 of the current water
6 license.

7 QIA shares the same vision as Baffinland,
8 that the effluent quality is to be protective of
9 aquatic life. QIA requests that the Nunavut Water
10 Board include effluent discharge criteria for the Milne
11 Inlet ore stockpile in the amended water license.

12 Item Number 4, monitoring of the Tote Road.
13 A majority of QIA's cross-examination of the Proponent
14 was to further understand how Baffinland is currently
15 monitoring water crossings along the Tote Road. It was
16 QIA's recommendation that the Aquatic Effects
17 Monitoring Program or other appropriate plans be the
18 home to describe how water crossings are monitored to
19 describe adaptive management and corrective measures
20 and to describe the process to evaluate potential
21 impacts to water.

22 Baffinland has informed there are two
23 management plans that address these topics: the
24 Environmental Protection Plan and the Surface Water and
25 Aquatic Effect Monitoring Plan. The QIA will undertake
26 a review of the said plans, ensure their concerns

1 regarding the watercourse management during the
2 construction and the operation phases of the Tote Road
3 are addressed.

4 In any instances where QIA considers that
5 these management plans could be improved, QIA will
6 engage with Baffinland and, where required, provide
7 recommendations to update the said plan.

8 The QIA understands these plans are updated
9 on a regular or as-needed basis. QIA also understands
10 Baffinland is supportive of this approach.

11 Item Number 5, Tote Road scope. QIA would
12 like to impress upon the Nunavut Water Board its
13 position regarding the scope of the Tote Road upgrades
14 and changes to the road. As noted in QIA's technical
15 submission and intervention, the QIA is of the opinion
16 that the scope of the Tote Road in the water license
17 and the reasons for decision could be improved for
18 clarity to ensure adequate enforcement of the license.

19 QIA understands the Nunavut Water Board's
20 position that upgrades completed on the Tote Road from
21 2013 to 2015 have been, in the opinion of the Water
22 Board, part of the original water license application
23 filed in 2012 and not in the water license amendment
24 process associated with the early revenue phase.

25 Moving forward, and based on this Nunavut
26 Water Board position, QIA urges that the Nunavut Water

1 Board ensure that future changes to their Tote Road and
2 water crossings, from what is presented in the 2013
3 Issued-for-Construction drawings, be considered outside
4 the scope of the license.

5 One method to mitigate against potential for
6 scope creep would be to ensure that the amended license
7 or the reasons of decision clearly describe the current
8 scope of the Tote Road.

9 QIA is of the opinion that water crossings
10 are within the mandate of the Nunavut Water Board. For
11 example, if the Proponent were to file plans seeking to
12 expand the Tote Road or increase the number of bridge
13 crossings for the purpose of increasing ore transport
14 beyond what is contained in the early revenue phase
15 application, this should be considered outside the
16 scope of the current water license and this amendment.

17 Furthermore, the reliance on Department of
18 Fisheries and Oceans' authorizations, while may
19 partially aid in the environmental protection of
20 fish-bearing water crossings, do not capture all
21 non-fish-bearing water crossings. It is QIA's opinion
22 that DFO's authorizations for water crossings should
23 not be used as a standalone substitute for the Nunavut
24 Water Board processes to manage this use of water.

25 QIA again thanks the Board for all of their
26 efforts to prepare for this hearing, to hold the

1 hearing, and to respond to issues raised by parties.
2 We look forward to the close of the hearings and the
3 official record and the continued success of the Mary
4 River project. QIA remains in full support of the
5 early revenue phase proposal and will continue to
6 involve itself in the administrative processes of the
7 Board to facilitate the successful operation of the
8 early revenue phase project. (Other language spoken)

9 THE CHAIR: (Other language spoken)

10 Next, we have AANDC.

11 Closing Remarks from Aboriginal Affairs and Northern
12 Development Canada

13 MR. MUSCATI: Sina Muscati, legal
14 counsel for Government of Canada.

15 Before my colleague Andrea Morgan provides
16 her closing statements, I just have a couple of
17 statements to make, as well.

18 We'd like to thank the Board and the parties
19 for listening to our submissions, including the late
20 submission that we provided yesterday. We acknowledge
21 that the department has been involved in the annual
22 security review process, including setting the 2015
23 amount, as both the Applicant and QIA have indicated.
24 We'll only say that the annual security review process
25 is in relation to another license and that this is an
26 Amendment Application which is essentially a new

1 license. In that context, we're relaying the concerns
2 of the department, and in doing so, it's not our intent
3 to show any disrespect to the Board, to the parties --
4 or to the parties. We look forward to continuing to
5 work with the parties in resolving the issue of
6 security, and I'll turn it over to my colleague Andrea
7 Morgan.

8 MS. MORGAN: Andrea Morgan, AANDC.

9 We want to thank the Water Board for
10 organizing the public hearing in Pond Inlet and to
11 acknowledge the great technical support that we
12 received from the interpreters, recorder, and sound
13 technician. Thanks, also, to the people of Pond Inlet
14 and their warm welcome and attendance at the hearing.

15 We want to thank everyone for their patience
16 with the department's submission of additional
17 information regarding security. I know that the
18 representatives of the Baffinland and the Qikiqtani
19 Inuit Association have done a lot of work over the past
20 year on the 2515 work plan and security-cost estimates
21 through the annual security review process, and we look
22 forward to working with the Applicant and the
23 intervenors to resolve the security issues as soon as
24 possible.

25 Finally, I want to confirm that the
26 department continues to support Baffinland's request to

1 amend the Type A water license. Thank you.

2 THE CHAIR: (Other language spoken)

3 Next, we have Environment Canada.

4 Closing Remarks from Environment Canada

5 MR. DAHL: Thank you, Mr. Chair.

6 It's Mark Dahl from Environment Canada.

7 Environment Canada is satisfied that the
8 issues we raised during our review of Baffinland's
9 amendment proposal have been addressed. Environment
10 Canada looks forward to further discussions regarding
11 the implementation of discharge quality monitoring and
12 environmental effects monitoring in Milne Inlet through
13 the environmental -- the Marine Environment Working
14 Group.

15 Environment Canada would like to thank the
16 intervenors and the Proponent for their thoughtful
17 participation in the review. We would also like to
18 thank the Board for organizing an efficient meeting and
19 for making the conference-call facilities available to
20 us.

21 I realize that participating by phone is not
22 ideal, but, in this case, the phone was the only
23 workable option for us. I only wish I'd been there to
24 enjoy Pond Inlet's well-known hospitality. Thank you
25 very much, and I look forward to my next visit to your
26 community.

1 THE CHAIR: Thank you.

2 Next, we have Hamlet of Pond Inlet.

3 Closing Remarks from Hamlet of Pond Inlet

4 MR. INUARAQ: Thank you, Mr. Chairman.

5 I have some comment -- we have some comments
6 to QIA, because in Hamlet, we also prepare to ensure
7 that the public is informed.

8 As the mayor, in my capacity, whenever
9 Baffinland has changed the request to include the early
10 revenue phase, and the Hamlet of Pond Inlet sees that
11 today, and see the Pond Inlet, we have to continue to
12 have dialogue with QIA and there will be consensus
13 because the Hamlet hears what the Hamlet thinks, and
14 the first project -- first the project was approved and
15 the second early revenue phase had to change
16 substantially, and then we envisioned this ERP as a new
17 venture, that the license include a lot of topics, but
18 we want support from the Nunavut Water Board. I know
19 that QIA will definitely -- will have to have a good
20 working relationship with us when we're dealing with
21 the Land Use Agreement and some people -- the majority
22 of the population of Pond Inlet were against the early
23 revenue phase because of the first works that was
24 undertaken by QIA, we were expecting -- we were
25 expecting to have -- be involved in a larger scope with
26 QIA and also we weren't kept very much informed about

1 this.

2 Like, since the project will be larger in
3 scope, yes, in some way, we approve it, but in certain
4 circumstances, we did not agree to all of the requests,
5 so the main reason being, like, the total amounts that
6 they planned to ship ore and when the people are
7 utilizing the ice and all, that is also a part of the
8 water process, and that is why the people of Pond Inlet
9 were totally against the idea of having winter
10 shipping.

11 In some way, we are grateful for the fact
12 that people are now able to be employed at the mine,
13 but we do have an agreement with QIA to ensure that our
14 needs are recognized through the Nunavut Water Board
15 process, so we need to have more working dialogue.

16 And, also, secondly, I wanted to say, like,
17 the new amendment, since the new amendment process was
18 being dealt with, that we requested that Baffinland
19 Iron Mine have more dialogue with the Government of
20 Nunavut, and also I sent a letter to Baffinland Iron
21 Mines and the Government of Nunavut in regards to the
22 Income Tax and Benefits Agreement, and I stated that
23 the project will be very large, so we wanted the
24 Government of Nunavut to encourage -- we want to
25 encourage the Government of Nunavut that the IDA be
26 dealt with, and, also, we sent a letter to Baffinland

1 Iron Mines as well, and to date, we have not really
2 received a response, but we have informed the public,
3 like, you will have an opportunity to come and to
4 express your concerns to Nunavut Water Board and
5 Nunavut Impact Review Board and Nunavut Planning
6 Commission. They have made some comments, and we also
7 sent correspondence to the Nunavut Planning Commission
8 because we were concerned, but they -- the residents of
9 Pond Inlet were not informed clearly of the process, so
10 -- so there those are my comments, Mr. Chairperson,
11 and, also, I'm referring my comments to QIA, and I
12 believe these words are valid, and that is all. Thank
13 you.

14 THE CHAIR: Thank you, Charlie.

15 Next, we have HTO, Hunters and Trappers
16 Organization. I don't think they are here.

17 Baffinland Iron Mines Corporation.

18 Closing Remarks from Baffinland Iron Mines Corporation

19 MS. KOWBEL: Thank you, Mr. Chair.

20 Christine Kowbel. I think I can speak on behalf of
21 Baffinland when I say thank you to everyone for their
22 -- for their thoughtful comments in their closing
23 statements. I would like to request, Mr. Chair, just a
24 five-minute break so that Baffinland can gather their
25 thoughts and make sure that they've touched on those
26 topics, those important topics that others have raised

1 during their closing submissions before delivering
2 their final submission.

3 (ADJOURNMENT)

4 MR. MADSEN: Mr. Chair, we're ready
5 for our final comments now.

6 THE CHAIR: Thank you. Please go
7 ahead with your remarks.

8 MR. MADSEN: Thank you, Mr. Chair.

9 Baffinland would like to thank the community
10 of Pond Inlet for hosting these hearings and for the
11 participation in the water license amendment process by
12 the community, the Qikiqtani Inuit Association, and the
13 Hunters and Trappers Association, and the various
14 federal parties.

15 We'd also like to thank the Staff of the
16 Board for their assistance in this process. We also
17 thank the Board and recognize that your work will
18 continue once the record on this hearing is closed.

19 You will be hearing further submissions from
20 Baffinland on security before the record is closed, as
21 indicated earlier this morning. It is clear from
22 Aboriginal Affairs and Northern Development Canada's
23 submissions and from the response to questions that
24 this change is not based on any specific concerns
25 regarding our project. We think the Board should
26 reject Aboriginal Affairs and Northern Development's

1 submissions and should not vary the Boards 2015 annual
2 security review decision on quantum of security to be
3 posted under the license.

4 I also want to -- wish to reiterate that due
5 to the delays recently encountered in the Nunavut
6 Planning Commission's decision which is affecting
7 schedules, is there a significant reduction to our
8 planned 2015 scope of work, and it is believed --
9 currently understood by Baffinland that we are
10 overbonded now currently related to the relative 2015
11 work plan.

12 Since Aboriginal Affairs and Northern
13 Development Canada has reopened this issue, we will
14 provide evidence to the Board on this issue as we
15 believe it is very relevant to the issue Aboriginal
16 Affairs and Northern Canada has asked the Board to
17 reopen.

18 Moving away from that topic for the time
19 being, we think it is helpful for the Board to clarify
20 the areas where we think the parties have found
21 consensus in our view of the few remaining outstanding
22 items.

23 All of the participants in the hearing
24 indicated they support the issuance of the amended Type
25 A water license and generally support Baffinland's
26 application with the additional comments included in

1 their submissions to the Board.

2 Generally, Baffinland directs the Board to
3 its written responses and evidence given verbally
4 during these proceedings; however, we do wish to
5 highlight the following few matters:

6 First, regarding the monitoring along the
7 Tote Road, QIA has indicated that specific license
8 conditions should address water-quality monitoring
9 along the Tote Road, culverts, and bridges. As
10 presented to the Board, Baffinland is required to
11 undertake this monitoring under its current Department
12 of Fisheries and Oceans' approvals.

13 The monitoring requirements under the
14 Department of Fisheries and Oceans' approvals are
15 summarized in the Environmental Protection Plan. The
16 Surface Water and Aquatics Ecosystem Management Plan
17 provides a range of management actions to be taken in
18 the event water-quality problems are identified as a
19 result of the construction and operation of culvert and
20 bridges infrastructure, and we just heard from the
21 Qikiqtani Inuit Association that they, too, recognize
22 that these are two plans that would be reviewed and
23 would cover off these areas.

24 Given the comprehensive monitoring and
25 management required under these approved plans and the
26 fact that the Tote Road upgrades are captured under the

1 existing Type A license and therefore outside the scope
2 of this Amendment Application, no revisions to the
3 existing terms and conditions are necessary.

4 With regards to effluent discharge,
5 Environment Canada, who provide expert advice on the
6 matter, have advised that effluent discharge at the
7 Milne Port must meet requirements of Section 36 of the
8 Fisheries Act. This will ensure that effluent is not
9 acutely toxic to fish.

10 Further, Environment Canada has indicated
11 that it is not necessary to apply effluent criteria
12 existing in Part F, Item 25, Table 10 for the mine site
13 ore stockpiles given the fact that the receiving
14 environment, the ocean, is a lot larger and has greater
15 mixing potential. As such, Baffinland is revising
16 their position on discharge and agrees with Environment
17 Canada that the effluent discharge standards at Table
18 10 should not be applied, and, instead, Baffinland
19 agrees with Environment Canada that it should undertake
20 annual bioassay testing to ensure that the discharge is
21 not acutely toxic to fish in accordance with Schedule
22 1, Table 12, Group 3 parameters set out in the current
23 water license.

24 With regard to the current water license
25 language addressing security and annual security
26 review, other than the language suggested by Baffinland

1 and supported by QIA, which would permit the Board
2 administrative flexibility should it determine in a
3 future year that a security review is not necessary,
4 Baffinland does not believe any changes should be made
5 to the sections of the license that deal with security
6 other than to reflect the amounts agreed to by the
7 parties and approved by the Board during the 2015
8 annual security review.

9 The established annual security processes
10 work well and have been incorporated within
11 Baffinland's agreements with the landowner and should
12 remain in place. We direct the Board to our written
13 submissions on this point but wish to clarify one of
14 our responses.

15 While Aboriginal Affairs and Northern
16 Development Canada has suggested that the water license
17 should be amended to reference the ultimate project
18 development, Baffinland does not believe this is
19 necessary. The ultimate project development quantum is
20 included in the mine Closure and Reclamation Plan which
21 is an approved plan under the water license, and, so,
22 this information is all part -- already part of the
23 water license.

24 The requested volume of 2,785 -- 88.5 metres
25 cubed per day should be granted for the purpose of dust
26 suppression along the Tote Road, and this will provide

1 for operational flexibility required for Tote Road
2 upgrades, maintenance, and operation.

3 The environmental data presented to the Board
4 provides sound environmental evidence that shows that
5 the proposed water -- withdrawal for dust suppression
6 on the Tote Road would not cause harm to waters or
7 water resources. This value represents only 3 percent
8 of flow in the catchment area which could not adversely
9 affect fish or their habitat.

10 Baffinland requests that the Board approve
11 the withdrawal as it will support site safety and
12 visibility on the road as well as support protection of
13 human health and the environment.

14 Regarding the suggestion that adjustments
15 and/or modifications to the Tote Road be subject to a
16 licensed amendment, Baffinland notes that the Water
17 Board has already confirmed that upgrades to the Tote
18 Road were approved as part of the railway project.
19 Given that the Tote Road upgrades are a work in
20 progress, it will not -- it would not be appropriate
21 for the Board to require Baffinland to apply for
22 upgrades that have already been approved.

23 Future work on watercourse crossings,
24 culverts, revisions to the road height and width are a
25 normal part of operating a safe road in the north and
26 should not be subject to an amendment process.

1 We believe the Board has made the scope of
2 the Tote Road clear. We think future work is part of
3 what was approved in our original application. The
4 2013 design does not represent the full extent of
5 upgrades to support the railway and early revenue phase
6 or the changes that will inevitably be necessary to
7 ensure a safe and operable road.

8 Ongoing engineering and field changes will be
9 necessary to ensure a safe operation. Field
10 adjustments will be needed in light of operational use
11 and the changes due to the road that weather will
12 impose. All changes will be reflected in as-builts
13 submitted to the Board as currently required by the
14 existing license terms of this Type A license.

15 These conclude Baffinland's submissions on
16 this Type A Water License Amendment Application subject
17 to our further submissions to the Board on Aboriginal
18 Affairs and Northern Development Canada's new evidence
19 and any additional closing submissions we may make on
20 those matters.

21 It is our view that we have put forward an
22 application with monitoring and management plans
23 included -- including proposed license conditions that
24 will allow the Board to consider and be in the position
25 to develop and issue an amended Type A license that
26 will appropriately mitigate any potential water quality

1 or quantity effects from the early revenue phase.

2 Thank you.

3 THE CHAIR: Thank you.

4 Closing Remarks from Nunavut Water Board Chair

5 THE CHAIR: The Board takes this
6 opportunity to thank everyone who participated in this
7 important hearing, especially the Applicant, Baffinland
8 Iron Mines Corporation; intervenors -- AANDC,
9 Environment Canada, Qikiqtani Inuit Association, and
10 Hamlet of Pond Inlet -- NWB Staff members and legal
11 counsel; interpreters, Ben Kogvik, Titus Arnakallak,
12 Morgan Arnakallak from Pond Inlet; court reporter,
13 Julie Macdonald; PIDO Productions, Cory Francis; all
14 the community members and elders for their valued
15 participation in this hearing.

16 Thanks also to the Hamlet of Pond Inlet for
17 their outstanding hospitality and support of the Board
18 and the Staff while we complete our work.

19 As we are at the close of the hearing, I will
20 make some comments to let parties and interested
21 persons know what happens next to this Amendment
22 Application.

23 The Board has received a request from the
24 parties to keep the hearing record open to receive the
25 information on the quantum of security as stated
26 earlier today. As this additional information is

1 required by the Board to fully consider the
2 application, the Board will keep the record open until
3 the additional information has been received on May 25,
4 2015, by the Applicant and the QIA. Only after the
5 Board has received this additional information and has
6 indicated that the record for this hearing be closed
7 will this matter be remitted to the Panel to make a
8 decision.

9 On that note, I would like to ask Charlie
10 Inuaraq to do the prayer, please.

11 (CLOSING PRAYER)

12 THE CHAIR: Thank you.

13 (PROCEEDINGS CONCLUDED AT 11:37 AM)

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1 CERTIFICATE OF TRANSCRIPT:

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3 I, Julie Macdonald, certify that the foregoing
4 pages are a complete and accurate transcript of the
5 proceedings, taken down by me in shorthand and
6 transcribed from my shorthand notes to the best of my
7 skill and ability.


8 Dated at the City of Calgary, Province of Alberta,
9 this 17th day of May 2015.

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JULIE MACDONALD, CSR(A)

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Official Court Reporter

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1 EXHIBITS ENTERED IN THE NUNAVUT WATER BOARD

2 PUBLIC HEARING FOR LICENSE NO. 2AM-MRY1325

3 AMENDMENT NO. 1 APPLICATION

4 MAY 7, 2014

5 PAGE NUMBER:

6

7 EXHIBIT 9 - Electronic Copy of Certified 206

8 True Copy Irrevocable Standby Letter of

9 Credit, Applicant: Baffinland Iron Mines

10 Corporation; Beneficiary: Qikiqtani Inuit

11 Association, in the amount of \$47,517,500

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| A | | | | |
|--------------------------|---------------------------|----------------------------|--------------------------|---------------------------|
| AANDC (31) | 203:23 204:11 | 201:22 202:19 | 180:16 181:2 | ahead (4) 178:17 |
| 174:12 177:9,10 | 204:21 208:18 | 203:21 214:16 | 183:2,26 184:4 | 180:26 186:14 |
| 177:24 178:2 | 208:20,26 | 220:26 225:19 | 184:17,25 185:2 | 219:7 |
| 181:7 183:5,8 | 213:11 219:22 | 226:26 227:3,5 | 185:14 186:16 | aid (1) 212:19 |
| 183:14,19 184:7 | 219:26 220:12 | address (4) | 186:26 187:5,9 | Alberta (1) 228:8 |
| 190:22 194:6 | 220:15 223:15 | 203:19 205:21 | 187:22,25 188:8 | alleged (1) 187:5 |
| 195:11 196:13 | 225:17 | 210:23 221:8 | 188:16,19 189:8 | allow (5) 180:15 |
| 197:11,26 | absence (1) | addressed (3) | 189:16,19 190:8 | 180:15 194:1 |
| 199:10 201:2,4 | 188:25 | 194:17 211:3 | 190:13,26 191:1 | 196:20 225:24 |
| 201:10,12,18 | abuse (1) 201:16 | 215:9 | 192:7,9,11 | altered (1) 187:10 |
| 202:10,11,13 | accept (1) 209:3 | addressing (2) | 193:5,7,13,17 | alternative (1) |
| 203:1,12 213:10 | acceptable (2) | 175:2 222:25 | 193:23 194:17 | 189:18 |
| 214:8 226:8 | 183:17 190:16 | adequate (1) | 194:21,23 | amend (5) 186:25 |
| AANDC's (4) | accepted (1) | 211:18 | 198:21 199:9 | 188:26 203:12 |
| 174:9 182:25 | 193:5 | adequately (2) | 200:21 202:3 | 204:4 215:1 |
| 185:6 187:3 | accepting (1) | 190:17 207:5 | 203:23 204:11 | amended (9) |
| ability (1) 228:7 | 208:21 | adjourn (1) | 204:21 208:26 | 178:23 179:21 |
| able (9) 174:14 | accommodate (2) | 203:19 | 213:11 219:22 | 179:24 209:19 |
| 182:7 187:19,21 | 182:19,20 | ADJOURNME... | 219:26 220:12 | 210:11 212:6 |
| 195:24 196:9 | account (1) | 203:22 219:3 | 220:16 223:15 | 220:24 223:17 |
| 205:9,15 217:12 | 207:21 | adjustments (2) | 225:18 | 225:25 |
| Aborig (1) 180:15 | accurate (1) | 224:14 225:10 | Affairs' (14) | amendment (24) |
| Aboriginal (79) | 228:4 | administration ... | 175:8 187:18,20 | 167:10 179:17 |
| 168:11,17,20,23 | achieve (1) 203:8 | 194:1 | 188:6,24,26 | 184:1 187:6 |
| 168:24 169:2,5 | acknowledge (3) | administrative ... | 189:2 191:17 | 189:15,17 |
| 169:7,15 172:9 | 196:17 213:20 | 204:13 206:12 | 192:18,21,24 | 191:12,18 |
| 174:24 175:8,9 | 214:11 | 213:6 223:2 | 193:1 208:18,20 | 207:16 208:12 |
| 175:10,21 | Act (4) 208:22,24 | Administrator (...) | affect (2) 191:26 | 209:25 211:23 |
| 180:11,16 181:2 | 209:12 222:8 | 171:13 | 224:9 | 212:16 213:26 |
| 183:2,26 184:4 | actions (1) 221:17 | advance (4) 197:9 | afternoon (3) | 215:9 217:17,17 |
| 184:17,24 185:2 | active (1) 183:8 | 199:15 200:13 | 183:4 185:3 | 219:11 222:2 |
| 185:13 186:16 | activities (2) | 202:15 | 187:25 | 224:16,26 |
| 186:26 187:5,9 | 190:23 191:22 | advantage (1) | agenda (1) 203:5 | 225:16 226:21 |
| 187:18,20,22,25 | actual (2) 193:18 | 184:1 | Aglukark (1) | 229:3 |
| 188:6,8,16,19 | 205:26 | adversely (1) | 171:5 | amendments (3) |
| 188:24,26 189:2 | acutely (2) 222:9 | 224:8 | agree (2) 189:16 | 178:25 183:23 |
| 189:8,16,19 | 222:21 | advice (1) 222:5 | 217:4 | 191:3 |
| 190:8,13,26 | adaptive (1) | advised (1) 222:6 | agreed (1) 223:6 | amount (8) |
| 191:17 192:6,9 | 210:19 | Advisor (2) | agreement (5) | 179:22 184:15 |
| 192:10,18,21,24 | added (1) 179:5 | 171:10,11 | 209:10,15 | 190:9,14,19 |
| 192:26 193:5,7 | additional (21) | affairs (66) | 216:21 217:13 | 206:19 213:23 |
| 193:13,17,23 | 174:25 180:11 | 168:11,18,21,23 | 217:22 | 229:11 |
| 194:17,21,22 | 180:17 181:23 | 168:25 169:3,6 | agreements (1) | amounts (2) |
| 198:21 199:8 | 188:17 192:18 | 169:7,15 172:9 | 223:11 | 217:5 223:6 |
| 200:21 202:3 | 192:21,24 195:3 | 174:24 175:9,10 | agrees (3) 209:17 | ample (1) 202:25 |
| | 195:7 200:1,12 | 175:22 180:12 | 222:16,19 | and/or (2) 192:25 |

| | | | | |
|--|--|--|--|---|
| 224:15 Andrea (5) 177:10,24 213:15 214:6,8 annual (20) 177:3 177:6,8 178:6 178:10 183:9,16 185:9 190:5,12 193:15 205:5 213:21,24 214:21 220:1 222:20,25 223:8 223:9 annually (1) 177:20 answer (1) 180:4 anticipate (4) 196:25 199:4,14 205:9 anticipating (2) 197:7 200:10 apologize (1) 199:13 Appearances (2) 168:5 171:1 appears (2) 185:13 202:11 applicant (9) 171:15 196:1 204:7 206:17 213:23 214:22 226:7 227:4 229:9 application (29) 167:10 176:5 183:24 186:25 187:6 189:18 191:13,18 192:12 201:1,9 201:11 202:23 202:24 203:10 203:12 204:4 207:16 211:22 212:15 213:26 220:26 222:2 225:3,16,22 | 226:22 227:2 229:3 applied (1) 222:18 apply (2) 222:11 224:21 apportionment ... 184:10 appreciated (1) 175:18 approach (11) 185:10 188:3 192:14 193:26 193:26 194:6,9 208:3,7,14 211:10 appropriate (2) 210:17 224:20 appropriately (1) 225:26 approval (1) 195:22 approvals (2) 221:12,14 approve (2) 217:3 224:10 approved (7) 216:14 221:25 223:7,21 224:18 224:22 225:3 approximately ... 184:12 185:21 204:24 April (3) 187:4 188:7 208:18 aquatic (9) 177:5 209:16,18,22,23 210:4,9,16,25 Aquatics (1) 221:16 area (1) 224:8 areas (2) 220:20 221:23 arising (1) 194:20 Arktis (1) 172:6 Arnakallak (4) | 173:3,4 226:11 226:12 arrange (1) 187:21 arrive (1) 193:15 articulate (1) 201:13 articulated (1) 201:5 as-built (1) 225:12 as-needed (1) 211:9 asked (5) 180:18 181:7 183:14 202:18 220:16 asking (5) 179:14 179:16,24 197:14 207:20 ASR (2) 183:16 205:25 assertions (1) 184:5 assessment (4) 172:18 176:3,8 176:9 assist (1) 195:23 assistance (2) 176:7 219:16 associated (6) 180:10,10 181:20 183:11 200:9 211:24 Association (24) 168:20 169:5,13 172:2 180:23 182:16 185:18 186:3,15 198:25 199:25 200:16 202:2 204:9 205:3,6 206:19 207:12 214:19 219:12,13 221:21 226:9 229:11 assuming (1) | 186:7 Attachment (2) 176:4,10 attempts (1) 188:15 attend (3) 187:21 192:4 202:14 attendance (1) 214:14 attended (1) 187:12 attending (1) 193:26 attention (1) 183:4 August (1) 176:23 authorizations (...) 212:18,22 available (3) 184:9 186:9 215:19 avenue (1) 203:11 averaging (1) 176:18 aware (1) 205:24 | 196:10 198:25 199:24 200:15 200:19,20 201:19,22,25 202:20,24 204:8 205:3 206:17 209:17,20 210:7 210:14,22 211:6 211:10 214:18 216:9 217:18,20 217:26 218:17 218:18,21,24 219:9,20 220:9 221:2,10 222:15 222:18,26 223:4 223:18 224:10 224:16,21 226:7 229:9 Baffinland's (9) 200:26 201:2,17 210:1 214:26 215:8 220:25 223:11 225:15 bank (1) 205:21 base (1) 178:10 based (3) 200:8 211:25 219:24 basis (7) 187:4,13 188:23 191:1,4 207:18 211:9 Bathory (10) 172:4 185:18 186:18,19 202:5 202:6 205:16,17 207:13,14 bear (2) 182:16 186:19 beginning (1) 177:24 behalf (1) 218:20 believe (12) 175:25 182:5 188:19 193:25 201:2 202:20 209:13 218:12 220:15 223:4,18 |
|--|--|--|--|---|

| | | | | |
|---------------------------|---------------------------|---------------------------|--------------------------|---------------------------|
| 225:1 | 207:20 208:2,5 | 168:12,18,21,24 | certify (1) 228:3 | 181:4 200:23 |
| believed (1) 220:8 | 208:9,11,13,15 | 168:25 169:3,6 | Chair (61) 168:8 | 218:20 |
| believes (2) 190:9 | 208:20 209:24 | 169:8,16,18 | 169:26 171:4 | circulate (2) |
| 194:5 | 210:10 211:12 | 172:9,17 175:22 | 174:2,3,6 | 182:10 205:12 |
| Ben (1) 226:11 | 211:22,26 212:1 | 180:12 181:3 | 175:19,20,23 | circumstance (2) |
| beneficiaries (1) | 212:10,24,25 | 183:3,26 184:18 | 177:9,21 178:16 | 203:15 209:3 |
| 209:7 | 213:7,18 214:3 | 184:25 185:2,14 | 178:19 180:1,5 | circumstances (2) |
| Beneficiary (2) | 214:9 215:18 | 186:17 187:1,6 | 180:24,25 | 192:6 217:4 |
| 206:18 229:10 | 216:18 217:14 | 194:18,22,23 | 181:13 185:25 | City (1) 228:8 |
| Benefits (1) | 218:4,5 219:16 | 195:14 196:15 | 186:2,13 194:11 | Claims (2) 209:10 |
| 217:22 | 219:17,25 | 197:13 198:2,22 | 194:13,24 196:4 | 209:15 |
| best (3) 184:9 | 220:14,16,19 | 199:12 200:22 | 196:7,13,21 | clarification (4) |
| 194:17 228:6 | 221:1,2,10 | 202:4 203:24 | 197:11,20,21,26 | 175:7 180:2 |
| better (1) 177:6 | 223:1,7,12 | 204:12,22 | 198:8,9 199:10 | 192:8 197:14 |
| beyond (2) 202:9 | 224:3,10,17,21 | 213:12,14 215:3 | 199:19,20 | clarifies (1) |
| 212:14 | 225:1,13,17,24 | 215:4,6,7,10,15 | 200:17,18 | 179:26 |
| bioassay (1) | 226:4,5,17,23 | 220:13,16 222:5 | 201:26 203:17 | clarify (4) 181:6 |
| 222:20 | 227:1,2,5 229:1 | 222:10,17,19 | 203:25 204:15 | 201:20 220:19 |
| bit (1) 198:4 | Board's (6) 183:4 | 223:16 226:9 | 206:3,11,20 | 223:13 |
| board (132) 167:7 | 184:8 190:24 | Canada's (4) | 207:7 213:9 | clarity (1) 211:18 |
| 168:7,22 169:25 | 191:7,8 211:19 | 174:24 184:5 | 215:2,5 216:1 | clear (7) 183:18 |
| 171:3,8,12 | Board-mandate... | 219:22 225:18 | 218:14,19,23 | 188:25 198:17 |
| 172:3 174:2,8 | 183:9 | capacity (1) 216:8 | 219:4,6,8 226:3 | 199:13 207:22 |
| 177:3,7 178:2 | Boards (1) 220:1 | capture (2) | 226:4,5 227:12 | 219:21 225:2 |
| 180:7,8 181:9 | break (2) 203:26 | 209:24 212:20 | Chairman (2) | clearly (3) 184:2 |
| 181:15 182:1,8 | 218:24 | captured (1) | 206:25 216:4 | 212:7 218:9 |
| 183:6 184:24 | breakdown (1) | 221:26 | Chairperson (1) | close (6) 180:14 |
| 185:9,10 186:1 | 184:20 | care (1) 207:17 | 218:10 | 181:18 193:8 |
| 186:24 187:1,15 | bridge (1) 212:12 | carried (1) 208:23 | challenge (1) | 208:6 213:2 |
| 187:23,23 188:1 | bridges (2) 221:9 | carry (1) 202:8 | 192:14 | 226:19 |
| 188:3,12,13 | 221:20 | case (2) 181:22 | challenging (1) | closed (5) 191:13 |
| 189:3,9,14,18 | brief (1) 192:3 | 215:22 | 188:2 | 200:2 219:18,20 |
| 189:22,25 190:4 | bringing (1) | cases (1) 203:14 | change (4) 201:8 | 227:6 |
| 191:2,5,6,18 | 200:11 | catchment (1) | 205:24 216:15 | closer (1) 177:22 |
| 192:13,14,23 | brought (3) | 224:8 | 219:24 | closing (18) |
| 193:3,11,14,22 | 177:14 201:3 | cause (1) 224:6 | changed (1) 216:9 | 169:12,15,18,20 |
| 194:15,21,26 | 202:24 | caused (1) 196:19 | changes (10) | 169:22,25 |
| 196:6,11,23 | Burgess (1) | caution (1) | 191:24 192:12 | 207:10,12 |
| 197:18,23 | 172:14 | 176:19 | 207:23 211:14 | 213:11,16 215:4 |
| 198:11 199:22 | business (1) 191:1 | central (2) 187:6 | 212:1 223:4 | 216:3 218:18,22 |
| 199:26 200:4,5 | <hr/> | 189:17 | 225:6,8,11,12 | 219:1 225:19 |
| 200:9 201:8,10 | C | certain (1) 217:3 | Charlie (3) 207:7 | 226:4 227:11 |
| 201:20 203:6,15 | C (3) 171:16 | Certificate (2) | 218:14 227:9 | Closure (1) |
| 204:17,18 | 172:23 173:8 | 170:1 228:1 | chose (3) 202:13 | 223:20 |
| 205:11,18 206:5 | Calgary (1) 228:8 | Certified (2) | 202:14,15 | colleague (2) |
| 206:8,23 207:17 | calling (1) 179:6 | 206:15 229:7 | Christine (3) | 213:15 214:6 |
| | Canada (54) | | | |

| | | | | |
|--|---|---|--|---|
| come (6) 175:10 184:26 193:18 201:7,14 218:3 | concerned (1) 218:8 | considering (1) 182:17 | 191:16 | 194:19 213:16 |
| comes (2) 197:4 198:18 | concerns (4) 210:26 214:1 218:4 219:24 | considers (1) 211:4 | contractual (1) 191:26 | coupled (1) 181:24 |
| commenced (2) 174:1 187:8 | conclude (1) 225:15 | consistently (1) 208:25 | control (1) 202:17 | court (4) 173:6 204:23 226:12 228:15 |
| commencement... 187:16 | CONCLUDED ... 227:13 | consists (1) 195:20 | convene (1) 203:9 | cover (1) 221:23 |
| comment (1) 216:5 | conclusion (1) 185:13 | construction (6) 179:3,10,14,17 211:2 221:19 | coordinator (5) 172:7,13,19 176:13,22 | credit (6) 185:17 205:4,22,26 206:17 229:9 |
| comments (17) 168:13 169:10 177:11,25 178:12,18 206:12,24 209:21 216:5 218:6,10,11,22 219:5 220:26 226:20 | conditions (8) 176:17 188:5 189:1,11,24 221:8 222:3 225:23 | construction-p... 179:11 | copies (1) 195:17 | creep (1) 212:6 |
| commercial (2) 191:21,22 | conference (2) 203:1,4 | consult (1) 174:14 | copy (9) 185:16 185:18,21 205:20 206:7,15 206:16 229:7,8 | criteria (3) 210:4 210:10 222:11 |
| Commission (2) 218:6,7 | conference-call ... 215:19 | consultant (3) 176:26 177:26 178:5 | Corporation (15) 168:14,17 169:2 169:23 171:15 178:18 180:20 181:1 200:21 204:8 206:18 218:17,18 226:8 229:10 | cross-examinati... 188:16 210:13 |
| Commission's (1) 220:6 | confined (1) 189:14 | Consulting (1) 177:13 | correct (2) 184:4 186:9 | crossings (9) 210:15,18 212:2 212:9,13,20,21 212:22 224:23 |
| commitment (1) 209:25 | confirm (3) 195:6 198:5 214:25 | contained (1) 212:14 | corrective (1) 210:19 | Crown (4) 184:22 188:2 209:5,12 |
| community (5) 172:7 215:26 219:9,12 226:14 | confirmation (1) 176:21 | contemplating (...) 198:23 | correspondence... 218:7 | CSR(A) (2) 173:6 228:14 |
| competence (1) 191:8 | confirmed (4) 183:18 190:13 202:26 224:17 | CONTENTS (1) 168:1 | cubic (2) 179:13 223:25 | cubed (2) 179:13 223:25 |
| complete (2) 226:18 228:4 | confirming (1) 205:26 | context (4) 194:4 208:4 209:1 214:1 | Cory (1) 226:13 | cubic (4) 179:17 179:21,23,25 |
| completed (1) 211:20 | consensus (2) 216:12 220:21 | continual (1) 177:19 | cost (3) 184:13,16 187:12 | culvert (1) 221:19 |
| completely (1) 183:25 | consented (1) 187:24 | continue (3) 213:5 216:11 219:18 | costs (2) 184:11 184:20 | culverts (2) 221:9 224:24 |
| completion (1) 191:14 | Consequential (...) 178:25 | continued (1) 213:3 | counsel (28) 171:9,16 172:10 174:7 180:6 181:14 186:1 187:15,19,21 192:3,3 194:14 194:25 195:14 196:6,15,23 197:13,22 198:2 198:10 199:12 199:21 204:16 206:4 213:14 226:11 | Curran (4) 171:20 178:12 178:19,20 |
| comprehensive ... 221:24 | consider (2) 225:24 227:1 | continues (1) 214:26 | couple (3) 194:16 | current (10) 183:20 184:12 185:10,16 210:5 212:7,16 221:11 222:22,24 |
| computer (1) 186:21 | considerable (1) 184:15 | continuing (1) 214:4 | | currently (5) 193:4 210:14 220:9,10 225:13 |
| con (1) 185:1 | considerably (1) 184:26 | continuous (1) 191:19 | | <hr/> |
| | considered (4) 204:1 209:22 212:3,15 | continuously (1) 193:24 | | D |
| | | contractor (1) | | D (2) 171:5,10 Dahl (3) 172:18 215:5,6 data (3) 176:15 |

| | | | | |
|--|--|--|--|--|
| 177:3 224:3 date (2) 207:5 218:1 dated (3) 188:7 190:5 228:8 day (7) 179:13,18 179:21,23,26 223:25 228:9 Daylight (1) 204:6 deal (1) 223:5 dealing (1) 216:20 dealt (2) 217:18 217:26 decided (1) 204:2 decides (1) 197:18 decision (16) 183:22 184:8 189:22 190:1,24 191:2,5,6 203:15 208:1,11 211:17 212:7 220:2,6 227:8 decisions (3) 189:13 202:16 203:9 deferred (1) 175:6 definitely (2) 180:3 216:19 delay (1) 205:20 delays (1) 220:5 delegated (1) 209:14 deliberate (1) 208:16 delivering (1) 219:1 department (8) 172:4 186:26 212:17 213:21 214:2,26 221:11 221:14 department's (1) 214:16 dependent (1) | 192:20 describe (4) 210:18,19,20 212:7 described (2) 176:22 192:6 Description (1) 168:3 design (1) 225:4 designated (1) 209:9 Despite (1) 187:19 detailed (3) 188:20 192:11 201:9 details (1) 204:14 determination (4) 189:25 200:6,10 209:25 determine (4) 176:15 200:1 202:25 223:2 determining (1) 191:2 develop (1) 225:25 development (40) 168:12,18,21,24 168:25 169:3,6 169:8,16 171:18 171:21 172:9 174:24 175:22 180:12 181:2 183:3,26 184:5 184:17 185:14 186:16 187:1,5 194:18,22,23 198:21 200:22 202:4 203:24 204:12,22 213:12 219:22 220:13 223:16 223:18,19 225:18 Development's ... | 219:26 Developments (1) 180:17 DFO's (1) 212:22 dialogue (3) 216:12 217:15 217:19 differentiation ... 184:21 difficulties (1) 196:18 difficulty (1) 198:12 direct (1) 223:12 direction (6) 190:4 200:4 204:18,26 208:2 208:24 directly (3) 191:24,26 196:24 Director (2) 171:20 172:4 Directors (1) 172:3 directs (2) 204:3 221:2 disagree (1) 177:4 disappointment... 183:2 discharge (8) 209:26 210:10 215:11 222:4,6 222:16,17,20 discounting (8) 188:4,11 189:1 189:12,21 191:25 192:15 193:4 discuss (1) 193:20 discussion (7) 192:3 202:8,22 203:3,6,7,13 discussions (4) 193:16 202:11 209:1 215:10 | disrespect (1) 214:3 disruptive (1) 191:9 document (7) 177:18 178:9,25 179:1,12 190:5 190:6 doing (1) 214:2 domestic (1) 179:20 double-bonding... 185:15 209:1 Dr (1) 172:6 draft (1) 209:21 drawings (1) 212:3 draws (2) 190:3 201:6 drier (1) 176:19 dry-year (1) 176:17 due (3) 177:3 220:4 225:11 dust (5) 179:7,15 179:22 223:25 224:5 <hr/> E <hr/> E (3) 171:17 172:3 179:6 earlier (3) 202:7 219:21 226:26 early (12) 183:11 183:17 184:3 211:24 212:14 213:5,8 216:9 216:15,22 225:5 226:1 Ecosystem (1) 221:16 Effect (1) 210:25 effective (1) 194:2 effects (8) 177:5 209:16,18,22,23 210:16 215:12 226:1 | efficient (1) 215:18 effluent (9) 210:2 210:3,8,10 222:4,6,8,11,17 effort (1) 184:15 efforts (2) 184:19 212:26 either (3) 193:15 197:24 206:21 elders (1) 226:14 electronic (3) 205:12 206:15 229:7 emphasize (2) 177:15 178:3 employed (1) 217:12 encountered (1) 220:5 encourage (2) 217:24,25 encouraged (1) 174:14 endless (1) 198:13 enforcement (1) 211:18 engage (3) 198:14 202:15 211:6 Engineer (1) 172:11 engineering (1) 225:8 enjoy (1) 215:24 ensure (16) 205:23 207:1,4 207:17 208:22 209:20 210:26 211:18 212:1,6 216:6 217:13 222:8,20 225:7 225:9 entered (3) 174:10,12 229:1 entertain (5) 182:1,9 189:4 |
|--|--|--|--|--|

| | | | | |
|--|--|---|--|---|
| 193:22 203:2 entirely (1) 192:19 entitled (1) 178:25 environment (17) 169:18 171:19 172:17 215:3,4 215:6,7,9,13,15 222:5,10,14,16 222:19 224:13 226:9 environmental ... 171:22,23 172:18 176:12 176:22 210:24 212:19 215:12 215:13 221:15 224:3,4 envisioned (1) 216:16 equals (1) 179:25 Erik (2) 182:23 186:10 erode (1) 194:6 ERP (1) 216:16 error (1) 205:21 especially (1) 226:7 essentially (4) 181:8 205:19 208:15 213:26 establish (1) 208:21 established (3) 189:3 209:9 223:9 establishing (1) 189:23 establishment (1) 203:4 estimate (3) 184:11,13,26 estimated (1) 184:25 estimates (4) | 178:4 184:16 193:19 214:20 evaluate (1) 210:20 event (1) 221:18 events (1) 194:4 everybody (1) 203:25 evidence (27) 183:20 187:2,26 188:9,17,18,20 188:25 189:7,9 189:20 192:11 192:25 193:1,10 200:7 201:1,3 201:13,19,22 204:21 205:2 220:14 221:3 224:4 225:18 exact (1) 192:8 example (2) 193:21 212:11 exception (1) 208:19 excerpt (2) 182:11 204:20 exemplify (1) 190:2 exhibit (14) 170:2 174:8,9,10,13 174:15,17,18 185:23 205:12 205:12 206:9,15 229:7 EXHIBITS (1) 229:1 existing (6) 179:2 189:24 222:1,3 222:12 225:14 expand (1) 212:12 expect (1) 206:13 expectation (2) 198:19 199:6 expected (1) 197:6 expecting (2) | 216:24,25 expedite (2) 181:10 182:1 expert (3) 176:6,6 222:5 express (3) 183:1 187:11 218:4 extended (3) 191:19,23 203:26 extension (2) 193:22,23 extent (2) 182:4 225:4 <hr/> F <hr/> F (2) 210:5 222:12 facilitate (1) 213:7 facilities (1) 215:19 fact (7) 181:24 196:16 201:4 203:2 217:11 221:26 222:13 facts (1) 193:16 factual (2) 183:19 188:23 fair (1) 198:16 fairness (3) 186:6 192:16 200:8 fashion (1) 193:14 February (1) 190:6 federal (1) 219:14 feedback (2) 198:14,17 feel (2) 176:25 202:22 field (6) 177:16 177:19 178:3,7 225:8,9 file (7) 174:15 185:23 201:20 202:14 203:12 206:9 212:11 filed (6) 183:19 | 187:4,14 205:4 206:1 211:23 filing (3) 196:2 197:7 199:14 final (12) 182:12 185:4 187:3 189:25 191:2 195:11 199:23 203:9 207:16 208:11 219:2,5 finalized (4) 181:20 182:7 186:8 204:20 Finally (2) 193:12 214:25 financial (2) 190:20 208:17 finds (1) 194:8 fine (2) 177:17 186:11 first (7) 175:17 179:3 195:2 216:14,14,23 221:6 fish (3) 222:9,21 224:9 fish-bearing (1) 212:20 Fisheries (4) 212:18 221:12 221:14 222:8 five (1) 208:14 five-minute (1) 218:24 flexibility (2) 223:2 224:1 flow (1) 224:8 flows (3) 176:15 176:17,18 focus (2) 201:6 203:13 follow (3) 175:9 175:13,14 follow-up (3) 181:25 196:26 206:12 | following (8) 188:13 190:3,25 191:14 192:2 204:2 208:8 221:5 font (1) 186:22 foregoing (3) 192:2,5 228:3 form (5) 177:5 181:25 182:7,12 206:1 formal (3) 174:12 174:15,17 formally (2) 185:6 206:22 Forte (1) 172:12 forward (10) 177:14 202:24 209:20 211:25 213:2 214:4,22 215:10,25 225:21 forwards (1) 185:16 found (1) 220:20 Francis (2) 173:8 226:13 frankly (3) 197:4 198:13 202:23 friend (1) 200:26 frustration (2) 196:18 198:15 fulfilled (1) 189:26 full (4) 181:11 185:19 213:4 225:4 fully (2) 184:18 227:1 function (1) 189:26 further (32) 168:10 169:1,4 175:3,7,21 178:12 189:6,22 192:13,22 193:7 |
|--|--|---|--|---|

| | | | | |
|--|---|--|---|---|
| 193:19 194:6 197:24 198:3 199:2,14 200:6 200:7,20 202:2 204:18,25 205:2 206:12 208:5 210:14 215:10 219:19 222:10 225:17 furthermore (4) 176:26 192:10 194:3 212:17 future (4) 212:1 223:3 224:23 225:2 | 217:19,21,24,25 grand (1) 179:23 granted (1) 223:25 grateful (1) 217:11 great (1) 214:11 greater (2) 194:4 222:14 grounds (2) 187:7 189:10 Group (2) 215:14 222:22 guess (2) 195:2 196:24 | 181:19,21 186:12,24 187:3 187:8 191:14 192:5 193:21 195:12 196:3 201:7 202:14,16 202:20 203:5 204:1,3 206:10 206:13 207:2,24 208:4,6 212:26 213:1 214:10,14 219:18,19 220:23 226:7,15 226:19,24 227:6 229:2 hearings (16) 185:7 187:10,12 187:16 188:21 193:8,13,15,26 202:9,26 207:16 207:26 208:10 213:2 219:10 hears (1) 216:13 height (1) 224:24 held (8) 167:14 188:2 190:22 191:4,23 193:16 204:10 207:3 help (1) 180:3 helpful (2) 200:12 220:19 highlight (1) 221:5 highly (1) 191:9 Hohnstein (1) 171:10 hold (1) 212:26 holds (2) 191:20 209:8 home (1) 210:18 hope (1) 179:26 hospitality (2) 215:24 226:17 hosting (1) 219:10 hour (1) 201:15 HTO (4) 206:22 | 207:8,8 218:15 human (1) 224:13 Hunters (2) 218:15 219:13 hydro (3) 176:8,9 176:26 hydrological (3) 176:3 177:2,2 hydrology (1) 178:4 | 211:5,17 in-person (2) 180:14 181:18 inappropriate (1) 183:25 include (4) 190:22 210:10 216:9,17 included (7) 176:4 178:1 183:10,16 220:26 223:20 225:23 including (5) 190:25 208:23 213:19,22 225:23 Income (1) 217:22 incorporated (1) 223:10 incorrect (1) 184:14 increase (2) 182:25 212:12 increasing (1) 212:13 incurring (1) 187:12 Index (1) 170:2 indicated (7) 174:21 213:23 219:21 220:24 221:7 222:10 227:6 indicates (1) 185:19 indication (1) 198:17 industrial (1) 179:20 inevitably (1) 225:6 information (26) 174:25 177:12 181:23 183:3 184:9,20 185:3 |
| G | H | | I | |
| gather (1) 218:24 general (2) 184:2 188:21 generally (3) 200:14 220:25 221:2 give (5) 179:9 185:4 199:23 201:24 202:10 given (6) 181:22 193:8 221:3,24 222:13 224:19 giving (1) 174:22 go (7) 176:8 178:17 180:26 186:13 194:4 195:19 219:6 going (7) 174:15 176:10 181:5 186:20 199:5 200:11 201:25 good (5) 174:3 182:23 195:13 201:7 216:19 good-standing (1) 185:20 Government (10) 195:14 196:15 197:13 198:2 199:12 213:14 | habitat (1) 224:9 half-formed (1) 201:4 hamlet (15) 169:10,20 172:22 206:21 206:24 207:1,3 216:2,3,6,10,13 216:13 226:10 226:16 hand (2) 192:24 193:19 handful (1) 208:15 happens (1) 226:21 happy (1) 180:3 harm (1) 224:6 he'll (1) 185:21 health (3) 171:18 203:26 224:13 hear (2) 194:16 203:7 heard (5) 181:7 186:5 197:2 198:15 221:20 hearing (44) 167:8,14 171:4 174:17 175:6 180:14,15 | | ice (1) 217:7 IDA (1) 217:25 idea (4) 201:7,14 201:16 217:9 ideal (1) 215:22 identified (1) 221:18 Ikkutisluk (1) 171:13 immediately (3) 187:20 189:8 192:7 Impact (1) 218:5 impacted (1) 191:24 impacts (1) 210:21 implement (1) 176:25 implementation... 215:11 importance (3) 177:15 178:3 181:22 important (6) 178:5,7,8 200:25 218:26 226:7 impose (1) 225:12 imprecise (1) 193:2 impress (1) 211:12 improved (2) | |

| | | | | |
|---|--|--|--|--|
| 195:4,5,7,10,15 195:16 196:17 197:5 198:19,20 200:1 207:5,21 214:17 223:22 226:25,26 227:3 227:5 informed (5) 210:22 216:7,26 218:2,9 infrastructure (1) 221:20 initial (1) 192:20 Inlet (23) 167:15 169:10,20 172:22 186:24 206:24 210:1,3 210:11 214:10 214:13 215:12 216:2,3,10,11 216:22 217:8 218:9 219:10 226:10,12,16 Inlet's (2) 207:3 215:24 inspect (1) 176:13 inspection (1) 176:21 Inspector's (1) 208:23 instances (1) 211:4 instrument (1) 205:26 intended (1) 195:18 intent (1) 214:2 intention (1) 177:1 interest (2) 183:21 192:16 interested (1) 226:20 interfere (1) 191:15 internal (1) | 189:21 interpreters (2) 214:12 226:11 INTERPRETE... 173:1 intervenor (2) 202:17 204:8 intervenors (4) 172:1 214:23 215:16 226:8 intervention (1) 211:15 introduce (2) 187:2 208:3 introduced (1) 188:9 Inuaraq (5) 172:3 172:23 206:25 216:4 227:10 Inuit (28) 168:19 169:4,12 172:2 180:23 182:15 185:18 186:2,15 198:25 199:24 200:16 202:2 204:9 205:3,6 206:18 207:12 209:2,4,7,9,14 214:19 219:12 221:21 226:9 229:10 Inuit-owned (2) 184:22 209:8 Inuktitut (3) 173:2,3,4 investigations (1) 177:2 involve (1) 213:6 involved (2) 213:21 216:25 IOL (1) 209:5 Iron (20) 168:10 168:13,16 169:1 169:22 171:15 175:21 178:18 180:20 181:1 | 200:20 204:8 206:17 217:19 217:20 218:1,17 218:18 226:8 229:9 Irrevocable (2) 206:16 229:8 issuance (2) 209:19 220:24 issue (13) 183:5 185:15 186:4 189:11 195:12 198:22 204:9 208:11 214:5 220:13,14,15 225:25 issued (2) 188:12 190:4 Issued-for-Con... 212:3 issues (6) 183:13 184:2 207:20 213:1 214:23 215:8 issuing (1) 205:22 item (6) 179:6 209:26 210:5,12 211:11 222:12 items (3) 208:5,15 220:22 J J (3) 171:22 172:6 173:6 James (1) 175:24 Jim (3) 177:11,25 178:11 joined (1) 175:6 joining (1) 195:1 joint (2) 190:15 190:20 Joseph (3) 171:11 178:22 180:1 Julie (3) 226:13 228:3,14 July (1) 201:12 June (1) 184:8 | jurisdiction (1) 188:3 K Kabloona (1) 171:4 keep (11) 178:7 180:13,22 196:12 197:3,18 199:1 203:20 204:1 226:24 227:2 keeping (4) 175:3 186:4 196:19 198:24 kept (10) 178:5,9 197:16 198:6 199:18 200:3 201:21 207:1,4 216:26 Knight (2) 177:13 177:26 know (9) 174:21 181:7 198:18 199:3 200:13 205:14 214:17 216:18 226:21 Kogvik (3) 171:12 173:2 226:11 Kowbel (8) 171:16 181:4,4 182:18 200:23 200:24 218:19 218:20 KP (2) 176:4,6 L land (6) 184:10 184:21 190:17 209:10,15 216:21 landowner (2) 208:21 223:11 lands (3) 184:22 184:22 209:8 language (9) 186:18 194:9 | 203:18 207:13 213:8,9 215:2 222:25,26 large (1) 217:23 larger (3) 216:25 217:2 222:14 late (3) 196:17 208:26 213:19 lease (1) 191:22 led (1) 203:4 left (3) 174:20,20 191:18 legal (25) 171:9 171:16 172:10 174:7 180:6 181:14 185:26 187:13 192:3 194:14,25 195:14 196:5,14 196:22 197:12 197:22 198:1,10 199:11,21 204:16 206:4 213:13 226:10 legislative (2) 209:11,13 length (1) 204:25 letter (8) 185:17 205:4,22,26 206:16 217:20 217:26 229:8 level (1) 203:3 liable (2) 209:5,6 license (55) 167:8 175:1 178:24,26 179:2,25 185:10 186:25 188:5,5 188:12,26 189:5 189:11,24 191:21,25 192:12,15 193:5 194:1 203:13 204:4,10 209:19 210:6,11 211:16 211:18,22,23 212:4,6,16 |
|---|--|--|--|--|

| | | | | |
|--|--|--|--|---|
| 213:25 214:1 215:1 216:17 219:11 220:3,25 221:7 222:1,23 222:24 223:5,16 223:21,23 225:14,14,16,23 225:25 229:2 licensed (1) 224:16 licensee (5) 189:15 191:10 191:17,21 192:1 licensee's (1) 186:24 Licensing (1) 171:13 life (2) 210:4,9 light (3) 190:18 196:16 225:10 limitations (1) 187:19 limited (1) 187:17 list (1) 174:17 listed (1) 210:4 listening (1) 213:19 literally (1) 201:15 long (3) 177:17,17 178:9 longer (1) 192:17 look (5) 176:7 213:2 214:4,21 215:25 looking (1) 175:25 looks (2) 209:20 215:10 loop (3) 198:14,17 207:1 lot (5) 201:12 206:26 214:19 216:17 222:14 low-flow (1) 177:17 | <hr/> M <hr/> M (2) 172:18 173:4 Macdonald (4) 173:6 226:13 228:3,14 Madsen (8) 171:17 181:5 182:23,24 186:10,10 219:4 219:8 main (1) 217:5 maintenance (1) 224:2 Major (1) 172:5 majority (2) 210:13 216:21 making (2) 207:3 215:19 manage (1) 212:24 management (11) 172:12 194:2,8 210:19,23 211:1 211:5 221:16,17 221:25 225:22 Manager (2) 171:22 172:14 mandate (1) 212:10 manner (1) 195:23 March (1) 177:4 Marine (1) 215:13 Mark (1) 215:6 marked (2) 174:9 174:11 Mary (3) 172:14 194:7 213:3 material (2) 188:10 207:18 materials (5) 175:15 183:18 187:13 202:14 207:23 | matter (7) 174:4 190:2 198:18 204:19 206:14 222:6 227:7 matters (9) 185:5 191:11 193:14 193:20 202:19 208:1,8 221:5 225:20 mayor (1) 216:8 Meadows (27) 171:9 174:6,7 180:5,6 181:13 181:14 185:26 185:26 194:13 194:14,24,25 196:5,5,22,22 197:21,22 198:9 198:10 199:20 199:21 204:15 204:16 206:3,4 mean (4) 176:16 176:18 182:20 195:21 meant (1) 203:8 measurements (...) 177:19 178:7 measures (1) 210:19 meet (1) 222:7 meeting (2) 183:15 215:18 meetings (1) 193:18 Member (2) 171:5,6 members (3) 209:7 226:10,14 mentioned (1) 190:8 method (1) 212:5 metres (6) 179:13 179:18,21,23,25 223:24 microphone (4) 175:11 177:22 | 194:19 195:1 midst (1) 187:10 Millard (6) 171:22 175:6,23 175:24 178:11 178:11 Milne (5) 210:1,3 210:10 215:12 222:7 mind (2) 182:16 208:7 mine (4) 217:12 217:19 222:12 223:20 Mines (19) 168:10 168:13,16 169:2 169:22 171:15 175:21 178:18 180:20 181:1 200:20 204:8 206:17 217:21 218:1,17,18 226:8 229:9 minimum (1) 192:17 Minister (2) 188:10,13 mitigate (2) 212:5 225:26 mixing (1) 222:15 modifications (2) 189:4 224:15 modify (1) 189:10 moment (2) 201:24,25 Monday (5) 182:7 182:14 204:5,19 204:26 monitored (1) 210:18 monitoring (17) 177:6 209:17,18 209:22,23 210:12,15,17,25 215:11,12 221:6 221:8,11,13,24 | 225:22 months (1) 205:23 Morgan (10) 172:11 177:10 177:10,23,24 213:15 214:7,8 214:8 226:12 morning (8) 174:3,23 180:19 181:7 182:23 195:13 196:1 219:21 motion (28) 168:17,20,24 169:2,5,7 180:9 180:10,13,13,19 180:21 181:1,6 186:15 187:2,7 187:24 194:22 196:12 197:3,4 200:21 202:3,21 203:19,23 204:1 motions (2) 187:18,20 Mountain (1) 204:6 move (2) 177:21 207:10 moving (3) 185:14 211:25 220:18 Mrazek (1) 171:6 Muscatti (13) 172:10 195:13 195:14 196:14 196:14 197:12 197:12 198:1,1 199:11,11 213:13,13 |
| | | | | <hr/> N <hr/> narrowing (1) 208:14 nature (1) 202:21 necessary (7) 176:15 222:3,11 |

| | | | | |
|---|---|---|---|--|
| 223:3,19 225:6 225:9 need (8) 199:3,5 202:8 203:7 207:25,26 208:20 217:15 needed (1) 225:10 needs (2) 186:5 217:14 never (1) 208:2 nevertheless (1) 187:23 new (15) 178:23 179:6 183:3 185:3 187:2,26 193:1 201:3,14 208:3 213:26 216:16 217:17 217:17 225:18 night (1) 186:21 non-fish-bearin... 212:21 normal (2) 181:17 224:25 normally (2) 181:16,19 north (1) 224:25 Northern (40) 168:11,18,21,23 168:25 169:3,6 169:8,16 172:9 174:24 175:22 180:12,16 181:2 183:2,26 184:5 184:17 185:2,14 186:16,26 187:5 194:18,22,23 198:21 200:22 202:3 203:23 204:11,22 213:11 219:22 219:26 220:12 220:16 223:15 225:18 note (3) 174:19 194:3 227:9 | noted (2) 183:12 211:14 notes (6) 174:10 184:10 188:15 195:18 224:16 228:6 notice (2) 192:4 206:7 notification (1) 182:13 November (1) 209:21 number (11) 174:9 179:10,11 208:1,5,17 209:16 210:12 211:11 212:12 229:5 numbers (2) 179:4 182:4 Nunavut (56) 167:7,15 168:7 168:22 169:25 171:3,8 174:2,7 177:3,7 180:6 181:14 186:1,23 187:22,23 190:4 194:8,14,21,25 196:6,23 197:22 198:10 199:21 204:16 206:4 207:17 208:2,9 208:10 209:10 209:15,24 210:9 211:12,19,25,26 212:10,23 216:18 217:14 217:20,21,24,25 218:4,5,5,7 220:5 226:4 229:1 NWB (1) 226:10 <hr/> O <hr/> O (1) 171:20 object (3) 196:19 197:3,6 | objections (1) 193:3 objects (1) 187:17 obtain (1) 195:22 obvious (1) 187:19 obviously (1) 184:19 ocean (1) 222:14 Oceans' (3) 212:18 221:12 221:14 offer (1) 208:8 office (1) 205:19 official (3) 195:23 213:3 228:15 Oh (1) 175:26 Oliver (3) 178:12 178:20 180:2 once (4) 192:23 205:9,10 219:18 ongoing (2) 176:14 225:8 onus (1) 200:14 Ootoova (1) 172:7 open (21) 175:3 180:13,22 186:4 191:18 196:12 196:19 197:3,16 197:19 198:6,24 199:1,18 200:3 201:21 203:20 204:1,5 226:24 227:2 opening (3) 168:7 174:2 207:15 operable (1) 225:7 operating (1) 224:25 operation (7) 179:4,11 211:2 213:7 221:19 224:2 225:9 operational (2) 224:1 225:10 | operations (2) 179:19,25 opinion (4) 211:15,21 212:9 212:21 opportunity (8) 174:22 182:1 187:17 202:10 202:25 203:14 218:3 226:6 oppose (1) 201:18 opposed (1) 187:7 option (1) 215:23 oral (6) 181:8,25 188:24 195:20 197:1 204:21 order (1) 185:20 ordered (2) 187:14 192:13 ore (6) 210:1,3,11 212:13 217:6 222:13 organization (3) 209:9,15 218:16 organizations (2) 209:2,4 organizing (2) 214:10 215:18 original (4) 176:5 206:1 211:22 225:3 outset (1) 181:6 outside (6) 191:7 191:8 202:23 212:3,15 222:1 outstanding (3) 205:23 220:21 226:17 overbonded (1) 220:10 overbonding (1) 209:3 <hr/> P <hr/> page (5) 168:3 176:3,9 182:3 229:5 | pages (3) 182:5 204:24 228:4 Panel (4) 203:19 203:26 204:3 227:7 parameters (1) 222:22 part (13) 177:5,18 179:6 205:7 210:5 211:22 217:7 222:12 223:22,22 224:18,25 225:2 partially (1) 212:19 participant (1) 183:8 participants (1) 220:23 participated (3) 184:18 201:10 226:6 participating (2) 193:13 215:21 participation (3) 215:17 219:11 226:15 particular (2) 199:24 208:19 parties (39) 174:13,21,22 180:9,16,18 182:10,10,14 187:14 190:25 190:26 195:23 196:20 197:2,9 198:7,15,16,23 198:24 199:9,15 199:17 200:10 202:15 204:26 205:13 206:6 213:1,18 214:3 214:4,5 219:14 220:20 223:7 226:20,24 party (1) 187:1 |
|---|---|---|---|--|

| | | | | |
|---|---|---|---|--|
| patience (1) 214:15 | Planning (3) 218:5,7 220:6 | 211:13,20,26 222:16 225:24 | 175:26 177:14 178:2 181:26 207:15 | 210:20 211:24 213:22,24 214:21 217:8,15 217:17 218:9 219:11,16 224:26 |
| people (7) 202:12 205:23 214:13 216:21 217:6,8 217:12 | plans (9) 210:17 210:23,26 211:5 211:8 212:11 221:22,25 225:22 | positions (3) 201:14 208:3,4 | presentations (1) 207:24 | |
| percent (2) 184:12 224:7 | please (8) 177:22 178:17 180:26 182:16,22 186:13 219:6 227:10 | possible (1) 214:24 | presented (8) 188:21 195:11 205:25 207:18 208:9 212:2 221:10 224:3 | processes (5) 183:13 184:18 212:24 213:6 223:9 |
| period (2) 191:13 191:19 | | possibly (2) 188:2 192:17 | presenting (1) 207:19 | Productions (1) 226:13 |
| periods (1) 177:17 | plus (1) 179:15 | posted (4) 185:17 205:10 206:8 220:3 | preserve (1) 195:9 | program (7) 177:5,6 209:17 209:18,22,23 210:17 |
| permit (2) 191:21 223:1 | PM (1) 204:5 | potential (4) 210:20 212:5 222:15 225:26 | President (1) 171:17 | progress (2) 175:7 224:20 |
| persons (1) 226:21 | point (14) 175:4 180:24 182:3 189:7 195:17 197:6 199:9,24 199:25 200:4,12 201:6 207:22 223:13 | potentially (2) 175:3 195:9 | primarily (1) 181:24 | progressively (1) 207:26 |
| perspective (1) 193:17 | policy (5) 183:22 184:2 188:8 189:20 193:2 | Potter (1) 171:23 | primitive (1) 191:22 | project (14) 172:11,14 194:2 194:7 213:4,8 216:14,14 217:2 217:23 219:25 223:17,19 224:18 |
| phase (18) 179:3 179:5,10,14,17 179:19 183:12 183:17 184:3 211:24 212:14 213:5,8 216:10 216:15,23 225:5 226:1 | Pond (21) 167:15 169:10,20 172:22 186:24 206:24 207:3 214:10,13 215:24 216:2,3 216:10,11,22 217:8 218:9 219:10 226:10 226:12,16 | PowerPoint (1) 181:26 | prior (4) 187:9,15 202:15 207:24 | Projects (1) 172:5 |
| phases (1) 211:2 | | practice (1) 181:17 | privately (1) 191:3 | proper (1) 203:11 |
| phone (2) 215:21 215:22 | | prayer (2) 227:10 227:11 | problems (1) 221:18 | properly (2) 187:13 189:13 |
| PIDO (1) 226:13 | | pre-hearing (2) 203:1,3 | procedural (6) 174:4 184:15 191:11 192:16 200:8 201:16 | Proponent (3) 210:13 212:11 215:16 |
| Piesold (2) 177:13 177:26 | population (1) 216:22 | prefer (2) 174:12 207:6 | procedures (1) 189:24 | proposal (2) 213:5 215:9 |
| place (2) 203:6 223:12 | Port (2) 210:1 222:7 | preferences (1) 189:21 | proceeding (2) 174:13 205:8 | proposed (8) 190:10,14,19,20 210:2,4 224:5 225:23 |
| placed (3) 177:7 185:10,23 | portion (7) 180:14 181:10 181:18 182:2,4 182:11 187:21 | prejudicial (2) 191:9,16 | proceedings (8) 174:1,16 183:7 200:9 207:2 221:4 227:13 228:5 | protect (1) 177:16 |
| placing (1) 183:21 | position (14) 185:4,6 189:3,9 190:1,2 201:8 208:25 210:2 | prepare (3) 207:26 212:26 216:6 | process (22) 183:9,10,20 184:1 185:9 188:11 197:1 201:9,11 203:8 | protection (4) 210:24 212:19 221:15 224:12 |
| plan (13) 184:9 190:11 196:2 197:15 210:24 210:25 211:7 214:20 220:11 221:15,16 223:20,21 | | preparing (1) 208:11 | | protective (2) 210:3,8 |
| planned (2) 217:6 220:8 | | present (3) 179:1 203:14 206:23 | | |
| | | presentation (9) 175:8,12,15,17 | | |

| | | | | |
|--|--|--|---|--|
| provide (27) 180:20,23 182:7 182:9,13 185:16 186:3 192:7,11 192:22 193:9 195:17,22,24 196:16,20 198:4 200:15 204:13 204:25 205:9,15 205:18 211:6 220:14 222:5 223:26 | 203:20 204:6 212:13 223:25 purposes (2) 200:3 208:22 pursuant (2) 189:23 191:22 pursued (1) 190:26 put (2) 200:14 225:21 | 209:21 210:13 210:16 211:14 212:21 Qikiqtani (23) 168:19 169:4,12 172:2 180:23 182:15 185:17 186:2,15 198:25 199:24 200:15 202:2 204:9 205:3,5 206:18 207:12 214:18 219:12 221:21 226:9 229:10 quality (5) 172:20 210:2,8 215:11 225:26 quanta (1) 178:13 quantity (1) 226:1 quantum (12) 174:26 178:22 179:12 182:25 183:5 188:1 195:5,12 204:10 220:2 223:19 226:25 question (10) 175:2 178:13,21 179:26 188:15 195:2 196:9,24 197:25 199:4 questions (9) 168:10,22 175:7 175:21 188:22 194:16,19,21 219:23 quite (4) 197:3 198:13 201:12 202:22 quote (1) 190:6 | raised (6) 183:12 202:19 204:11 213:1 215:8 218:26 raises (1) 196:8 range (1) 221:17 read (7) 176:10 176:10,11 186:20,22 190:7 195:15 ready (1) 219:4 realize (1) 215:21 really (4) 177:15 197:7 199:3 218:1 reason (5) 193:19 201:5,6 205:20 217:5 reasonable (4) 188:23 189:10 190:11 191:13 reasonableness ... 189:2 reasons (3) 201:16 211:17 212:7 recall (1) 180:9 recalls (1) 180:8 receive (4) 178:6 206:6,7 226:24 received (9) 187:8 191:3 200:5 206:8 214:12 218:2 226:23 227:3,5 receives (1) 192:24 receiving (2) 204:7 222:13 reclamation (7) 183:11,15 184:12 190:18 190:23 191:4 223:20 recognize (2) 219:17 221:21 | recognized (1) 217:14 recognizing (1) 199:26 recommendatio... 176:25 210:16 recommendatio... 188:14 207:4 208:12 211:7 recommended (1) 176:12 record (38) 174:17,18 175:3 176:11 178:6 180:13,22 186:4 187:11 191:12 195:16,19,20 196:12,19 197:3 197:16,18,18 198:6,24 199:1 199:18 200:2,3 201:21 203:20 204:1,3 205:7,7 206:10 213:3 219:18,20 226:24 227:2,6 recorder (1) 214:12 reduce (2) 208:1,5 reduction (1) 220:7 refer (3) 176:3,14 178:24 reference (3) 178:1 190:3 223:17 references (1) 184:7 referring (3) 177:12,26 218:11 reflect (3) 188:7 193:1 223:6 reflected (1) 225:12 reflects (1) 190:17 |
| provided (25) 174:25 177:13 180:11 181:23 181:24 184:20 184:23 185:3 188:17 189:8,19 193:10 195:4,20 196:11 197:5 198:20,21 199:8 199:16 204:21 205:2,3,10 213:20 provides (6) 183:3 189:10 200:4 213:15 221:17 224:4 providing (13) 182:14 195:6,8 195:17 196:25 197:9,15,17,24 198:2,5 202:12 205:6 Province (1) 228:8 public (18) 167:8 180:14,15 181:19,20 182:12,13 183:21 205:7,7 205:11 206:8,10 206:13 214:10 216:7 218:2 229:2 purpose (4) | Q QIA (96) 181:11 186:19 187:7,11 187:17,20 188:6 188:15,19,22 189:1,7,13,16 189:18,22 190:3 190:15,21 191:3 191:6,9,11,15 191:20,24 192:2 192:6,10,16,22 192:26 193:7,12 193:19,25 194:3 194:5,5,8 196:1 196:10 201:19 201:21 202:1,6 202:16 205:17 206:1 207:11,14 207:16,19,19,20 207:22,25 208:7 208:9,10,19,25 209:2,4,6,8,11 209:14,17,20,23 210:7,9,25 211:4,5,8,9,11 211:15,19,26 212:9,25 213:4 213:23 216:6,12 216:19,24,26 217:13 218:11 221:7 223:1 227:4 QIA's (12) 189:8 190:2 192:20 193:17 207:15 207:23 208:3 | R R (2) 171:6,13 railway (2) 224:18 225:5 raise (2) 183:5 184:1 | | |

| | | | | |
|---------------------------|---------------------------|----------------------------|-----------------------------|---------------------------|
| regard (1) 222:24 | 178:10 | 202:10,13 203:2 | reserving (1) | resulted (2) |
| regarding (9) | remaining (2) | representative (2) | 199:2 | 188:17 193:23 |
| 189:21 191:25 | 207:19 220:21 | 172:23 176:16 | residents (1) | results (1) 177:1 |
| 211:1,13 214:17 | remains (2) | representatives ... | 218:8 | resumption (1) |
| 215:10 219:25 | 177:18 213:4 | 207:9 214:18 | resolve (1) 214:23 | 192:5 |
| 221:6 224:14 | remarks (16) | represented (1) | resolved (1) | retained (1) 176:6 |
| regards (3) | 168:7 169:12,15 | 179:20 | 191:12 | revenue (12) |
| 182:25 217:21 | 169:18,20,22,25 | represents (1) | resolving (1) | 183:11,17 184:3 |
| 222:4 | 174:2 207:10,12 | 224:7 | 214:5 | 211:24 212:14 |
| region (1) 209:8 | 213:11 215:4 | request (21) | resources (1) | 213:5,8 216:10 |
| regional (1) 209:4 | 216:3 218:18 | 181:9 182:18,19 | 224:7 | 216:15,23 225:5 |
| registry (4) | 219:7 226:4 | 182:21,25 187:4 | respect (12) | 226:1 |
| 182:12,13 | remediation (1) | 188:26 189:14 | 174:23,26 | review (21) 183:9 |
| 205:11 206:9 | 209:6 | 191:17 193:10 | 180:21 186:3 | 183:16 184:19 |
| regular (1) 211:9 | remind (1) 200:26 | 193:12,22,23 | 189:26 195:4,12 | 185:9 187:18 |
| reiterate (1) | remitted (1) | 200:11 201:5,21 | 196:11 198:22 | 190:5,12 192:20 |
| 220:4 | 227:7 | 208:12 214:26 | 199:25 204:9 | 205:5 209:21 |
| reject (1) 219:26 | remove (1) | 216:9 218:23 | 206:12 | 210:26 213:22 |
| related (3) 177:2 | 174:16 | 226:23 | respective (1) | 213:24 214:21 |
| 201:11 220:10 | reopen (2) 190:1 | requested (5) | 191:1 | 215:8,17 218:5 |
| relates (1) 208:17 | 220:17 | 192:9 202:18 | respond (10) | 220:2 222:26 |
| relating (1) 188:1 | reopened (1) | 207:2 217:18 | 176:2 180:16 | 223:3,8 |
| relation (4) 184:8 | 220:13 | 223:24 | 185:6 186:6 | reviewed (3) |
| 188:11 190:4 | reopening (1) | requests (7) 183:4 | 187:20 192:18 | 187:15 188:12 |
| 213:25 | 191:6 | 192:10 208:10 | 195:25 202:18 | 221:22 |
| relationship (3) | reply (17) 174:23 | 209:24 210:9 | 202:19 213:1 | reviewing (1) |
| 191:16,26 | 175:2 195:8,10 | 217:4 224:10 | responding (5) | 208:18 |
| 216:20 | 196:10 198:24 | require (4) | 178:13 181:12 | reviews (2) 185:1 |
| relationships (1) | 199:2,5,6,9,17 | 179:22 192:17 | 182:24 199:15 | 193:15 |
| 194:7 | 200:15 201:1,3 | 208:1 224:21 | 208:23 | revised (5) 179:1 |
| relative (4) 188:3 | 201:19 203:20 | required (12) | response (13) | 179:3 185:12 |
| 189:1 193:21 | 204:7 | 178:23 190:18 | 175:6 178:21 | 193:24,24 |
| 220:10 | report (5) 177:1,3 | 192:7,11,23 | 179:9 182:17 | revising (1) |
| relaying (1) 214:1 | 177:6,8 178:1 | 200:2 211:6 | 192:23 195:24 | 222:15 |
| released (1) | reporter (4) 173:6 | 221:10,25 224:1 | 196:20 197:1,10 | revisions (2) |
| 204:19 | 204:23 226:12 | 225:13 227:1 | 198:7 199:25 | 222:2 224:24 |
| relevant (3) | 228:15 | requirement (2) | 218:2 219:23 | right (11) 195:9 |
| 183:22 207:21 | reporting (3) | 176:7 192:19 | responses (2) | 195:25 198:23 |
| 220:15 | 177:19 178:6,8 | requirements (4) | 221:3 223:14 | 199:2,5,6,17,26 |
| reliance (1) | represent (1) | 179:7 200:8 | responsibilities ... | 201:1,3,18 |
| 212:17 | 225:4 | 221:13 222:7 | 209:12,13 | risk (2) 183:21 |
| relief (1) 192:8 | representation ... | requires (1) 209:4 | responsibility (1) | 188:10 |
| relies (1) 191:20 | 187:13 192:22 | reserve (2) 195:25 | 208:22 | River (3) 172:15 |
| remain (2) 204:5 | representations... | 199:16 | responsible (2) | 194:7 213:4 |
| 223:12 | 187:26 190:25 | reserves (1) | 209:5,7 | road (27) 179:8 |
| remained (1) | 193:1 194:5 | 199:26 | result (1) 221:19 | 210:12,15 211:2 |

| | | | | |
|--|---|---|--|---|
| 211:11,13,14,16 211:20 212:1,8 212:12 221:7,9 221:26 223:26 224:1,6,12,15 224:18,19,24,25 225:2,7,11 Robin (1) 175:17 role (1) 209:14 Ruling (2) 169:7 203:23 | secured (1) 175:1 security (59) 174:10,26 182:26 183:5,9 183:11,15,16 185:9,11,20 188:2,4 189:1 189:11,21,23 190:1,5,9,12,14 190:20,24 191:2 191:4,7,20,23 191:25 192:13 192:15 193:4,15 193:18 194:8 202:25 203:3,21 204:10 205:5,25 208:17 213:22 213:24 214:6,17 214:21,23 219:20 220:2,2 222:25,25 223:3 223:5,8,9 226:25 security-cost (1) 214:20 see (5) 177:18 193:19 202:8 206:22 216:11 seeking (1) 212:11 sees (1) 216:10 Senior (1) 172:11 sent (3) 217:20,26 218:7 September (1) 176:24 seriously (1) 207:25 serve (1) 208:4 serves (1) 194:6 set (6) 188:4,11 192:15 193:4 201:9 222:22 setting (2) 186:21 213:22 shares (1) 210:7 | sharp (1) 201:6 ship (1) 217:6 shipping (2) 205:21 217:10 short (1) 192:4 shorthand (2) 228:5,6 show (2) 179:3 214:3 showing (1) 179:7 shows (1) 224:4 signals (1) 176:19 significant (1) 220:7 simple (1) 208:13 Sina (6) 195:13 196:14 197:12 198:1 199:11 213:13 site (2) 222:12 224:11 skill (1) 228:7 slide (5) 175:13 175:16,25,26 176:2 solely (2) 204:6 209:6 solution (1) 209:3 Solutions (1) 172:6 soon (2) 205:19 214:23 Sorry (1) 197:14 sort (1) 199:8 sound (3) 173:8 214:12 224:4 speak (4) 174:22 180:18 181:5 218:20 speaking (3) 174:9 178:13 195:18 Specialist (2) 171:23 172:20 specific (7) 182:3 183:23 188:18 | 193:21 200:3 219:24 221:7 specifically (3) 175:16 183:14 202:9 spoken (9) 182:6 186:18 194:10 202:20 203:18 207:13 213:8,9 215:2 Sr (1) 171:5 Staff (6) 168:22 171:8 194:21 219:15 226:10 226:18 stand (1) 181:8 standalone (1) 212:23 standards (1) 222:17 Standby (2) 206:16 229:8 start (1) 177:23 stated (3) 208:25 217:22 226:25 statement (4) 184:7,14 190:3 208:20 statements (11) 188:8,21 189:20 193:2 195:20,26 202:7 208:8 213:16,17 218:23 status (1) 191:23 step (1) 194:18 Stephen (6) 185:18 186:19 202:5 205:14,16 207:14 stockpile (3) 210:1,3,11 stockpiles (1) 222:13 stream (1) 176:17 stream-gauging... | 176:14 streams (2) 176:13,20 strenuously (1) 201:18 stress (1) 185:8 Struck (1) 174:18 subject (6) 176:20 183:23 189:6 224:15,26 225:16 submission (21) 168:16 174:23 175:11 180:17 181:1,9,12,25 185:5,6 187:10 190:15,21 197:8 204:7 207:23 208:19 211:15 213:20 214:16 219:2 submissions (66) 168:19 169:1,4 175:2,4 180:11 180:21,24 181:8 181:26 182:15 182:22 183:6 186:3,15 187:2 187:3,22 188:7 188:24 189:6,17 191:19 192:19 192:21,25 193:9 193:24 194:20 195:3,8,10 196:2,10,26,26 197:1,10,15,17 197:25 198:3,6 198:7 199:3,7 199:14,15,17 200:5,7,12,20 201:22 202:2 203:21 213:19 219:1,19,23 220:1 221:1 223:13 225:15 225:17,19 |
|--|---|---|--|---|

| | | | | |
|---------------------------|---------------------------|---------------------------|---------------------------|----------------------------|
| submit (1) 188:1 | 211:10 | tell (1) 184:24 | 180:3 185:22 | 210:15 211:2,11 |
| submits (12) | suppression (5) | Teresa (24) 174:5 | 194:17 198:16 | 211:13,16,20 |
| 188:6 189:2,7 | 179:7,15,22 | 174:7 180:6,25 | 200:25,25 201:4 | 212:1,8,12 |
| 189:13,19,22 | 223:26 224:5 | 181:14 185:26 | 201:15,17 207:8 | 221:7,9,26 |
| 191:6,11,15 | sure (3) 175:15 | 194:12,14,25 | 218:16,20 | 223:26 224:1,6 |
| 192:6,26 193:7 | 198:14 218:25 | 196:4,5,21,22 | 219:25 220:19 | 224:15,17,19 |
| submitted (2) | Surface (2) | 197:20,22 198:8 | 220:20 225:2 | 225:2 |
| 192:2 225:13 | 210:24 221:16 | 198:10 199:19 | thinking (1) 195:8 | touched (1) |
| subsequent (1) | surprise (1) | 199:21 200:18 | thinks (1) 216:13 | 218:25 |
| 185:1 | 187:18 | 204:13,16 206:4 | third (2) 179:5 | toxic (2) 222:9,21 |
| substantially (1) | surprises (1) | 206:20 | 209:26 | transcribed (1) |
| 216:16 | 200:14 | terms (7) 189:4 | thoughtful (2) | 228:6 |
| substantiating (1) | surrounding (1) | 189:10,24 195:5 | 215:16 218:22 | transcript (8) |
| 192:14 | 194:7 | 198:13 222:3 | thoughts (1) | 170:1 181:10 |
| substitute (1) | Sustainable (2) | 225:14 | 218:25 | 182:2,5 204:20 |
| 212:23 | 171:17,20 | testing (1) 222:20 | time (18) 184:6 | 204:24 228:1,4 |
| success (1) 213:3 | T | thank (69) 174:6 | 186:8 191:14,19 | transcriptionist... |
| successful (1) | T (3) 171:4,9 | 175:19,20,23,26 | 192:23 195:22 | 182:6,20 |
| 213:7 | 173:3 | 177:11,25 | 196:12,20 197:8 | transcripts (2) |
| suggest (2) 185:22 | table (12) 168:1 | 178:10,16,19 | 197:17 198:4 | 181:20 186:9 |
| 203:11 | 176:14 179:3,4 | 180:1,2,4,5,24 | 201:12,15,23 | Translator (3) |
| suggested (2) | 179:5,6,12,21 | 180:25 181:13 | 202:19 204:6 | 173:2,3,4 |
| 222:26 223:16 | 210:5 222:12,17 | 182:18,21 | 205:15 220:18 | transport (1) |
| suggestion (1) | 222:22 | 185:23,25 186:1 | timelines (2) | 212:13 |
| 224:14 | tables (1) 179:2 | 186:13 194:11 | 182:17 187:14 | Trappers (2) |
| suggestions (1) | take (5) 184:1 | 194:13,24 195:1 | timing (1) 198:13 | 218:15 219:13 |
| 188:9 | 203:6 207:20,25 | 196:6 197:21 | Titus (1) 226:11 | triggered (1) |
| summarized (1) | 209:11 | 198:9 199:20 | today (13) 184:25 | 184:3 |
| 221:15 | taken (5) 176:20 | 200:17,23 | 185:5,19,23 | True (2) 206:16 |
| summary (1) | 194:6 208:14 | 201:26 202:5 | 191:14 192:5 | 229:8 |
| 192:26 | 221:17 228:5 | 203:16,17 | 193:8 195:24 | turn (4) 174:5 |
| support (20) | takes (2) 208:19 | 204:15 205:16 | 197:16 198:3 | 180:19,22 214:6 |
| 182:14 187:3 | 226:5 | 206:2,3,11,20 | 203:16 216:11 | two (8) 179:1 |
| 188:9,20,23,25 | talk (1) 201:25 | 206:25 207:6,7 | 226:26 | 181:18 185:7 |
| 189:20 192:12 | Tax (1) 217:22 | 213:18 214:9,15 | topic (4) 202:26 | 186:5,7,11 |
| 193:10 201:13 | Team (1) 172:15 | 215:1,5,15,18 | 208:17 209:16 | 210:22 221:22 |
| 213:4 214:11,26 | technical (7) | 215:24 216:1,4 | 220:18 | type (12) 178:23 |
| 216:18 220:24 | 171:10,11 176:7 | 218:12,14,19,21 | topics (5) 208:15 | 178:25 179:2,24 |
| 220:25 224:11 | 183:15 184:15 | 219:6,8,9,15,17 | 210:23 216:17 | 203:6,7 215:1 |
| 224:12 225:5 | 211:14 214:11 | 226:2,3,6 | 218:26,26 | 220:24 222:1 |
| 226:17 | technician (2) | 227:12 | total (10) 178:22 | 225:14,16,25 |
| supported (1) | 173:8 214:13 | thanks (4) 200:18 | 179:10,10,12,16 | typical (1) 176:16 |
| 223:1 | teleconference (1) | 212:25 214:13 | 179:19,23 182:5 | U |
| supporting (2) | 190:13 | 226:16 | 190:9 217:5 | ultimate (2) |
| 181:26 194:1 | TELEPHONE ... | things (1) 208:13 | totally (1) 217:9 | 223:17,19 |
| supportive (1) | 172:17 | think (17) 178:14 | Tote (20) 210:12 | unacceptable (1) |

| | | | | |
|----------------------------|---------------------------|--------------------------|--------------------------|---------------------------|
| 194:9 | value (5) 179:15 | 200:7 | 177:16 | 175:14 |
| unavailable (1) | 179:15,16 | wasn't (1) 199:13 | waters (1) 224:6 | wishes (4) 183:1 |
| 192:4 | 205:24 224:7 | waste (1) 209:26 | way (3) 201:4 | 187:11 188:1 |
| uncertainty (1) | valued (1) 226:14 | water (95) 167:7 | 217:3,11 | 208:7 |
| 191:23 | VanGulck (1) | 168:7,22 169:25 | we'll (4) 177:18 | withdrawal (3) |
| understand (1) | 172:6 | 171:3,8 172:12 | 182:19 204:25 | 178:23 224:5,11 |
| 210:14 | various (1) | 172:20 174:2,7 | 213:24 | withdrawals (1) |
| understanding ... | 219:13 | 175:1 176:23 | we're (11) 174:14 | 176:23 |
| 174:8,11 175:5 | vary (1) 220:1 | 177:3,7 178:2 | 175:25 177:12 | withdrawn (1) |
| 181:11 195:2 | venture (3) | 178:14,22,26 | 179:5,16 180:3 | 178:14 |
| 205:1 | 202:11,12 | 179:2,24 180:6 | 198:23 205:25 | word (4) 195:5,11 |
| understands (3) | 216:17 | 181:14 184:10 | 214:1 216:20 | 199:8,23 |
| 211:8,9,19 | verbal (2) 187:26 | 184:21,26 186:1 | 219:4 | words (1) 218:12 |
| understood (2) | 192:22 | 186:23 187:22 | we've (3) 182:6 | work (14) 184:9 |
| 207:18 220:9 | verbally (1) 221:3 | 187:23 189:3 | 186:20 208:13 | 190:11,19 214:5 |
| undertake (3) | verification (2) | 190:4,17 193:22 | weather (1) | 214:19,20 |
| 210:25 221:11 | 177:16 178:3 | 194:14,21,25 | 225:11 | 219:17 220:8,11 |
| 222:19 | version (1) 186:8 | 196:6,23 197:22 | week (2) 192:17 | 223:10 224:19 |
| undertaken (1) | Vice (1) 171:17 | 198:10 199:21 | 194:4 | 224:23 225:2 |
| 216:24 | view (5) 183:25 | 204:16 205:18 | weeks (5) 181:18 | 226:18 |
| unduly (1) 191:16 | 201:17,17 | 206:4 207:17 | 185:7 186:6,7 | workable (1) |
| unfortunate (1) | 220:21 225:21 | 208:2,9,11 | 186:11 | 215:23 |
| 203:5 | visibility (1) | 209:19,24 210:5 | welcome (3) | working (7) |
| unfortunately (1) | 224:12 | 210:9,11,15,18 | 174:4 203:25 | 183:20 185:11 |
| 202:13 | vision (1) 210:7 | 210:21,24 | 214:14 | 209:20 214:22 |
| unprepared (1) | visit (1) 215:25 | 211:12,16,19,21 | well-known (1) | 215:13 216:20 |
| 201:8 | visually (1) | 211:22,23,26,26 | 215:24 | 217:15 |
| unsubstantiate... | 176:13 | 212:2,9,10,16 | went (1) 184:16 | works (1) 216:23 |
| 193:3 | volume (2) 167:16 | 212:20,21,22,24 | weren't (1) | workshops (1) |
| update (1) 211:7 | 223:24 | 212:24 214:9 | 216:26 | 209:1 |
| updated (4) | <hr/> W <hr/> | 215:1 216:18 | wet (1) 176:16 | wouldn't (1) |
| 190:14 209:19 | want (17) 174:19 | 217:8,14 218:4 | width (1) 224:24 | 197:5 |
| 209:23 211:8 | 177:15,23 178:2 | 219:11 220:25 | Williamson (9) | writing (1) 185:7 |
| upgrades (8) | 195:6,9 198:16 | 221:16 222:23 | 172:4 186:18,19 | written (20) |
| 211:13,20 | 199:1 201:20 | 222:24 223:16 | 202:5,6 205:16 | 181:25 189:6 |
| 221:26 224:2,17 | 206:26 207:4 | 223:21,23 224:5 | 205:17 207:13 | 192:7,21 193:9 |
| 224:19,22 225:5 | 214:9,15,25 | 224:7,16 225:16 | 207:14 | 196:2,25,26 |
| urges (1) 211:26 | 216:18 217:24 | 225:26 226:4 | willing (2) 182:8 | 197:8,15,17,25 |
| use (4) 179:20 | 220:4 | 229:1 | 199:7 | 198:3,5 199:14 |
| 212:24 216:21 | wanted (5) 178:24 | water-quality (2) | Wilson (1) 172:20 | 204:18,25 205:2 |
| 225:10 | 181:6,9 217:16 | 221:8,18 | winter (1) 217:9 | 221:3 223:12 |
| utilizing (1) 217:7 | 217:23 | water-related (1) | wish (6) 184:4 | <hr/> X <hr/> |
| <hr/> V <hr/> | warm (1) 214:14 | 184:11 | 185:8 215:23 | <hr/> Y <hr/> |
| vague (1) 188:9 | warnings (1) | watercourse (2) | 220:4 221:4 | year (5) 176:18,19 |
| valid (2) 188:23 | 187:9 | 211:1 224:23 | 223:13 | 177:4 214:20 |
| 218:12 | warranted (1) | watercourses (1) | wished (2) 175:13 | |

| | | | | |
|---|---|--|--|--|
| yesterday (27) 174:20,20,25 175:8,15 178:15 178:22 180:8,9 180:12,17 181:23 183:4,7 185:3 186:23 187:25 193:25 195:3,16,18,21 197:5 198:20 199:16 204:22 213:20 | 200 (1) 169:1 2012 (2) 208:26 211:23 2013 (9) 183:9 184:8,9,26 188:13 193:6 211:21 212:2 225:4 2014 (5) 183:10 184:16 185:1 209:21 229:4 2015 (30) 167:17 183:10,16 184:16 185:1 187:4 188:7 189:23,25,26 190:5,6,11,24 191:2,4,7 193:9 204:5 205:5,25 208:19 211:21 213:22 220:1,8 220:10 223:7 227:4 228:9 2015/2016 (1) 190:19 202 (1) 169:4 203 (1) 169:7 206 (2) 169:10 229:7 207 (1) 169:12 213 (1) 169:15 215 (1) 169:18 216 (1) 169:20 218 (1) 169:22 226 (1) 169:25 228 (1) 170:1 229 (1) 170:2 22nd (3) 187:4 188:7 208:18 25 (4) 179:6 204:5 222:12 227:3 2515 (1) 214:20 26 (1) 210:5 2AM-MRY132... 167:8 186:25 204:4 229:2 | 3 3 (3) 204:5 222:22 224:7 3,755 (1) 179:25 30 (1) 182:5 35 (1) 204:24 36 (1) 222:7 | | |
| Z | | 4 4 (1) 210:12 4,685.5 (1) 179:17 45,370,000 (1) 190:10 47,500,000 (1) 185:21 47,517,500 (3) 190:16 206:19 229:11 | | |
| 0 | | 5 5 (1) 211:11 | | |
| 1 | 1 (4) 167:10 208:17 222:22 229:3 1,898 (1) 179:13 10 (4) 175:26 210:5 222:12,18 11:37 (1) 227:13 11th (5) 182:8,14 190:6 201:15 204:19 12 (1) 222:22 12th (1) 184:8 166,000 (1) 190:22 171 (1) 168:5 174 (1) 168:7 175 (1) 168:10 178 (1) 168:13 17th (1) 228:9 181 (1) 168:16 186 (1) 168:19 194 (1) 168:22 | 6 6 (1) 184:12 6-percent (1) 184:25 | | |
| | | 7 7 (7) 167:17 174:9 174:18 176:3,9 176:14 229:4 7th (1) 193:9 | | |
| | | 8 87 (1) 208:24 88.5 (1) 223:24 | | |
| | | 9 9 (2) 206:15 229:7 9:12 (1) 174:1 967 (1) 179:21 | | |
| 2 2 (4) 167:16 176:4 176:10 209:16 2,785 (1) 223:24 2,788.5 (2) 179:15 179:23 | | | | |