

**BRITISH COLUMBIA UTILITIES COMMISSION**  
**IN THE MATTER OF THE UTILITIES COMMISSION ACT**  
**R.S.B.C. 1996, CHAPTER 473**

**and**

**RE: British Columbia Hydro and Power Authority**  
**Project No. 3698854**  
**W.A.C. Bennett Riprap Upgrade Project**

**Vancouver, B.C.**  
**April 18<sup>th</sup>, 2016**

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**PROCEDURAL CONFERENCE**

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**BEFORE:**

<b>D. Morton,</b>	<b>Chair</b>
<b>N. MacMurchy,</b>	<b>Commissioner</b>
<b>H. Harowitz,</b>	<b>Commissioner</b>

**VOLUME 2**

## APPEARANCES

P. MILLER	Commission Counsel
M. JONES J. AGNOLIN	British Columbia Hydro and Power Authority (BCH)
J. HICKLING M. VALLIANATOS	Saulteau First Nation (SFN)
C.P. WEAVER	Association of Major Power Consumers Commercial Energy Consumers' Association of British Columbia (CEC)
T. BRAITHWAITE	Active Support Against Poverty, B.C. Old Age Pensioners' Organization, Coalition of Senior Citizens' Organization of B.C., Disability Alliance BC, Together Against Poverty Society, and Tenants Resource and Advisory Centre (BCOAPO)

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**CAARS**

VANCOUVER, B.C.

April 25, 2016

**(PROCEEDINGS RESUMED AT 8:30 A.M.)**

THE CHAIRPERSON: Good morning. Please be seated.

Thank you. Good morning, ladies and gentlemen. My name is Dave Morton; with me are Commissioners Norm MacMurchy and Howard Harowitz. Welcome to this morning's proceeding to consider various matters related to the application to review BC Hydro's proposed W.A.C. Bennett riprap upgrade project.

Since the application was filed on November 13<sup>th</sup>, 2015, we have had an IR round, a procedural conference, followed by a second round of IRs to which BC Hydro responded on April 7<sup>th</sup>. And on April 7<sup>th</sup>, by letter A-12, the Commission requested submissions on the remainder of the regulatory process, specifically on a third round with either written or oral argument. Most parties agreed that a written hearing is appropriate. However, Saulteau First Nation submitted that it prefers an oral hearing over a written hearing, because the project application has raised complex issues that can be more effectively addressed in writing -- sorry, more effectively addressed orally.



1           their intention to file rebuttal evidence should that  
2           evidence be filed, and to all participants,  
3           submissions on the scope of IR 3, their preference for  
4           oral argument or written argument, and a proposed  
5           regulatory timetable.

6                     At this stage it's my pleasure to  
7           acknowledge and introduce a number of individuals who  
8           will play an important role in the review of the  
9           application. Joel Ronne he's the Senior Engineer and  
10          Infrastructure, is Lead Staff for the application.  
11          With him are Todd Smith and Alison Thorson. They're  
12          all seated at the front. Commission Counsel for the  
13          proceeding, Paul Miller from Boughton Law Corporation  
14          is seated with them, and the Hearing Officer is Mr.  
15          Hal Bemister.

16                    Before Mr. Miller takes over I'd like to  
17          ask you please make sure that your submissions are  
18          directed to the issues that I've just outlined,  
19          together with any other issues that you or any other  
20          participants identify when you make your appearance,  
21          and that the Panel accepts as appropriate for addition  
22          to the agenda. In identifying any additional issues,  
23          please bear in mind that it's not the purpose or the  
24          goal of this conference to compare or discuss the  
25          merits of the application but to address the issues  
26          that I've just described.



1 MS. JONES: Good morning, Commissioners. Michelle Jones  
2 on behalf of BC Hydro and Power Authority, and I have  
3 with me Jennifer Agnolin.

4 And we do not -- we believe that the issues  
5 as laid out by the Commission are adequate. We don't  
6 have any additional issues.

7 THE CHAIRPERSON: Thank you.

8 MR. MILLER: Saulteau First Nations.

9 MR. HICKLING: James Hickling for Saulteau First Nation.  
10 With me is my colleague Mary-Anne Vallianatos,  
11 V-A-L-L-I-A-N-A-T-O-S. We also don't have any  
12 additional issues for the agenda.

13 I'd just like to make the observation that  
14 the L in Saulteau is silent and the T is a little  
15 closer to a D. So it's pronounced *SO-doh*. Thank you.

16 THE CHAIRPERSON: Thank you, Mr. Hickling.

17 MR. MILLER: Commercial Energy Consumers' Association of  
18 B.C.

19 MR. WEAVER: Good morning, Mr. Chairman, members of the  
20 panel. Chris Weaver, W-E-A-F-E-R, appearing for the  
21 Commercial Energy Consumers' Association of British  
22 Columbia. And we're happy to deal with all issues in  
23 one appearance, and we have no issues to add to the  
24 agenda. Thank you.

25 THE CHAIRPERSON: Thanks, Mr. Weaver.

26 MR. MILLER: B.C. Old Age Pensioners' Organization *et al.*

1 MS. BRAITHWAITE: Good morning. My name is Tannis  
2 Braithwaite, B-R-A-I-T-H-W-A-I-T-E, appearing on  
3 behalf of the community organizations known  
4 collectively as BCOAPO *et al.* We have no issues to  
5 add to the agenda, and are content to have everything  
6 dealt with in a single round.

7 THE CHAIRPERSON: Thank you, Ms. Braithwaite.

8 MR. MILLER: That concludes the order of appearances, Mr.  
9 Chair.

10 THE CHAIRPERSON: Thank you, Mr. Miller. Please go  
11 ahead, Ms. Jones.

12 **SUBMISSIONS BY MS. JONES:**

13 MS. JONES: Thank you.

14 Admittedly I had expected Saulteau First  
15 Nation to provide their submission first on the nature  
16 of the evidence it wants to file. I will provide BC  
17 Hydro's response now, but we may have further  
18 submissions in reply, in light of what's said.

19 THE CHAIRPERSON: Sure.

20 MS. JONES: BC Hydro does not oppose allowing Saulteau  
21 First Nation to file additional evidence, provided it  
22 can be done in the timeline as proposed within the  
23 current Commission calendar. BC Hydro's understanding  
24 is that Saulteau First Nation disagrees with whether  
25 or not consultation on this project has been adequate.  
26 In assessing what the scope of consultation is, that

1 depends on the strength of Saulteau's claim and the  
2 seriousness of the impacts. In this case there is no  
3 dispute as to strength of claim. These are  
4 established Treaty 8 rights, and therefore the focus  
5 of the requisite level of consultation depends on the  
6 seriousness of the potential impacts from the project.  
7 Saulteau has already filed its traditional use study,  
8 and the joint First Nations independent technical  
9 review which sets out the potential impacts to the  
10 project from Saulteau's views.

11 **Proceeding Time 8:36 a.m. T4**

12 The second element is whether or not the  
13 consultation that has been undertaken on this project  
14 has been adequate. And in respect of that, the  
15 evidence on the record as it currently sits is from BC  
16 Hydro. As part of BC Hydro's application we included  
17 a chronology and what we understood to be relevant  
18 supporting documents covering the consultation process  
19 from when it began in December 2011 all the way until  
20 the filing which was in November. BC Hydro, on  
21 Friday, filed an evidentiary update covering the  
22 consultation that has occurred from the November date  
23 where the application left off until just this past  
24 Thursday, and the meeting that occurred between the  
25 parties on the 21<sup>st</sup>. So at present, the record as to  
26 the adequacy on the consultation process that has

1           occurred has been solely evidence from BC Hydro, and  
2           therefore we don't object to allowing Saulteau First  
3           Nation to file any additional evidence that it  
4           believes the Commission should have before it as to  
5           what has happened between the parties in terms of the  
6           consultation that's been engaged.

7                         With respect to the evidentiary update, BC  
8           Hydro has provided all of the primary documents that  
9           evidence that consultation process. So all of the  
10          emails, all of the letters, its meeting minutes, any  
11          minutes from teleconference calls, those have all been  
12          filed as of Friday. In addition, copies of those were  
13          provided in advance in March. Some of that was  
14          provided in advance in March to Saulteau First Nations  
15          after a request was made that we share our meeting  
16          minutes with them.

17                        As to the primary documents that cover the  
18          consultation process going back from 2011 until  
19          November of last year, so those would be the documents  
20          that would support the chronology as set out in the  
21          original application, BC Hydro followed the Crown  
22          consultation filing guidelines put forth by the  
23          Commission. We filed what we believe to be the  
24          relevant primary documents. We provided an  
25          overarching chronology of the consultation that has  
26          occurred and then attached documentation that we

1           believed was relevant.  Saulteau First Nation had the  
2           opportunity in IR Round 1 to request BC Hydro any  
3           further letters or meeting minutes or notes from  
4           telephone conference calls that it believed should  
5           have been a part of the record.  No such requests were  
6           made.

7                           That being said, if it's Saulteau's opinion  
8           that some of those should have been included and were  
9           not included, BC Hydro does not oppose allowing  
10          Saulteau First Nation the opportunity to file those  
11          now as part of the Commission's record.  We have  
12          provided all of -- so obviously Saulteau would have  
13          gotten the emails and the letters that were to them  
14          throughout the consultation process.  The only element  
15          that is left is the meeting minutes and the  
16          teleconference call minutes.  Those would not have --  
17          Saulteau would not have had those unless we filed them  
18          as part of the application.  However, Saulteau  
19          requested them in March.  In particular the person at  
20          the Lands Office in Saulteau made a request to the  
21          First Nations Coordinator at BC Hydro then to have  
22          copies of all the meeting minutes that Hydro created  
23          in the course of consultation.  And those were  
24          provided to Saulteau in March, and at this point they  
25          should have everything.  But admittedly some of it  
26          might not be before the Commission's record.

1                   So we're not opposed to Saulteau filing  
2 additional evidence as to a consultation that's  
3 occurred between the parties, but we think it should  
4 be done within the current schedule and I can address  
5 the timeline that we propose for that.

6                   As to any new information about impacts, we  
7 believe that Saulteau has had the opportunity through  
8 the TUS and the FNITR to file that, and that if  
9 there's anything new that has not been filed in  
10 respect of potential impacts the appropriate place to  
11 address that is in the consultation process itself.  
12 And perhaps I'll stop and answer questions on that  
13 point.

14 THE CHAIRPERSON:   Yes, one question is that the material  
15 that you referred to that you provided to Saulteau in  
16 March, that was at pre-application or post-  
17 application?

18 MS. JONES:   Post-application. So this was -- oh sorry,  
19 no. It was both. So we provided in March, there was  
20 a request made at the beginning of March, I believe it  
21 was March 7<sup>th</sup>, for all the meeting minutes dating back  
22 to the beginning of the consultation process. Leah  
23 Manson, the First Nation Coordinator went back through  
24 the record and pulled wherever BC Hydro had created  
25 notes and provided those to the Lands Office at  
26 Saulteau.

1 THE CHAIRPERSON: Okay, and that's also been filed as  
2 part of the evidentiary update?

3 MS. JONES: All of the meeting minutes that would have  
4 post-dated the application from November until now  
5 would have been filed. The ones that were provided  
6 that were from December 2011 until November were not  
7 included as part of the evidentiary update. So those  
8 are the ones that we believe Saulteau may want to put  
9 on the record now and we don't object to that.

10 THE CHAIRPERSON: Because you just provided them to  
11 Saulteau. They didn't end up on the record.

12 MS. JONES: Precisely, yes. Oh, actually no. I  
13 shouldn't, I should -- they are part of an attachment  
14 to the email because Ms. Manson replied by email, so  
15 they are now all on the record.

16 THE CHAIRPERSON: So a complete set, from your  
17 perspective, of the pre-application material is on the  
18 record, is that what the conclusion is there?

19 MS. JONES: Correct, yes, from BC Hydro's meeting  
20 minutes, yes. Yes.

21 THE CHAIRPERSON: Okay.

22 MS. JONES: However if Saulteau has their own meeting  
23 minutes of those meetings, we don't object to those  
24 being filed.

25 THE CHAIRPERSON: Okay. Thank you. Okay, please  
26 continue.

1 **Proceeding Time 8:42 a.m. T05**

2 MS. JONES: Perhaps I'll just jump ahead to how we would  
3 envision that happening within the regulatory  
4 timeline.

5 THE CHAIRPERSON: Please.

6 MS. JONES: We would propose that we stick with the  
7 option A that was outlined in Exhibit A-12 with the  
8 addition that on April 28<sup>th</sup> Saulteau file any  
9 additional evidence that it believes the Commission  
10 should have before it as to the consultation that's  
11 occurred between the parties. That that occur on  
12 April 28<sup>th</sup>.

13 On May 5<sup>th</sup>, we would like to reserve the  
14 right at this point to file reply evidence, being that  
15 we're not entirely certain what will be filed. But we  
16 would do so on April -- sorry, on May 5<sup>th</sup>, along with  
17 responses to IR 3, and our written argument as well.

18 So, we envision it occurring within the  
19 current process.

20 With respect to the scope of IR 3, it's BC  
21 Hydro's position that it should be limited in scope to  
22 the evidentiary update. All parties have had the  
23 opportunity to ask Information Requests of the  
24 original application, and Saulteau in fact did so.  
25 It's my understanding from the letters that have been  
26 exchanged in preparation for this procedural

1 conference that Saulteau put forth two reasons why  
2 they believe it should be expanded, as we understood  
3 it.

4 The first was that they believed that there  
5 should be further documentation of the consultation  
6 that's occurred between the parties. We believe that  
7 that's now been done, in terms of -- we've provided  
8 all the meeting minutes from the previous -- from the  
9 consultation that occurred pre-November. That being  
10 said, if Saulteau feels that there is any letters  
11 missing from the pre-November filing, or if that there  
12 is any meeting minutes from their own point of view  
13 that can be addressed through the evidentiary filing  
14 that we've just proposed, on the 28<sup>th</sup>.

15 And I believe the first letter from  
16 Saulteau put forth that it -- that now that they have  
17 the FNITR, they wanted the opportunity to critically  
18 analyze the application, and therefore thought because  
19 of that, they argued that the scope of IR 3 should be  
20 expanded. We submit that the purpose of the FNITR was  
21 to review those applications, and the results are in  
22 the FNITR, and that's now currently before the  
23 Commission and, as such, if Saulteau has any further  
24 requests from BC Hydro as to impacts, that should  
25 happen first on the -- within the consultation  
26 directly with BC Hydro, before it's brought forth

1           here. There is an opportunity for them to do so  
2           there.

3                        But it's our position that the procedure  
4           that this Commission has had has enabled all parties  
5           to ask questions of the entire record, and as to the  
6           evidentiary update, there remains, of course, IR 3  
7           and we believe it's appropriately scoped down to just  
8           what has been filed recently.

9                        As to oral hearing, we don't believe that  
10          an oral hearing is necessary. And to be clear, we  
11          don't believe it's necessary in respect of an  
12          evidentiary oral hearing or an oral hearing on  
13          argument. There was some confusion, perhaps, in our  
14          interpretation of Saulteau's letter. We had  
15          originally understood them to be proposing an oral  
16          hearing where there would be evidence and witnesses  
17          cross-examined, and also an oral portion of the  
18          argument.

19                       In either case, particularly an oral  
20          hearing where we would provide witnesses and they  
21          would be cross-examined on the record, we are not  
22          confident that -- or I should say, we believe that  
23          that would present a significant challenge in the  
24          timeline we have, and we do not see the necessity for  
25          it, provided that a third round of IRs is going to be  
26          occurring. All parties have had the opportunity to

1 test the evidence, and we do not see any factual  
2 disputes as to what has occurred in the consultation  
3 process as to who said what. There are disputes about  
4 what the significance of the impacts are, and where  
5 they lie on the *Haida* spectrum, and whether or not  
6 consultation has been adequate. But those are left  
7 for legal argument.

8 Also on the notion of oral hearing for  
9 evidence, Saulteau, in Exhibit -- I believe it was C5-  
10 9. Actually, no, sorry, C5-11 -- submitted that  
11 during an oral hearing the Commission may have the  
12 opportunity to facilitate an agreement between BC  
13 Hydro and the First Nations. We don't see where that  
14 comes from, from the *Utilities Commission Act*. This  
15 is a Section 44.21(b) application, and we respectfully  
16 submit that the powers of what the Commission has to  
17 do are clearly set out in Section 44.2(3), which is  
18 approve or to reject the expenditure schedule as being  
19 in the public interest, and therefore the suggestion  
20 that we may be able to come to an agreement during an  
21 evidentiary oral hearing, we don't see the basis for  
22 that in the *Act*.

23 **Proceeding Time 8:46 a.m. T06**

24 As to oral portion, in order to address  
25 argument, we actually agree with Saulteau that these  
26 are very complex issues. There is a lengthy record

1 and case law will have to be referred to. And as  
2 such, we believe that a written argument is the most  
3 appropriate way to deal with these. As it's currently  
4 envisioned, the timetables that were proposed in the  
5 Commission's letter were either purely oral or purely  
6 written and, in that context, we would submit that the  
7 written is more appropriate.

8 In addition, even if it was to proceed by  
9 oral, we believe that we would have to file a written  
10 document in any event, in order to capture the cross-  
11 references to the evidence and so forth. So we  
12 believe written is more appropriate.

13 As to the proposed timeline, I believe I've  
14 set it out so the only additions that we would see is  
15 on April 28<sup>th</sup>, Saulteau would be able to file any  
16 additional evidence as to the consultation between the  
17 parties. That may be a chronology that Saulteau's  
18 proposed, it may be their meeting minutes, it may be  
19 letters that are currently on the record from the  
20 December, 2011 to November period. Because those  
21 aren't. Again, all the meeting minutes are, but the  
22 letters aren't.

23 And then the only other addition with BC  
24 Hydro on May 5<sup>th</sup> would have the ability to file any  
25 reply evidence to that evidence, along with its  
26 written argument and its responses to IR number 3.

1                   And subject to any questions, those are our  
2           submissions.

3 THE CHAIRPERSON:   All right.  Okay, thanks, Ms. Jones.

4 MS. JONES:       Thank you.

5 THE CHAIRPERSON:   Mr. Hickling?

6 **SUBMISSIONS BY MR. HICKLING:**

7 MR. HICKLING:     Thank you.  So, I'll take the questions in  
8           order.

9                   So the first question is to provide a  
10           summary and description of the nature of the evidence  
11           Saulteau wishes to file.  So I've got a bulleted list  
12           here, I'll run through briefly.  And I want to say, if  
13           available -- my understanding is there was a voice  
14           recording of the recent April 21<sup>st</sup> meeting, so we may  
15           wish to file the recording or the transcript of that  
16           meeting.  There was a slide presentation made on the  
17           traditional use study report at that meeting.  We may  
18           wish to file that.  It's referred to in BC Hydro's  
19           minutes.

20                   My understanding is that the First Nations  
21           are meeting with their technical people on Thursday,  
22           this week, and the outcome of that meeting may include  
23           an issues tracking table developed by Saulteau and its  
24           consultants and also some analysis of BC Hydro's  
25           responses to the issues that are raised.  We may wish  
26           to submit errata for the traditional use study and the

1 FNITR, any relevant emails or other correspondence not  
2 contained in the BC Hydro disclosures.

3 There was a recent quarterly meeting – they  
4 call them "quarterly meetings" – between BC Hydro and  
5 Saulteau at which the GMS project was discussed. We  
6 haven't seen the minutes of those -- of that meeting  
7 yet. I believe the date is February 15<sup>th</sup>, give or take  
8 a week.

9 Some of the meeting minutes and  
10 teleconference minutes that BC Hydro provided are  
11 redacted. We'd like to see -- Saulteau has asked for  
12 the unredacted versions so we can see if the redacted  
13 portions are relevant to this proceeding, and other  
14 relevant documents that might be required to complete  
15 the record of the consultation.

16 Okay, that's the items of evidence that  
17 we're currently forecasting.

18 **Proceeding Time 8:51 a.m. T7**

19 THE CHAIRPERSON: Thank you, and just so I'm clear, the  
20 only one of those items that you can't file are the  
21 unredacted meeting minutes, is that correct? You're  
22 proposing to file all of the BC Hydro quarterly  
23 meeting minutes also. That would be a request for BC  
24 Hydro to file.

25 MR. HICKLING: Yes, or we can request them from Hydro and  
26 then we can file them ourselves. Regarding the

1           unredacted minutes, my understanding is that the  
2           redacted portion, Hydro redacted portions of those  
3           minutes because other matters were also discussed  
4           during those meetings that aren't relevant. But  
5           forgive me, but we need to see that and make our own  
6           judgment about whether those redacted portions are  
7           relevant to this proceeding or not.

8   THE CHAIRPERSON:    Okay. One second please.

9   COMMISSIONER HAROWITZ:   It sounded to me like – and I'd  
10           like clarification if I understood this correctly –  
11           virtually all of those with one exception which I'll  
12           raise in a second are things that you believe to be in  
13           existence and it's a case of tracking them down and  
14           putting them on the evidentiary record with the one  
15           exception, I think, of what you referred to, I think,  
16           as the Issues Tracking Table and commentary on it,  
17           which were things that Saulteau might actually want to  
18           develop on their own energy now. Is that correct?

19   MR. HICKLING:       Correct.

20   COMMISSIONER HAROWITZ:   And the timing for being able to  
21           put that together, if it was to be put together, it  
22           could be completed and filed by --

23   MR. HICKLING:       When I get to it I'm going to suggest  
24           Monday, May 2<sup>nd</sup>, because my understanding is they're  
25           meeting on it on Thursday of this week, which I  
26           believe is the 28<sup>th</sup>.

1 COMMISSIONER HAROWITZ: And are you going to, either now  
2 -- if you're going to cover this later, by all means.

3 MR. HICKLING: Yes.

4 COMMISSIONER HAROWITZ: Otherwise cover it now. And  
5 what's the nature of that document in terms of how it  
6 would further illuminate the evidentiary record that  
7 we currently have? What do you see coming out of  
8 that? Because that's the one place where it sounds  
9 like, "Well, we need some extra time to put it  
10 together." What do you envision being the value to  
11 this proceeding of that material?

12 MR. HICKLING: Right. So the Commission may have seen  
13 similar tables in BC Hydro's disclosures. They're  
14 called Issues Tracking Tables. They have a column for  
15 the issue, a column for BC Hydro's response to it, and  
16 that's as far as it's gone so far. But I think that  
17 Saulteau wants to put together a similar table with  
18 the issue raised by Saulteau, the response as they  
19 understand it from BC Hydro, and a third column on the  
20 comments, Saulteau's comments on BC Hydro's responses.

21 THE CHAIRPERSON: One further question, sir. You  
22 mentioned any other emails. So I think those are your  
23 words or --

24 MR. HICKLING: Any other relevant documents. Yes, yes,  
25 yes.

26 THE CHAIRPERSON: Yeah. Are those emails that you have

1           in your possession that you're ready to file, or are  
2           you requesting further emails from BC Hydro?

3 MR. HICKLING:     Right, so that was my last bullet, and  
4           really I'm just wanting to hold a catch-all for other  
5           things that we discover this week that may be  
6           relevant. But I think the answer to your question is  
7           yes. But we need to scour the records to see if  
8           there's anything missing that -- yeah.

9 THE CHAIRPERSON:   So, and the answer to my question is  
10          yes, you've got them, they are emails that you have  
11          that you're ready to file? Is that what you mean yes  
12          to?

13 MR. HICKLING:       I mean, yes, we are not going to  
14          develop new emails or new correspondence. We want to  
15          be able to review Hydro's document disclosure against  
16          our records.

17 THE CHAIRPERSON:   Against what you've got, okay. Thank  
18          you.

19 MR. HICKLING:       Yeah.

20 COMMISSIONER HAROWITZ:   As I'm thinking further on,  
21          Column 3 of that table, I'd like to get clear in my  
22          head the distinction that I think, at risk of it  
23          sounding a bit pedantic, but argument versus evidence.  
24          So if it's your interpretation of what this means, do  
25          you see that as evidence, or as argument about the  
26          evidence that's in play? I'm just trying to sort out

1 -- I get that you have comments, but --

2 **Proceeding Time 8:56 a.m. T08**

3 MR. HICKLING: Yeah, I understand. I'm not sure how to  
4 answer that, except that I take your point, and it  
5 seems to me that it's a bit of a blending of both.  
6 And I think it would be useful to the Commission and  
7 to BC Hydro if Saulteau was able to file their version  
8 of what BC Hydro has filed.

9 COMMISSIONER HAROWITZ: So it would be a different  
10 interpretation of what you think actually happened?  
11 Or just what you think it means?

12 MR. HICKLING: I think it would be a different  
13 interpretation of what actually has happened today,  
14 yeah.

15 COMMISSIONER HAROWITZ: Okay, thank you.

16 MR. HICKLING: Thank you.

17 The next question regards the scope of the  
18 Information Requests. I mean, really, I think that  
19 from our perspective the main inquiry in these  
20 proceedings are whether consultation and accommodation  
21 have been adequate. So, generally speaking, we'd like  
22 the IRs to be able to include matters that are  
23 relevant to the adequacy of consultation and  
24 accommodation. And those -- you know, we may wish to  
25 ask questions related to the potential impacts on  
26 aboriginal and treaty rights and interests based on

1           what we know today, questions about the consultation  
2           process, about the consultation record, and about  
3           potential mitigation measures.

4                     And provided those aren't duplicative, we  
5           think that they're going to be useful questions for  
6           the Commission, because they'll be addressing what we  
7           regard as the issue at the heart of the matter.

8                     The third question is -- regards a  
9           preference for oral or written argument. I think  
10          everyone is agreed that written argument is necessary.  
11          I'm not going to belabour that. As regards the oral  
12          hearing, I actually didn't think of it the way counsel  
13          for BC Hydro presented it. I actually would like to  
14          have an evidentiary hearing, but that wasn't front of  
15          our mind. Really we thought that an oral hearing  
16          would be useful for the Commission to be able to ask  
17          questions and clarify issues between the parties. And  
18          it would also be useful for the parties to clarify  
19          matters of concern to the Commission. So with that in  
20          mind, having reflected on it over the weekend, I'm  
21          going to move to the schedule and I've got a  
22          suggestion for that.

23                     So as regards the schedule, really what I'm  
24          going to suggest is moving everything deeper into the  
25          calendar by one day. So, we would -- we propose to  
26          file the third round of IRs on Friday, April 29<sup>th</sup>. We

1 would submit response evidence on Monday, May 2<sup>nd</sup>,  
2 taking into account that meeting on the Thursday. We  
3 may need a day to get our documents in order. Hydro  
4 is currently scheduled to respond on May 5<sup>th</sup>, but we  
5 suggest that because we're pushing it back a day, that  
6 Hydro respond on the 6<sup>th</sup>.

7 Similarly, with responses to IRs, rebuttal  
8 evidence and final written, intervener final written  
9 would be May 13<sup>th</sup>. BC Hydro reply would be Tuesday,  
10 May 17<sup>th</sup>.

11 And then to the point about the oral  
12 hearing, I'd like to suggest that the Commission  
13 reserve a day, and if possible identify the day so  
14 that counsel can calendar it. But the Commission may  
15 wish to reserve a day after May 17<sup>th</sup> for an oral  
16 hearing to address selected issues that the Commission  
17 wants clarification on.

18 **Proceeding Time 9:00 p.m. T9**

19 THE CHAIRPERSON: So when you use the term "oral hearing"  
20 then, you have -- are there witnesses from BC Hydro  
21 that you would like to cross-examine?

22 MR. HICKLING: You know, in theory we would like to  
23 cross-examine BC Hydro witnesses, but in light of --  
24 you know, we're trying to accommodate the process as  
25 well and if we get into that kind of oral hearing  
26 we're talking about days and days of time. And we

1 think we can address most of what we need to address  
2 in the written submissions, but we think that there is  
3 going to be issues and controversies and nuances  
4 between the parties that the Commission may wish to  
5 address, and having us come and participate orally  
6 would be potentially useful.

7 THE CHAIRPERSON: So when you say participate orally you  
8 mean be available to answer the Panel's questions? Is  
9 that where you're going here?

10 MR. HICKLING: Correct. Yes, yes, yes.

11 THE CHAIRPERSON: And are there questions that you would  
12 at that time then want to pose to Hydro, or would you  
13 attend purely to answer the Panel's questions?

14 MR. HICKLING: What I'm suggesting is we would attend to  
15 answer the Panel's questions. I think in our  
16 submissions at such a hearing, we may point to some  
17 controversies that the Commission might be interested  
18 in asking questions on, but I'm not proposing cross-  
19 examination of witnesses or proceedings of that kind.

20 THE CHAIRPERSON: And then what would come out of the  
21 this oral phase that we would just then move directly  
22 to argument after that?

23 MR. HICKLING: Well, I think by that time you would be in  
24 a position to take the matter on reserve and make your  
25 decision.

26 COMMISSIONER MacMURCHY: So you see this post-argument,

1 is that what you're saying?

2 MR. HICKLING: Post-written, yeah.

3 COMMISSIONER MacMURCHY: Post-written. Sorry, I missed  
4 that.

5 MR. HICKLING: Yeah.

6 THE CHAIRPERSON: What's the date that you're proposing  
7 for this then?

8 MR. HICKLING: Well, if BC Hydro files its reply on May  
9 17<sup>th</sup>.

10 THE CHAIRPERSON: Yeah.

11 MR. HICKLING: And then I mean Hydro wants a decision  
12 with reasons to follow by May 23<sup>rd</sup>.

13 THE CHAIRPERSON: Right.

14 MR. HICKLING: So sometime between the 18<sup>th</sup> and the 23<sup>rd</sup>.  
15 If we reserve the day and put it in our calendars then  
16 we could be available to attend.

17 THE CHAIRPERSON: Okay.

18 MR. HICKLING: Those are my submissions.

19 THE CHAIRPERSON: Okay. Thank you, Mr. Hickling.

20 **SUBMISSIONS BY MR. WEAVER:**

21 MR. WEAVER: Thank you, Mr. Chairman. Just dealing with  
22 the questions as laid out, I'm just going straight to  
23 question 3, the CEC's position on the scope of  
24 Information Request No. 3 should be on the evidentiary  
25 update as filed by BC Hydro on Friday, and note that  
26 that does set out the history that goes back some



1                   So from a process standpoint, our  
2                   preference would be to have them deal with that as  
3                   would normally be dealt with by putting propositions  
4                   to Hydro through IRs that challenge the fairly  
5                   significant body of evidence on consultation that's  
6                   already before you

7                   With respect to -- I think, moving to  
8                   question 4, the oral argument versus written argument,  
9                   the CEC prefers a written argument. In terms of the  
10                  discussion you just had with counsel for Saulteau, I  
11                  think what this Commission is -- I know what this  
12                  Commission has done in the past, is when they've  
13                  received written arguments and they have questions on  
14                  the written arguments, they've had an oral phase of  
15                  argument where there's an opportunity for the panel to  
16                  ask questions of counsel. I can't recall an event  
17                  where witnesses have come in and been available for  
18                  the Commission to ask questions and add to the  
19                  evidentiary record, particularly when written  
20                  arguments have already gone in.

21                  So I do support the concept if the panel  
22                  has questions on the written arguments that have gone  
23                  in to have an oral phase of argument. And I think  
24                  that's to clarify, to insure that you're understanding  
25                  the positions. So the CEC would certainly support  
26                  that as an additional step of process.

1                   In terms of the regulatory timetable, CEC  
2                   is in the panel's hands. We're not in the dispute, so  
3                   to speak, with respect to consultation. We're  
4                   observing it, we'll have our submissions at the end of  
5                   the process, and we'll accommodate preferably the most  
6                   efficient schedule you can create because, as has been  
7                   discussed there are safety issues with respect to this  
8                   project, and are cost issues, and so the rate payers,  
9                   as do all parties, have concerns about that. So  
10                  timely and quick is appropriate. The consultation  
11                  record is fairly thorough and deep, and this project  
12                  has been on the table for sometime. So we support  
13                  whichever you determine is appropriate, and the more  
14                  timely the better. Thank you.

15 THE CHAIRPERSON:    A question please, Mr. Weafer?

16 MR. WEAFFER:        Yes.

17 THE CHAIRPERSON:    As I understand what you said  
18                   concerning the scope of IR 3, you said that there's a  
19                   substantial amount of material that has been filed as  
20                   part of the evidentiary update, so to the extent that  
21                   -- and I'm paraphrasing you now, but to the extent  
22                   that IR 3 covers the evidentiary update, it will cover  
23                   a lot of what Saulteau appears to want to ask about  
24                   consultation record in total. Is that --?

25 MR. WEAFFER:        That's my understanding. I understood in  
26                   prior process discussions that they were concerned

1           about the adequacy of the consultation record.

2 THE CHAIRPERSON:     Right.

3 MR. WEAVER:     As I understand the 950 pages filed on  
4           Friday, that Hydro has made I think, a fairly  
5           reasonable effort to --

6 THE CHAIRPERSON:     Right.

7 MR. WEAVER:     -- put a comprehensive state of the record  
8           before the panel to make sure the evidence is there.  
9           I think counsel for Saulteau -- it's appropriate they  
10          can go back and challenge that which was on the  
11          record. But it may -- it could have been done in IR 1  
12          and 2. That's why, in fairness, I think Hydro is  
13          correct to say it could have been asked before. But  
14          it's now down as a comprehensive body as a part of the  
15          evidentiary update. If Saulteau has questions on  
16          what's there. I think that's fair ball.

17 THE CHAIRPERSON:        But I think we heard though, from  
18          Ms. Jones, that the evidentiary update only looks at  
19          the record from the time of the application to today.  
20          And that prior to the time of the application that's  
21          already been dealt with in IR 1. Is that correct?

22 MR. WEAVER:     My understanding of her comment when you  
23           asked if material prior to the date had gone in -- and  
24           I think the response was, yes, as part of an email  
25           filing that was there.

26 THE CHAIRPERSON:     Okay.

1 MR. WEAVER: And if I've misstated that --

2 THE CHAIRPERSON: Well, that's okay. We can clarify  
3 that later. It just --

4 MR. WEAVER: I understood that they were trying to  
5 capture --

6 THE CHAIRPERSON: Right.

7 MR. WEAVER: -- the broader record.

8 THE CHAIRPERSON: But your position then would be that  
9 it's okay to ask about pre-application consultation  
10 provided that evidence is in the rebuttal evidence.  
11 To the extent that it's not in the rebuttal evidence  
12 that it shouldn't be within scope of IR 3. Is that --  
13 sorry, the evidentiary update. Yes.

14 MR. WEAVER: Yes. I'm trying to be fair to Counsel for  
15 Saulteau. I mean, clearly the consultation issue is  
16 the issue before the Commission --

17 THE CHAIRPERSON: Yes.

18 MR. WEAVER: -- and to the extent they've got a valid  
19 question on something that related to consultation  
20 earlier on in the process, we're not going to take  
21 issue what that.

22 **Proceeding Time 9:09 a.m. T11**

23 I mean, at the end of the day, they can  
24 argue that anyway, in terms of their final argument.  
25 But if there is an IR that -- I think we need to be  
26 careful about scoping something that relates to the

1 substantive issue that's causing this process to carry  
2 on. So, as I understood the attempt by Hydro on  
3 Friday was to make sure we have everything before the  
4 panel. And if that results in a question from  
5 Saulteau, we don't object to them asking those  
6 questions.

7 THE CHAIRPERSON: Okay. Thanks for the clarification.

8 MR. WEAVER: Thank you. Those are my submissions.

9 THE CHAIRPERSON: Oh, I think we have another question.

10 COMMISSIONER HAROWITZ: So you made the point that if --  
11 and maybe I've got this wrong, but that's why I want  
12 to just double-check. If Saulteau has a different  
13 perspective on what happened in the consultation, they  
14 can get at that through IRs. Distinguish for me,  
15 however, if an opinion of was it adequate or not is  
16 argument, logically, we think that X happened instead  
17 of Y sounds a bit more like potentially evidence than  
18 argument. And if there is a question in Saulteau's  
19 mind or someone else's as to, that's not what  
20 happened, how would IRs get at that, as opposed to it  
21 needing to be evidence? And maybe you can just -- if  
22 I've got the question right.

23 MR. WEAVER: No, I think that's bang-on. I think that's  
24 bang-on. And the challenge we have is, we don't know  
25 what the contentious points are at this time. And  
26 through the IR, I assume that Saulteau has some

1 evidence to back up the conflict with -- whether it's  
2 notes or something to challenge what Hydro's put in  
3 this evidence. That can be asked through IRs. The  
4 response can be given. The panel in the oral phase --

5 COMMISSIONER HAROWITZ: Let me just stop you there,  
6 though. Because you said, "If they have some other  
7 notes". But if those notes aren't in evidence, how do  
8 they -- how does that work?

9 MR. WEAFFER: If it relates to a meeting with Hydro, then  
10 it would be fair ball for Saulteau to put in. If they  
11 have minutes that conflict with Hydro's, and those  
12 were provided to Hydro, that there is a mutual  
13 understanding of the disagreement, because the parties  
14 were both at the table and have a different  
15 interpretation, that Saulteau can put that in an IR in  
16 terms "Our minutes say this, yours say that. There is  
17 a difference of view."

18 If it's simply, "We walked away from the  
19 meeting with a different view," that, I assume, is  
20 part of their ongoing consultation that's going on  
21 outside of this hearing room. I mean, this is one of  
22 the challenges that the panel has. Consultation, as  
23 Hydro has pointed out, is still ongoing, and Ms. Jones  
24 made the point of -- and the challenge of having an  
25 oral hearing process which is adversarial, in effect,  
26 while a consultation process is going on at the same

1 time, that would be an unhealthy dynamic.

2 So we're wrestling with trying to give  
3 Saulteau the opportunity to at least put on the record  
4 what the points of dispute are. The challenge we have  
5 is if they file that as evidence, we really do need  
6 another round of Information Requests on their  
7 evidence. And that's, I think, problematic in terms  
8 of stretching out this process.

9 So, I believe that you have enough scope in  
10 terms of process to allow Saulteau to put IRs to the  
11 company which disputes their record. Hydro then has  
12 an opportunity to respond. If the Commission isn't  
13 satisfied with the response, you're going to have the  
14 oral phase of argument at the end to challenge either  
15 counsel as to what your view of those differing --  
16 different interpretations of the meetings.

17 COMMISSIONER HAROWITZ: Okay, thank you.

18 THE CHAIRPERSON: One more.

19 COMMISSIONER MacMURCHY: Mr. Weafer, if the Saulteau were  
20 to file the evidence that they -- they talked about  
21 attached to an IR in order to illuminate what's in the  
22 evidentiary update, and so it becomes evidence in that  
23 manner, what difference is there between that and the  
24 Saulteau simply filing it as evidence period? I mean,  
25 we still have the problem of determining what weight  
26 to give to that evidence, given the fact that, as you



1           trying to deal with an efficient process, identify the  
2           issues, and be able to make submissions in a balanced  
3           way. So the difference is, if they put the questions  
4           and IRs to Hydro, Hydro has a chance to respond, we at  
5           least then get to write argument seeing both sides,  
6           seeing both positions.

7   COMMISSIONER MacMURCHY:   Let me try one more time.

8   MR. WEAFFER:    Sure.

9   COMMISSIONER MacMURCHY:   If Saulteau files their evidence  
10           and BC Hydro files reply to that evidence, what  
11           difference is there between that than Saulteau files  
12           IRs containing this evidence and BC Hydro replies to  
13           those IRs including commenting on the net evidence?  
14           What is the difference?

15   MR. WEAFFER:    Probably about three weeks. It's really  
16           timing. It really is trying to -- we all have a bit  
17           of a concern about trying to move forward with the  
18           process. And if we have Saulteau evidence, which then  
19           should fairly have IRs in terms of challenging or  
20           understanding the evidence, and then Hydro rebuttal  
21           evidence, this process will go on for several weeks.  
22           And our understanding is there's a desire to be more  
23           efficient than that. So that's the genesis of our  
24           suggestion is try to collapse it a bit. At this point  
25           we're -- as I said, we don't know what the contentious  
26           points are. They're fairly general. They would at

1           least focus attention on what are the issues.

2 THE CHAIRPERSON:    Okay, thank you.

3 MR. WEAVER:        Is that responsive?

4 THE CHAIRPERSON:    Thank you, Mr. Weaver.

5 MR. WEAVER:        Thank you, Mr. Chairman.  Thank you, Panel.

6 MR. MILLER:        Ms. Braithwaite.

7 **SUBMISSIONS BY MS. BRAITHWAITE:**

8 MS. BRAITHWAITE:    With respect to the first issue that  
9           all participants have been asked to address on the  
10          scope of Information Request No. 3, we don't have  
11          strong views on that.  I see that the contentious  
12          issue remaining is the consultation, and most of the  
13          consultation evidence, as I have understood it, was  
14          filed on Friday and so I would expect there would be a  
15          limited number of IRs relating to consultation that  
16          don't relate to the evidentiary update.  So in my  
17          submission, if the third round of IRs was limited to  
18          the evidentiary update and the consultation issue on  
19          documents filed before the evidentiary update, that's  
20          not a huge expansion of the scope over just limiting  
21          it to the evidentiary update itself.

22                        In terms of preference for type of  
23          argument, we would prefer, as the other parties do as  
24          well, a written argument.  I also have never been  
25          involved in a Commission process where there's been a  
26          written argument followed by additional oral evidence.

1 But I do note that there is currently a Commission  
2 process involving the Fortis system extension  
3 application where following written argument from the  
4 parties, the Commission did ask additional questions  
5 to the applicant seeking additional information. The  
6 main difference I guess is there was no -- there's no  
7 timeline on that application so the sort of speed with  
8 which the decision is made is not a factor.

9 **Proceeding Time 9:18 a.m. T13**

10 I have a similar concern to that expressed  
11 by Mr. Weafer regarding the filing of additional  
12 evidence. If Saulteau First Nation files additional  
13 evidence, I do think there needs to be an opportunity  
14 for other parties to ask questions on that evidence.  
15 Regardless of how it's done, if it's filed as part of  
16 an Information Request to BC Hydro, as the  
17 Commissioners have pointed out, that's still evidence  
18 that's on the record, and would require some process  
19 for testing it.

20 In terms of the regulatory timetable, we  
21 can be flexible if we don't -- we're not one of the  
22 parties here who is in a hurry to have a decision  
23 made, particularly.

24 Thank you.

25 THE CHAIRPERSON: Anything, Mr. Weafer? We're going back  
26 up the list. No? Okay.

1 I think we're just going to take a five-  
2 minute break, please. So we'll come back at 9:25.  
3 Thank you.

4 (PROCEEDINGS ADJOURNED AT 9:19 A.M.)

5 (PROCEEDINGS RESUMED AT 9:25 A.M.) **T15**

6 THE CHAIRPERSON: Please be seated. Thank you. Mr.  
7 Hickling? Thank you.

8 **REPLY BY MR. HICKLING:**

9 MR. HICKLING: Thank you. Just a couple of brief  
10 comments in reply to Mr. Weafer.

11 In our letter, we suggested that BC Hydro  
12 could issue Information Requests to us on evidence  
13 that we provide. We're happy for that to happen.

14 Mr. Weafer mentioned some concern about  
15 adding weeks and weeks to this process. I'd urge the  
16 Commission to take courage. I don't think that what  
17 we're proposing is going to take weeks. The documents  
18 that we would submit are not going to take long for  
19 Hydro to review. I think we're talking hours, not  
20 weeks.

21 I mentioned the minutes of a meeting on  
22 February 15<sup>th</sup>. My colleague has advised me that there  
23 are minutes in the recent document disclosure on  
24 February 15<sup>th</sup>, but that's not the meeting that I was  
25 thinking of. The meeting I was thinking of had  
26 Lindsay Thompson. Lindsay Thompson was there for BC

1 Hydro, Carolyn Stock and Michelle Macdonald. Sometime  
2 in February or March, there was a further meeting.

3 I just wanted to make one other point about  
4 the minutes. And the Commissioner asked about what  
5 weight -- he asked a question about weight. And the  
6 problem with the minutes -- one of the problems with  
7 the minutes is Saulteau didn't know that BC Hydro was  
8 keeping minutes of these meetings. We only learned of  
9 it at the last procedural conference when -- or just  
10 before, when BC Hydro provided the minutes of that  
11 meeting on December 3<sup>rd</sup>. So, really what you have in  
12 the minutes -- I mean, if -- they're not joint  
13 minutes, and they weren't shared with Saulteau the day  
14 after the meeting, or the week after the meeting.  
15 They were kept by BC Hydro, apparently written up  
16 after the meeting, and kept in their files. And so  
17 really they are just BC Hydro's view of the meetings.

18 And the December 3<sup>rd</sup> meeting -- the December  
19 3<sup>rd</sup> minutes we received in late January, the more  
20 recent minutes we received sometime in March, and  
21 they're redacted. So, you know, it puts us in a  
22 difficult position, because we don't necessarily agree  
23 with the views that are expressed in those minutes,  
24 and we didn't have a kind of contemporary opportunity  
25 to review them and respond to them at the time. So  
26 we're a little bit hamstrung by the minutes.

1 THE CHAIRPERSON: Did you keep any of your own minutes?  
2 MR. HICKLING: I don't know. I expect that there are  
3 notes in notebooks.  
4 THE CHAIRPERSON: And are those notes -- do you intend to  
5 file those notes as evidence if we end up having to  
6 have them?  
7 MR. HICKLING: And this is the point I made at the very  
8 start of my submissions. If available.  
9 THE CHAIRPERSON: Right.  
10 MR. HICKLING: Right? So I have to ask Saulteau to find  
11 them, copy them, file them, and whether that can be  
12 done, whether it can be done before -- I'm suggesting  
13 Monday. I'm not sure. But we're going to try.  
14 THE CHAIRPERSON: Could I ask a couple of questions?  
15 MR. HICKLING: Yes, please.  
16 THE CHAIRPERSON: Earlier when you went through the list  
17 of evidence that you would like to have filed, as I  
18 understand it, some of that evidence was evidence that  
19 you don't have, but Hydro has. For example, a voice  
20 recording and a slide presentation.  
21 MR. HICKLING: I think Saulteau has those, yes.  
22 THE CHAIRPERSON: Okay. So, correct me if I'm wrong,  
23 then. Is there some of that list of evidence that  
24 Hydro has that you don't have, but it's still evidence  
25 that you would like to have filed as part of your  
26 evidence?

1 MR. HICKLING: Yes. I mean, I don't mind if Hydro wants  
2 to put them in or we do. Really I think that Hydro  
3 should provide them to us and then we should -- we can  
4 talk to Hydro about what parts of those minutes should  
5 be entered.

6 **Proceeding Time 9:34 a.m. T16**

7 THE CHAIRPERSON: So to the extent that some of that  
8 evidence is included in what you want to file a week  
9 Monday or next Monday --

10 MR. HICKLING: Yes.

11 THE CHAIRPERSON: -- then there would have to be some  
12 agreement from Hydro that they're also -- if you're  
13 asking us to request Hydro to file that in addition to  
14 allowing you to file your evidence.

15 MR. HICKLING: No. I mean, the way I see this working is  
16 I've already asked Saulteau on the weekend. They  
17 won't receive my email until today, but I've asked  
18 them if they would request the minutes from Hydro. So  
19 my expectation is Saulteau will make the request of  
20 Hydro. Hydro will provide the minutes to Saulteau.  
21 Saulteau will review the minutes. If there is  
22 anything in those minutes that are not relevant to the  
23 proceeding we can talk to Hydro about striking them.

24 THE CHAIRPERSON: Okay.

25 MR. HICKLING: And then we would file them as part of our  
26 response evidence.

1 THE CHAIRPERSON: Okay. Okay. And then there was a  
2 suggestion from Mr. Weafer about filing, about rather  
3 than filing your evidence as evidence but including it  
4 in --

5 MR. HICKLING: In IRs?

6 THE CHAIRPERSON: Yeah.

7 MR. HICKLING: Yeah. I guess what the suggestion is is  
8 that we would submit an IR attaching a document and  
9 then ask questions about that document.

10 THE CHAIRPERSON: Right.

11 MR. HICKLING: And you know, without having the documents  
12 in front of me, I'm not saying that that won't work.  
13 It's something that we had considered might be  
14 possible to do. So I'm sorry, I don't have an answer  
15 to that but it seems like -- it seems like at least  
16 for some, perhaps not all of those documents, that  
17 that would be possible to do, with the caveat that I'm  
18 not sure we can get our evidence together for the  
19 proposed date because the First Nations are meeting on  
20 Thursday. That's kind of a hub day where we can get  
21 some stuff done.

22 THE CHAIRPERSON: Okay.

23 MR. HICKLING: So that's why we're asking for Monday.

24 THE CHAIRPERSON: So if the Panel did decide that that  
25 would be a better way to file the evidence, to file it  
26 in this IR format, you're asking that we would make

1 the date for that the Monday.

2 MR. HICKLING: Monday, May 2<sup>nd</sup>, yes. Yeah, okay.

3 THE CHAIRPERSON: Thank you, Mr. Hickling.

4 MR. HICKLING: Thank you.

5 THE CHAIRPERSON: Ms. Jones, please.

6 **REPLY BY MS. JONES:**

7 MS. JONES: I'd like to start by clarifying the question  
8 that the -- or clarifying what Hydro's decision is on  
9 the question that the Commission asked to Mr.  
10 Hickling. That is are there any documents that Hydro  
11 would have to file? Again, at present, for the  
12 entirety of the consultation process, all of the  
13 letters and the emails exchanged between BC Hydro and  
14 Saulteau, Saulteau would have received at the time.  
15 In terms of meeting minutes that BC Hydro has in its  
16 possession from either in-face meetings or  
17 teleconference calls, we have provided everything  
18 that's been requested of us and we've reviewed the  
19 record and we believe that we've provided all of the  
20 meeting minutes and teleconference minutes that we  
21 have. So Saulteau should have them all in its  
22 possession and be able to file them.

23 That being said, if there's any that are  
24 referred to in a chronology that we filed that are  
25 missing, we're of course more than willing to, as we  
26 have in the past, provide those to Mr. Hickling so he

1           can file them as part of his record.

2 THE CHAIRPERSON:    What about this February 15<sup>th</sup> letter  
3           that you just --

4 MS. JONES:    So we will go back and double check but we  
5           have filed on the record, it is page -- it is the  
6           recent filing that occurred on Friday.  It's in  
7           Appendix C-1, it's at page 226 of 703 which is the  
8           appendix that gives the chronology of consultation  
9           with Saulteau since the filing of the application in  
10          November.  And attached to that, starting at page 226,  
11          are the meeting minutes from the overall Treaty 8  
12          meeting.  We don't believe there was an additional  
13          meeting that occurred that discussed the riprap  
14          project.  The reason is that the First Nation  
15          Coordinator from BC Hydro who's responsible for that  
16          project wouldn't have been in that meeting because she  
17          has no account of it.  But we will go back and make  
18          sure.

19                    I will mention that the notes that are on  
20          the record for that meeting are redacted.  In these  
21          types of meeting there are some meetings where BC  
22          Hydro meets at a higher level with all of the Treaty 8  
23          First Nations and discusses many projects that it has  
24          in the territory.  So in those cases the individual  
25          coordinators responsible for each of the projects are  
26          the ones that take the meeting minutes.  So for

1 instance, you know, riprap would have been discussed  
2 in addition to perhaps other projects that Hydro has  
3 that is being undertaken in that territory. The  
4 meeting minutes in respect of the other projects  
5 aren't relevant to this consultation process. That's  
6 why they've been redacted. They've also been redacted  
7 because we need the time to go out and make sure that  
8 the coordinators for those projects have reviewed them  
9 and are all right with them and know that they are  
10 indeed the account of them, that they've been verified  
11 before we can provide them.

12 So Saulteau has, even with the redacted  
13 minutes, everything that is discussed in respect of  
14 this project, everything that has been discussed in  
15 the meetings. And so, you know, it will take time to  
16 go back to the other project teams and make sure that  
17 all of what was said in respect of the other projects  
18 has been checked by all the people in attendance at  
19 that meeting, and we don't see what the relevance of  
20 consultation on another project is to this project.

21 **Proceeding Time 9:40 a.m. T17**

22 MS. JONES: So with that, I'd like to go through and  
23 address -- Mr. Hickling provided an itemized list of  
24 what he had intended to file.

25 With respect to the voice recording from  
26 the April 21<sup>st</sup> meeting, that was undertaken by

1           Saulteau. They recorded the meeting, and we have no  
2           objections to that being submitted, either the voice  
3           recording or a transcript of it. In addition, the  
4           slide presentation that was presented at the April 21<sup>st</sup>  
5           meeting, fine.

6                        Relevant emails that are perhaps not  
7           already in BC Hydro's application, provided it's an  
8           email that was as exchanged between BC Hydro or BC  
9           Hydro's consultant, Ecofor, and Saulteau or one of its  
10          consultants, we have no objections to that.

11                      Quarterly meeting, we just addressed that.  
12          The redaction issue, I have addressed that. And I  
13          think there was two more. There was a catch-all that  
14          was, anything else that they've kind of reviewed and  
15          feel is -- needs to be provided. Again, no issue,  
16          provided it accounts for what occurred between the  
17          parties in terms of the consultation on this project.  
18          We have no objections to that.

19                      The last one was Mr. Hickling advised that,  
20          as you'll see in the evidentiary update, there is a  
21          tracking table. So as a result of the FNITR, BC Hydro  
22          pulled out all of its conclusions. There's two  
23          tracking tables and they're attached as Appendix A and  
24          B to the evidentiary update. The first one is, as  
25          part of the FNITR, BC Hydro pulled out all of the  
26          assessments that were made in there, and all of the --

1 or, sorry, not the assessments, the requested  
2 mitigations that were made. So, the First Nation's  
3 technical review requested a number of mitigation  
4 measures as part of the ongoing consultation that they  
5 be undertaken as part of the project planning process.

6 BC Hydro took all those out and thought the  
7 best way to address them would be to provide a direct  
8 response as to whether or not BC Hydro would accept  
9 them; if so, how would they be incorporated into the  
10 project; if BC Hydro felt that it was addressing the  
11 same concern in a different manner; how it was doing  
12 that; or if BC Hydro felt that what was being  
13 requested was not required, BC Hydro provided a  
14 rationale as to why it believed that that was not  
15 necessary. That table is Appendix A to the  
16 evidentiary update. That table was reviewed between  
17 the parties; the intent of last week's meeting on the  
18 21<sup>st</sup> was to review all of that. Saulteau was given it  
19 in advance.

20 The second table was the FNITR raised a  
21 number of alleged deficiencies and gaps, criticisms of  
22 the EA that was undertaken by Hydro. BC Hydro took  
23 the same response, so that it would have a clear  
24 answer to Saulteau. It itemized all of the alleged  
25 gaps and deficiencies, and then provided BC Hydro's  
26 response or rationale.

1                   Both those tables were -- Saulteau received  
2                   last week. Again, the purpose of the April 21<sup>st</sup>  
3                   meeting was to review the findings of the TUS and the  
4                   FNITR, and BC Hydro's responses to the requested  
5                   mitigation.

6                   So, you've got here's the problem from  
7                   Saulteau, and you've got the response from BC Hydro.  
8                   What Mr. Hickling is proposing filing would be a  
9                   document that Hydro has never seen, and never had the  
10                  ability to consult on. And as was stated by CEC, this  
11                  is an ongoing consultation process. BC Hydro is  
12                  actively engaged in trying to address these concerns.  
13                  We are still meeting at the table. There are still  
14                  meetings planned, coming up in the coming weeks. And  
15                  so to have something on the record that is not yet  
16                  part of the consultation process, that BC Hydro hasn't  
17                  had the opportunity to sit down and review and provide  
18                  a response to, that is something that will occur  
19                  irrespective of this process. It's part of the  
20                  ongoing consultation process. The response in those  
21                  tables is provided by Saulteau and the back-and-forth  
22                  between Hydro and Saulteau on those will be considered  
23                  as the project goes forward. It will be considered by  
24                  BC Hydro's board when it makes the decision on whether  
25                  or not consultation has been adequate. But we submit  
26                  that to put that forward as part of the evidentiary

1 record here is to rob BC Hydro of the opportunity to  
2 have its response on the record. And it's not  
3 appropriate, because that's consultation that has not  
4 yet occurred.

5 If Saulteau is going to take those  
6 responses and now provide a further response, and put  
7 it on the record, BC Hydro hasn't had the opportunity  
8 to respond to it.

9 THE CHAIRPERSON: If it was submitted, as Mr. Weafer has  
10 suggested, as part of an IR, would that be any more  
11 palatable to BC Hydro?

12 MS. JONES: It wouldn't, because at the end of the day  
13 it's about getting your environmental consultants and  
14 your representatives from both sides into a room and  
15 talking about why a certain mitigation is appropriate  
16 or is not within the context of the project, or how it  
17 can be done and how it can't be done. And that's the  
18 engagement that has to happen directly between the  
19 parties. And that's the real -- that's where, you  
20 know, the meeting of the minds happens. It doesn't  
21 happen really as part of this process all the time.  
22 So that's where we submit it should be addressed.

23 **Proceeding Time 9:34 a.m. T18**

24 THE CHAIRPERSON: So to be able to ask IRs on the  
25 evidence or rebuttal evidence, is your response the  
26 same?

1 MS. JONES: Yes, it is the same, that these are more  
2 appropriately dealt with within the context of the  
3 consultation process itself, and that putting a  
4 document on the record that outlines further concerns  
5 from Saulteau First Nation without really having the  
6 opportunity for Hydro to sit down and to review that  
7 and discuss that with Saulteau so that it can then  
8 make a proposed response. That's really not the  
9 purpose of assessing what the adequacy of the  
10 consultation is here. That's the purpose of the  
11 consultation process.

12 THE CHAIRPERSON: I'm just going to let Mr. Hickling  
13 speak to that, please. Thank you.

14 **REPLY BY MR. HICKLING (Continued):**

15 MR. HICKLING: Forgive me but a couple of preliminary  
16 points. The minutes that we received that are  
17 redacted, we don't know what the redactions are and we  
18 don't know if they are relevant to GMS or not. So  
19 what we're asking for is for Hydro to provide us with  
20 unredacted minutes. You can do it on a without  
21 prejudice basis. If your other project teams are not,  
22 you know, need to refine the minutes further, that's  
23 fine, but we'd like to see the unredacted version so  
24 that we can see that the redactions are appropriate.

25 THE CHAIRPERSON: We understand. The Panel will make  
26 that determination.

1 MR. HICKLING: Thank you. Thank you. My friend said  
2 that, you know, she made an issue out of Hydro having  
3 provided the tracking tables to Saulteau in advance of  
4 the April 21<sup>st</sup> meeting and the purpose of the April 21<sup>st</sup>  
5 meeting was to go through Hydro's tracking table. In  
6 fact, if you look at those tables, they are quite  
7 dense and they were provided the day before the  
8 meeting while I was in all day meetings with Saulteau  
9 staff and the provincial government representatives.  
10 There was no realistic opportunity for Saulteau to  
11 review those tables before the meeting. Part of the  
12 purpose for the meeting, and I'd suggest the main  
13 purpose of the meeting and the original purpose of the  
14 meeting was to debrief on the TUS and the FNITR. So  
15 what happened at that meeting, my understanding they  
16 began with a debrief on the TUS, then they did a  
17 debrief on the FNITR, and then there was some walking  
18 through of Hydro's densely packed tracking tables.  
19 But the process was not completed.

20 You know, the tracking table that I'm  
21 suggesting that Saulteau could provide, I mean, what  
22 we have now is Hydro's version of Saulteau's concerns  
23 and Hydro's response. What harm could there be that  
24 Saulteau could respond to that table and develop its  
25 own parallel tracking table? And submit that to Hydro  
26 and then Hydro can respond to it either in this

1 process or another process.

2 I also just want to make the point that,  
3 you know, proponents and Crown agencies can rely on  
4 regulatory processes as part of a consultation  
5 process, and for Hydro to say we don't want Saulteau  
6 to talk about it here because we want to talk about it  
7 over here, it doesn't sit very well with me. I mean  
8 it seems like they're trying to hive off some  
9 Saulteau's ability to raise issues and present where  
10 the parties are at. And I just don't think it's  
11 appropriate and I don't think it's supported by law.

12 THE CHAIRPERSON: Okay. Thank you, Mr. Hickling. Sorry,  
13 one second.

14 COMMISSIONER HAROWITZ: I wonder if it's a question for  
15 both Saulteau and BC Hydro. I'd like to hear from Mr.  
16 Hickling first and then from Hydro.

17 It seems to me that what I'm struggling  
18 with is, if the additional evidence is to say, "It  
19 happened on Tuesday," "No, it happened on Thursday,"  
20 it's a factual difference of opinion. Mr. Hickling  
21 said yes. No, but he actually said no. If there's  
22 additional evidence about what took place I understand  
23 how that could be very helpful to know what's going  
24 on.

25 **Proceeding Time 9:50 a.m. T19**

26 If the evidence is about what we think

1       about that, how much we like it, don't like it, feel  
2       that it's still an unresolved issue or not, that feels  
3       to me more like opinion and therefore argument. And I  
4       get where and how that's still horribly important.  
5       But it feels like it's not evidence, it's  
6       interpretation of evidence.

7                        So I just want to get very clear as to, is  
8       that distinction, first of all -- do you buy into  
9       that, those comments, as being helpful in this  
10      conversation? And if so, do you have evidence that's  
11      about the facts and what happened or are you  
12      suggesting evidence that's about what we think about  
13      it?

14   MR. HICKLING:    Okay. This is --

15   COMMISSIONER HAROWITZ:    So, two questions. First, is my  
16      construct useful?

17   MR. HICKLING:    I think so.

18   COMMISSIONER HAROWITZ:    Or do you think it's off-base?

19   MR. HICKLING:    No. I think it's useful. I think that  
20      the issue from our perspective is that at some point,  
21      the evidentiary record is going to close. Right?

22   COMMISSIONER HAROWITZ:    For this application.

23   MR. HICKLING:    For this application, yeah. So, Hydro has  
24      had an opportunity to present what they think of  
25      Saulteau's concerns, and what they think their  
26      response should be. And that's in the record. And

1           that was -- you know, we discussed it was submitted at  
2           the end, on the day before the meeting.

3                        So, my understanding is that Saulteau and  
4           its consultants are developing a similar parallel,  
5           parallel in purpose, tracking table. So why would we  
6           have Hydro's in and Saulteau's out? And this is --  
7           you know, it flows from that April 21<sup>st</sup> meeting. It  
8           flows from -- and it's going to flow from the Thursday  
9           meeting this week between the First Nations technical  
10          people.

11   COMMISSIONER HAROWITZ:    So you answered my question with  
12          a question. Can you answer it with an answer, which  
13          is, do you believe that your evidence is primarily  
14          around, "No, that's not what happened, what actually  
15          happened was this," or "Our understanding of what the  
16          implications are," or "How happy we are with where we  
17          are to date," which is not about what was said or  
18          happened, but your view about it. Is it both? Is it  
19          one? Is it the other? What will you be adding in the  
20          evidence? Is it changing what you believe are the  
21          fact patterns of what was said or done? Or is it  
22          about what we think about it?

23                        And I understand both are important. But  
24          I'm just trying to get clear what it is you want to  
25          file.

26   MR. HICKLING:    Okay. What I'm suggesting is both. But

1 if the Commission wanted us to limit it to the "what  
2 happened" question, then that's what we'll do. But,  
3 you know, this is -- Hydro keeps saying that  
4 consultation is ongoing. So, it's part of the  
5 consultation record, we're responding to what they  
6 sent us.

7 But to your question, you know, Hydro has  
8 presented its version of Saulteau's concerns and its  
9 version. Right?

10 COMMISSIONER HAROWITZ: I understand.

11 MR. HICKLING: And those may be properly characterized,  
12 or they may not be.

13 COMMISSIONER HAROWITZ: I hear you. Thank you. Thank  
14 you. And could -- Hydro, could you answer the same  
15 question, then?

16 MS. JONES: Yes, I can.

17 COMMISSIONER HAROWITZ: Is the construct helpful?

18 **REPLY BY MS. JONES (Continued):**

19 MS. JONES: Yeah, the construct is very helpful. I think  
20 -- and I think the way that that plays out,  
21 practically speaking, is are we dealing with Saulteau  
22 First Nation wanting to file primary documents that  
23 have already been exchanged as part of the  
24 consultation process that are not currently on the  
25 record? So, things like the voice recording, things  
26 like the presentation that was given, perhaps any

1 letters and emails that pre-date the application, that  
2 we might not have included as an appendix. Those are  
3 absolutely things that are properly before -- should  
4 be before the Commission, if Saulteau is of the  
5 opinion that, you know, we scoped them out as being  
6 not relevant, and they believe they should have been.

7 COMMISSIONER HAROWITZ: Okay.

8 **Proceeding Time 9:55 a.m. T20**

9 MS. JONES: Absolutely. Where I think we get into a grey  
10 area is, you know, if there is any information that's  
11 being provided or that's going to be provided, that  
12 Hydro has not already -- or that does not already  
13 describe what's happened in the consultation process.  
14 If we're arguing whether or not the mitigations  
15 proposed were sufficient, going back to what's being  
16 proposed to be filed which is an additional table,  
17 that is not yet part of -- BC Hydro hasn't seen that  
18 before. They are in the process of constructing that.  
19 That is not part of -- we keep talking about the  
20 consultation process as what's already occurred. That  
21 has not occurred yet. And so to put that on the  
22 record and to expect Hydro in this process to respond  
23 to it when it can't ask further questions and that  
24 hasn't -- the parties haven't engaged on that, that's  
25 still part of ongoing consultation. And there will  
26 probably be a further response from Saulteau after BC

1 Hydro gives its response, and that's the way  
2 consultation works. The issues are going to have to  
3 be taken back and forth.

4 What we will say though in respect of the  
5 table that was filed, Mr. Hickling said all you have  
6 is BC Hydro's understanding of the mitigation and BC  
7 Hydro's response. The mitigations in that table were  
8 taken almost word for word out of the FNITR. They are  
9 not BC Hydro's understanding of what mitigation is.  
10 They are the mitigations at the end of each chapter of  
11 the FNITR -- exactly what was proposed by LGL. So they  
12 are Saulteau's concerns and the FNITR's requests in  
13 terms of the mitigations that should be included in  
14 the project, and BC Hydro's response. Consultation on  
15 that document has occurred in such that it was  
16 provided to Saulteau, Saulteau has it, and they sat  
17 down on the 21<sup>st</sup>. Like Mr. Hickling said, my  
18 understanding is the preliminary -- the result, sorry,  
19 of the FNITR and the TUS were reviewed and then the  
20 parties started going through that table. But I'm  
21 going to leave it at that because nor myself nor Mr.  
22 Hickling were at that meeting, so I'm not going to  
23 comment on what the primary -- but that's what  
24 happened. It actually referred to the meeting notes,  
25 I guess. That's what occurred, and to the voice  
26 recording that Mr. Hickling would like to file.

1 THE CHAIRPERSON: Ms. Jones, what about Mr. Hickling's  
2 remark just a few moments ago, and I'm probably not  
3 going to quote it correctly, but that the consultation  
4 includes material that may be part of a tribunal  
5 proceeding or words to that effect.

6 MS. JONES: We absolutely don't dispute that. This  
7 process can absolutely be part of the procedural  
8 aspects of a consultation process. The problem is  
9 again it's limited to what's occurred between the  
10 parties.

11 THE CHAIRPERSON: Sure. Sorry. But that would argue  
12 then that the material could be filed but that you  
13 would -- BC Hydro would then have a right to cross-  
14 examine on it or ask IRs on it, or test it.

15 MS. JONES: But the parties haven't had the chance to sit  
16 down and discuss that. If we're saying that their  
17 opportunity to discuss will be through an adversarial  
18 IR process and that BC Hydro is going to have to  
19 provide responses without being able to further ask  
20 questions and clarifications about what exactly is  
21 being presented, that's a very different process than  
22 the consultation table where the parties can sit down  
23 and say, well, what is it you actually meant by that?  
24 Like what do you mean when you say X?

25 THE CHAIRPERSON: What about Mr. Hickling's contention  
26 then that the material -- that your Issues Table was

1 presented in a meeting that consisted of a number of  
2 other agenda items and had only been provided to them  
3 the evening before, and that there was no real  
4 meaningful discussion on that either? So it would  
5 seem to me that that would be similar to Mr. Hickling  
6 sending you the document by email today, and then  
7 filing it next week. So --

8 MS. JONES: Yeah, I think the difference is that the  
9 parties have the time to sit down and are face to face  
10 in reviewing those things. And if you look at the  
11 meeting minutes you'll see that the parties got a  
12 significant way through that table in discussing the  
13 issues, as opposed to simply the filing of what they  
14 believe -- what their table is, and having to have BC  
15 Hydro then ask questions here, there, without being  
16 able to simply -- you know, the IR process will become  
17 Hydro asking questions of what Saulteau meant, not BC  
18 Hydro's response to that, because BC Hydro can't  
19 provide its response until it's asked those questions.

20 And at some point the consultation --  
21 you're right. This evidentiary process is going to  
22 have to come to an end, whereas the consultation  
23 process will occur.

24 THE CHAIRPERSON: Will continue.

25 MS. JONES: Exactly. And it is hard as to where we draw  
26 that line. But we would say that the Commission's

1           role is deciding whether or not consultation is  
2           adequate up to the point of its decision and on the  
3           consultation that has occurred between the parties.  
4 THE CHAIRPERSON:   Well, in this scenario, in a scenario  
5           where you were let's say provided with a document at  
6           some point this week or at least some point prior to  
7           it being filed, but then didn't -- there was no chance  
8           for a back and forth on that, and then it was filed on  
9           Monday, well at that point in the consultation  
10          continuum, you have been provided with the document  
11          and the panel would then consider that you have had no  
12          -- that there has been no opportunity for back and  
13          forth. But that's, you know, presumably coming later,  
14          later in the process.

15                        So I'm not quite sure what -- I don't  
16                        understand why it's procedurally unfair to look at the  
17                        consultation at that point in the continuum.

18    **Proceeding Time 9:59 a.m. T21**

19 MS. JONES:    So the uncomfortableness we have with that, I  
20           guess, is on past applications, where BC Hydro has  
21           been presented with new concerns and has not yet had  
22           the time to consult on them, and sit down with the  
23           First Nation and provide its response, consultation  
24           has been deemed to be not complete for the Commission  
25           to approve.

26    And now that was in the context of other

1 issues. It was a different project. But it was clear  
2 that receiving information about impacts at the last  
3 minute and not having the opportunity to respond and  
4 to sit down and discuss them was found to be an  
5 inadequacy in BC Hydro's consultation process.

6 COMMISSIONER MacMURCHY: You filed two tracking tables.

7 MS. JONES: Mm-hmm.

8 COMMISSIONER MacMURCHY: Why isn't it appropriate for the  
9 Saulteau, given that this evidence has been put before  
10 them, to respond to the evidence that they've just  
11 received in terms of the evidentiary update by putting  
12 forward their version of the table with the additional  
13 comments on it? I mean, we go back to Mr. Weafer and  
14 the use of the IR process. It seems to me that that  
15 is just an expedient way for them to put forward the  
16 same type of information that otherwise they could  
17 glean from BC Hydro by asking a whole series of IRs  
18 about the tracking tables.

19 You put the evidence on the record. I  
20 think they have the right to respond to that evidence.  
21 So why can't they respond to it in a more efficient  
22 manner, which is by putting forward this new table?

23 MS. JONES: Again, I think the problem lies in -- we're  
24 not saying that it's not appropriate for them to  
25 provide a response. But then where does it end? BC  
26 Hydro's going to want to provide a response to theirs.

1           At some point, the line has to --

2   COMMISSIONER MacMURCHY:   Well, it's going to end.  You've  
3           got an opportunity to have reply.  You know, and we  
4           define the process.  And all I'm saying is, given the  
5           process that's been defined, why should we have a  
6           concern with what Saulteau has proposed?  I'm having  
7           trouble grasping that.

8   MS. JONES:   Where I would say the deficiency lies is,  
9           Hydro will only have what's on paper.  It will not  
10          have a chance to sit down with Saulteau and say, "What  
11          do you mean when you said this?"  So our IRs will ask  
12          for the questions but we will not be able to provide  
13          our response without the added information we need  
14          from the further questions.  So, essentially you could  
15          result in a situation where you have the filings from  
16          Saulteau, you have BC Hydro asking a number of  
17          questions in respect of, "What did you mean by X, Y,  
18          Z?"  And then you have no response from Hydro on the  
19          record.

20                                   And perhaps I'll leave it at that.

21   COMMISSIONER MacMURCHY:   Yes, perhaps we should, yes.

22   MS. JONES:   I did have one further point just -- and I  
23           don't want to complicate things, but there is a whole  
24           question as to whether or not Saulteau filing the  
25           evidence as part of an IR process would be sufficient  
26           or not.  An alternative to that would be an IR process

1 on Saulteau's evidence alone. It's very tight in the  
2 schedule, but we do see that it -- you know, if all  
3 parties would agree, it would be possible if the IRs  
4 were to be turned around sort of the day after they're  
5 received, and then have a very short period after.  
6 But we're also amenable to the proposed system whereby  
7 Saulteau presents that additional evidence as part of  
8 an IR, and BC Hydro is able to then respond to it.

9 COMMISSIONER MacMURCHY: Okay.

10 MS. JONES: Subject to any other questions --

11 THE CHAIRPERSON: No, thank you very much. All right.  
12 Mr. Miller, is there anything else?

13 MR. MILLER: No, I have canvassed the other interveners,  
14 and they have no further submissions on what's been  
15 discussed recently. So I'm not aware of any further  
16 process.

17 THE CHAIRPERSON: All right. Well, thank you very much  
18 to everyone. And we'll take five minutes, and we're  
19 just going to -- we'd like to just have a chance to  
20 discuss this, and we'll come back and let you know  
21 what further action we'll take. We'll be back about  
22 ten after.

23 (PROCEEDINGS ADJOURNED AT 10:04 A.M.)

24 (PROCEEDINGS RESUMED AT 10:17 A.M.)

**T23**

25 THE CHAIRPERSON: Please be seated, thank you. Okay, so  
26 regarding the Saulteau First Nation's evidence, the

1 Panel is not inclined to make any restrictions on any  
2 of the evidence that Saulteau can file, at least based  
3 on the evidence that we've heard about today.  
4 However, we do think it would be somewhat more  
5 efficient if you could file your evidence in the  
6 context of an IR, all of your evidence that way,  
7 please. That will at least give Hydro some chance to  
8 respond in some manner and hopefully that will be  
9 helpful to Hydro. And so that would be your IR 3 then  
10 and any other questions that you may have for IR 3,  
11 and that would be on Monday, that's April 29<sup>th</sup>, I  
12 believe. May 2<sup>nd</sup>, sorry, yes.

13 And then Hydro, I think you said that you  
14 would be able to respond by May 6<sup>th</sup> to the IRs, is that  
15 correct?

16 MS. JONES: I think it is -- I don't think I provided a  
17 date. That's going to quite a tight -- provided  
18 that, if you're envisioning BC Hydro also filing its  
19 final --

20 THE CHAIRPERSON: And rebuttal evidence too, if you so  
21 choose.

22 MS. JONES: We'll make it work.

23 THE CHAIRPERSON: Thank you. All right, May 6. And then  
24 intervener written submissions on the 13<sup>th</sup> and reply on  
25 the 17<sup>th</sup>. I think that's a Wednesday, I believe, isn't  
26 it? The 17<sup>th</sup>?

1 COMMISSIONER HAROWITZ: Tuesday.

2 THE CHAIRPERSON: Tuesday. So we will reserve a day if  
3 required on the 20<sup>th</sup>, which is a Friday, for if the  
4 Panel does choose to hear any additional oral argument  
5 or if the Panel has any further questions. But we'll  
6 notify parties by the Wednesday if that's required or  
7 not.

8 And then regarding the scope of IR 3, the  
9 scope of IR 3 would be on all consultation issues.  
10 We're not inclined to restrict it to necessarily the  
11 post-application part of the record, in part because I  
12 think there's some parts of the pre-application record  
13 that are part of the rebuttal evidence and part of  
14 other evidence that's been filed since IR 1 and 2, and  
15 consultation is a key part of this proceeding. So any  
16 of the consultation log is in scope for the IR 3.

17 So if there's any questions from any  
18 parties on that timetable or if there's any dates in  
19 there that people can't miss or if there's any  
20 questions, please bring them forward. Mr. Weafer.

21 MR. WEAFER: I just may have misheard. In terms of the  
22 proposed date for oral argument, that's Friday, May  
23 20<sup>th</sup>?

24 THE CHAIRPERSON: 20<sup>th</sup>, yes.

25 MR. WEAFER: Okay, thank you very much.

26 THE CHAIRPERSON: And we'll let you know by Wednesday the

1           -- we'll try to let you know at least by Wednesday the  
2           18<sup>th</sup> if it's on or off.

3 MR. WEAVER:    Thank you.

4 MS. JONES:    If I could just have a moment.

5 THE CHAIRPERSON:    Yes, please.

6 MS. JONES:    I think we're okay. We're good. Thank you.

7 THE CHAIRPERSON:    Thank you very much. So unless there's  
8           anything else then, I'll adjourn the procedural  
9           conference with thanks to everyone. Appreciate it.

10           (PROCEEDINGS ADJOURNED AT 10:22 A.M.)

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