

SOCIO-ECONOMIC EFFECTS ASSESSMENT IN THE YUKON

Workshop

VERBATIM RECORD

February 1, 2005
West Mark Whitehorse Ballroom
201 Wood Street
Whitehorse, Yukon

Present: SEE APPENDIX "A"

The workshop convened February 1, 2005, at 9:10 a.m.

1.0 Welcome to Participants and Introduction of Workshop - Lindsay Staples, Rob Walker and Lyn Hartley

LINDSAY STAPLES: Good morning everyone and welcome.

Before we begin our proceedings, I've asked Chuck Hume, with the Champagne and Aishihik First Nations, to begin our session with a prayer. So, if you would all rise, please.

CHUCK HUME: Good morning, ladies and gentlemen. I guess, to start off with, I'll just give you a little background of where I'm from. I'm from the Dalton Post area, born and raised in the bush there, and one of my first languages was the traditional Southern Tutchone and partial Tlingit, so this is what I will say my prayer in.

[Prayer]

LINDSAY STAPLES: Good morning. My name is Lindsay Staples, and I've been asked to moderate the workshop over the course of the next three days, and it's a great pleasure for me to do so. This is an area that's near and dear to my heart and has been for many years. I think, that when we look across the room at the number of people who have made it out to attend the workshop and where they've come from, which is well beyond Whitehorse and the Yukon, from other parts of Canada, I think it's a reminder to all of us of how important this whole area of socio-economic effects assessment is in the context of project reviews.

I'd also like to recognize a group of people who are here who are with the Yukon Development Assessment Board. These are the people whose job it is to

implement the legislation in the Yukon that governs environmental assessment in the Yukon pursuant to Yukon land claims agreements. I'd just like to ask, if I could, the board members to stand up and identify themselves, just so people in the room here are aware of who you are. Could the board members just stand?

Thank you very much. It's the job of these people and others to essentially put into effect this legislation, and they've got a large, large job in front of them, which is essentially developing procedures and guidelines that are going to essentially provide the operational framework for how project reviews are conducted in the Yukon. The legislation that's governing this work in the Yukon is landmark legislation, and one of the things that makes it so unique is the fact that, unlike our historical situation in the Yukon, and indeed in many parts of Canada for many years, where we've looked at socio-economic effects largely as indirect effects resulting from environmental impacts, now we're in a position to look at not just indirect effects but direct effects on the human environment.

Over the course the next three days, we've got a wonderful line up of speakers, who I think you'll all get a great deal from with respect to their experience and their thinking about this area of socio-economic effects assessment. One of the things that a number of the speakers, in talking to them over the last month or so, passed on to me, was how thrilled they were to be coming to a workshop of this type, since these types of workshops are really few and far between in Canada with respect to dedicating time, dedicating a number of days to expressly looking at impacts associated with projects on the human environment. I think it's fair to say that most of them were thrilled with the opportunity to both put presentations together, to think about this subject matter a little bit more and to share their experience and their knowledge with you.

The driving intent of this workshop is educational. We've worked on the premise that this whole area of socio-economic effects assessment is very, very new for many people in the Yukon; and so, we've essentially tried to put together a program that assumes very little actually about the knowledge that people bring here. I think we do recognize that people come with different types of experience, different perspectives and with different levels of knowledge; but, by and large, we've tried to put together a program in which there's something for everyone, if not everything for everyone, at each and every moment of the next three days.

Some of the discussions that we have planned are going to be toward the technical end, I guess you could say, of the continuum, and others are really going to be a firm reminder of the range and the diversity of Yukon values and Yukon perspectives that need to inform development assessment and certainly that development assessment, in and of itself, needs to be sensitive to in rendering recommendations to decision-making bodies with respect to projects and whether projects are going to contribute to the future well-being of Yukoners of all persuasions and all constituencies, or whether these are going to be

projects that compromise, or indeed even in the worst cases, undermine the potential future that Yukoners desire.

So, the work over the course of the next three days is educational. We're a large group, and we'll do our best to keep the discussions informal. I think many of us here are amongst friends and colleagues. For our visitors, we in the Yukon always like to welcome people with open hearts and minds, and again, we welcome you to the Yukon.

Having said that, I'd like to, before we move into the presentations of the day, just take a moment to kind of cast the nature of the today's discussion, and today's discussion is really largely a primer with respect to the basics of economic impact assessment, environmental impact assessment and social impact assessment, and that's what much of the afternoon is devoted to is looking at the mechanics of what this stuff is about. We've worked on the notion that for some of you, or for many of you, again this is a new area. It's also fair to say that for those who are expert in the area that people have many different opinions and many different perspectives on how to best do, if you will, the work of impact assessment in these areas. I think over the course of the week, as well, you're going to hear different perspectives; and it's going to be up to us to tease through this or work through this and determine for ourselves what might work best in the Yukon.

With a view to getting off on the right foot, we've looked at day one as a primer, so the afternoon is really looking at the fundamentals of what do we mean by impact assessment, and we've broken it down into a number of discreet elements. This morning, however, we're taking the time to try and acquaint ourselves with where this legislation that is driving project reviews in the Yukon has come from, and what are the fundamental requirements of this legislation as it applies to project reviews generally and as it applies to socio-economic impact assessment specifically. But before we do that this morning, as well, we're very fortunate to have with us to open our three days Thomas Berger, who many of you know. He's not new to the Yukon, and he's certainly not new to the north. He's going to be speaking to us with respect to the human dimension of project reviews, based on his experience across the world. I've heard Tom speak on a number of occasions over the last 15 years or so and I can tell you that it's always quite compelling when one thinks about what he is offering up to us.

Having said that, I have the pleasure of working with two other people over the course of the next two days, and I'd like to introduce to you Rob Walker, who is going to tell you a little more about the program for the next three days. Rob works with the Development Assessment Branch, and I've got a high regard for Rob and the work and the time and effort that he's put in in making this workshop a reality. So, if you would please welcome Rob Walker.

ROB WALKER: Thank you very much, Lindsay. Good morning, and welcome to everyone. It's a pleasure to have you all here. I'm here to welcome you on behalf of the Yukon Government to this workshop on socio-economic effects. Already I can see that we're off to a good start with Lindsay calling them "impacts" and the legislation calling them "effects". Really I think we should just think of them as pretty much the same thing as we go along.

The other thing that is very nice, thank you for identifying that the people from the YESAA board are here. They certainly a very important role in this whole process, but it really is the *Umbrella Final Agreement* that was negotiated between Yukon First Nations, the Yukon government and Canada that imbedded the desire of Yukoners to find better ways of making decisions in the Yukon for Yukon First Nations and all Yukoners. So really for this to work, it's going take all of us. It's going to take all the levels of government, it's going to take the public, the people and all the organizations and agencies that we have to, I believe, to really get this thing on the road.

The *Umbrella Final Agreement*, Chapter 12, calls for a process, which we'll call the "development assessment process", which considers not only environmental effects of development, as we do now, but also the socio-economic effects of development. So, when we think about it, we used to call it "environmental assessment", and we thought, "How does development affect the environment?" Well, now we're turning the name around and saying, "How does development affect the environment, our society, our economy," the whole ball of wax in a way.

So what is socio-economic effects assessment or socio-economic impact assessment, as it's named in many different places? Really around the world, governments and societies are striving and searching for better ways to make decisions and to provide better information to decision-makers about developments. South Africa, New Zealand, Australia, Malaysia, Alaska, Nunavut, Northwest Territories, all these places are working and striving — and many more — are striving to consider how does development affect our communities and our people. The name of the process, from place to place, varies. Sometimes it's just called "environmental assessment". Sometimes it's called "environmental-social health impact assessment" or "social impact assessment" or "socio-economic impact assessment". There are an endless number of names. Almost every jurisdiction has its own way of doing it, and that sort of makes sense because every place is a little bit different and has different needs. There really is no right way, I think, but there will be a Yukon way for the Yukon.

This workshop is important, because it provides an opportunity for us as Yukoners to begin an informed conversation about what Yukoners need and expect from socio-economic effects assessment. My limited experience with this in the Yukon suggests to me that different people and groups have different

ideas and expectations, so this workshop is really an opportunity for you to express your views and, more importantly, to hear the views and expectations and underlying values of others. There's a very wide diversity of participants in the audience, so let's use this rich diversity to continue to build the made-in-the-Yukon process started by the UFA. Thank you very much.

LINDSAY STAPLES: Rob mentioned that one of the aims of this workshop is to encourage dialogue and to encourage exchange. You'll know, from looking at the program, that there are a number of presentations that are happening, so you may well be asking, "Well, given the large number of presentations, how are we going to do the dialogue and the exchange?" I'd like to introduce to you Lyn Hartley, who is going to speak to the interactive aspects of the workshop and what we're hoping to do with tables and with questions and answers associated with the talks that you're going to hear. So, notwithstanding the fact that there's some 200 of us in the room, we still will do our best to encourage some degree of conversation over the course of the next three days. So, Lyn.

LYN HARTLEY: Good morning. So, yes, I am the person who has put you at these tables, so bring on the anger, I can handle it. It's always fun to have assigned seating in the Yukon and to see everyone's reaction when they come in and are told that they have to sit in a certain spot.

I want to start with a quote from a woman named Margaret Wheatley, and she does a lot of work with hosting and bringing together communities: "A leader these days needs to be one who convenes people, who convenes diversity, who convenes all viewpoints in processes where intelligence can come forth. So these kinds of leaders do not give the answers, but they help us, together, so together we can discover the answers themselves."

So, welcome, everyone here, and welcome to our guests from outside of the Yukon. Welcome to the folks from communities within the Yukon, and of course, welcome to all the folks here from Whitehorse, and I think that's the majority of the people here. So, that is part of the reason why we decided to have these arranged "partnerships" that you're sitting in today. We really wanted to be drawing upon the diversity in the room. So, a key part of the next three days will be dialogue and also saying that no single person in the room totally understands what is this concept. So, it's going to be up to us to try and engage this whole room, and each person here is bringing part of the answers.

So, on that point, I would like you to introduce yourselves just to your tables. We're going to do this really quickly, because we've got to keep moving, but turn to somebody at your table and say, "Hi, my name is —," and ask the question, "What brought you to this workshop?"

[Introductions at tables]

LYN HARTLEY: So welcome, everyone. Hopefully you've met at least another person at your table, maybe a few, and welcome. It's going to be an interesting few days, and I would also say that we don't have any easy answers for you. There's no magic bullet, and that's part of the joy of bringing together-- we're going to have about 180 people in this room, so we're going to be looking for some of the pieces that may be part of the solution and working towards that, and that's what we're going to be discussing on the last afternoon. So, I'll be helping the dialogues and I also just want to mention that you can see these lovely images. You can imagine taking some of these topics and trying to make them into cartoons, but luckily we have Tanya Hanley, who is a local artist in town, so she has helped us out with these.

There's one person I also want to introduce you to, and she's sitting right in the middle of the room, and her name is Carenn Kormos. Can you wave to us, Carenn?

Carenn Kormos, I think, really runs the Yukon government in a lot of ways, and she's the one who got us here. We wouldn't have pulled this thing off without Carenn Kormos' help. She's another essential element of this team that pulled this off. So, thank you very much, Carenn.

I have a few housekeeping things.

[Discussion on food service, package and coloured sheets]

LYN HARTLEY: I'm looking forward to this event. Thank you, Lindsay, and you'll be hearing from me in a little bit. Welcome.

LINDSAY STAPLES: I have already been caught by Rob Walker. I used the term "impacts", as opposed to "effects", and that's largely a function of I've been spending a lot of time these days over in the Mackenzie Valley. So, depending on where you are, it's "impacts" in the Valley, but back here in the Yukon it's "effects". I'm sorry, I haven't quite made the transition, but I think the point is that we're going to allow each other the latitude of "impacts" or "effects" and understand them, at least for the purposes of the next three days, to essentially equivalents of one another.

2.0 Overview of the General Requirements of the *Yukon Environmental and Socio-economic Assessment Act (YESAA)* - Kirk Cameron

LINDSAY STAPLES: So, now it's my pleasure to introduce to you Kirk Cameron. Kirk's going to be speaking several times today. Kirk is a partner with Gartner Lee in Whitehorse, he heads up their Whitehorse office, and he has got a long history of working with different levels of government in the Yukon, most recently at the deputy minister level and serving the Yukon Cabinet. He

has got a lot of experience in the area of northern governance, and he has got a close working association with Chapter 12 of the *Umbrella Final Agreement*, which of course is what gave birth to legislation, the development assessment process. So, we've asked Kirk this morning to give you, basically, an overview of the legislation; and this afternoon, he'll be speaking more to the specific requirements as they relate to socio-economic effects, but this morning we're trying to give you a sense of what the bigger legislative context or framework is in which socio-economic effects assessment will be conducted. So, please welcome Kirk Cameron.

KIRK CAMERON: Thank you very much, everybody. It's very nice to be here today. I do have one disappointing comment for Lyn, and that is there is somebody in this room who does know all about the socio-economic and does all the answers. That's Lindsay, so, you know, during the breaks you can talk to him, and I'm sure he'll fill you in on those aspects.

I have, I think, about eight minutes, and I have a presentation that, depending on the day, could last up to three or four hours, so I'm going to rip through it pretty fast. I suppose the context on this one is I look around this room and I know probably about 60 or 70 percent of the people here, and I'm convinced that that 60 or 70 percent knows more than I do about aspects of environmental assessment here in the Yukon Territory, its history, where it's at today, the YESAA legislation, and so on. So, you'll forgive me if I make errors in judgment or comment or if there are errors in my presentation. Because of your infinite wisdom, you know better than I do, so do forgive me. I've been asked to take this discussion to the 40,000-foot level and keep it there, in seven, eight, 10 minutes. So, that's the context in which you're getting this.

The other thing, too, and this is a comment back to Ian Church, "No, there are no questions and answers for my first session, so you don't get an opportunity to take shots at me this morning." This afternoon you can, this morning you can't.

What I want to do is take us through, in the presentation, a sense of what environmental assessment, the general concept, is. Again, you folks know it a whole lot better than most of the people in the Territory and probably in Canada or in the world, so I'm not going to spend an awful lot of time on that. What's in place today, the CEAA and the *Environmental Assessment Act*, with the Yukon Government, I want to talk about DAP. I think people recognize that acronym. It was with us and very common language back in the '90s; it got replaced by the fond reference to "YESAA" when the Department of Justice drafters got hold of it and determined that DAP just didn't do it. YESAA purposes, what it's all about. I want to spend some time again there talking about that context. It's about partnership, a little time on that. What does YESAA say on process? What does it say on the substance of environmental assessment? What does YESAA apply to? Again, the list is very long, very impressive. What are the implementation

challenges? And I want to get there and give some time for observations at the end of the talk, all within, as I say, a very short time.

So, what's this concept, this environmental assessment concept? Originally it was designed as, and still in most respects is, a management tool. It's about giving decision-makers what they need to do their job better. These are comments coming off the Canadian Environmental Assessment website itself: "Environmental assessment is a tool to ensure that adverse environmental effects are identified and mitigated. Ideally the assessment and environmental effects and provision for mitigation are an integral part of the project planning process." That's a key theme. It's integral. Just as environmental assessment, in the hard science sense, has become common in terms of its relationship to decision-making, now more so, and clearly with YESAA, the socio-economic aspects are also becoming integral to the way in which we go about making decisions about the future of our Territory.

Key to industry are matters to do with the timeliness of the environmental assessment and its integration into the process, to help provide that informed decision-making and to support this new concept -- it's actually not new but it's one often debated -- this concept of sustainable development. That's something, again, that's one of the objectives that I think we'll be talking about over the next three days, perhaps to a great degree.

Environmental assessment is at the forefront of many sensitive issues: socio-economic, environmental, the aboriginal interests, federal/provincial relations. These are all very much a part of what I mentioned earlier as being that integrated process that helps decision-makers do what they're supposed to do for us. The complexity and profile of projects undergoing assessments are increasing and involve competing stakeholders' interests. The challenge is to find balance. That's again a very important word to take throughout this next three days, is what's the balance between development and really reaching an understanding of what the socio-economic effects are that will effect good development for our territory.

What's in place today? I think you all know it's the *Canadian Environmental Assessment Act* for federal undertakings. That was assented to in June of 1992 and has been with us since then. Its predecessors were EARP-GO and EARP and other policy structures in the federal system, but the legislative requirement for environmental assessment dates to '92.

What we have here in the Yukon Territory as a consequence of devolution in 1993, is the *Yukon Environmental Assessment Act*, which is almost mirror legislation to CEAA. The thresholds were established and captured in the territorial legislation that pretty much mirror what's in place in the federal legislation. Focusing on determining and mitigating adverse environmental effects, that's what's in CEAA and in the *Environmental Assessment Act* in the

Yukon. The socio-economic examination focuses on matters relating directly to potential adverse environmental effects. Will there be a negative impact on people, health, livelihood, et cetera? So, if there's a perception that there will be an environmental impact, then there will be a socio-economic engagement to determine: Will there be socio-economic effects of it? So, that's a critical distinction between what's in place under CEAA and EAA in the Yukon and what will be in place when YESAA is put into full force and effect.

Levels of assessment, called "screenings", of course, with YESAA they managed to switch that around so that screenings are actually a more senior level; but the basic and probably 90 percent of all the business of EA done in the Territory is at the screening level. Major assessments are covered through comprehensive studies, mediation and panel reviews, again under CEAA or the *Environmental Assessment Act*.

Finally, there are cooperation procedures existing in both CEAA and EAA to allow those particular environmental assessment processes to interact with one another.

A quick walk down memory lane. Remember DAP? It was a concern for health, the land and resources. It dates back to the 1970s when there were first discussions by Yukon First Nations and the Federal Government and the Yukon Territorial Government over the negotiation of land claims in the Yukon Territory. The EA concept, the development assessment process, was captured in Chapter 12 of the *Umbrella Final Agreement*, and that was captured in the first four land claim agreements, which were assented to and ratified by Yukon First Nations in 1993. The target in the UFA to implement by 1997 clearly was missed. We're still waiting to implement, finally, the YESAA process in the Yukon Territory.

I think what that does speak to, by the way, is the patience of the people who have been involved in getting the process right the first time, and I think that that's something that we have to take our hats off to what I would refer to as the visionaries in First Nations and in the governments who said, "Let's not push for a deadline where we can create something that we will live to regret."

In May of 2003, DAP was captured in the *Yukon Environmental and Socio-economic Assessment Act*. It was assented to, even though, again, part two in those aspects that trigger environmental assessment, was not brought into force and effect at that time. That did not occur until November of 2004. Indeed, in 2004, the YESAA Board was appointed and asked to take on the initial daunting challenge of establishing its rules, its procedures, getting the designated offices established, a myriad of challenges that it faces even today, I believe. They're still going through that process.

Timelines and activity regulations -- those are a critical feature in that legislative umbrella, if you will, to bring the YESAA regime into force and effect. Without

those regulations, there's no recognition of a trigger that would allow YESAA to apply, and therefore, socio-economic to apply. The latest date that I'm aware of is possibly fall of this year for those regulations to be brought into force, and therefore, have YESAA replace the *Environmental Assessment Act* and CEAA in the Yukon Territory.

The new era here today will be YESAA. It's the creature of a modern day treaty, a constitutional presence, given Section 35 of the *Constitution Act* of Canada. I can't underscore that point more substantively than to say, "This is a true partnership and it's not one that any of the three parties can walk away from easily. This is a fundamental part of our Constitution-making that applies here to the Yukon Territory." The very fact that we have this kind of turnout here in this room today suggests to me that you're all caught by this same belief, that this is really important to the future development of the Yukon Territory. It's not going away. This thing, we are the beneficiaries of and will benefit from over the next millennia.

Unlike the provincial regimes, YESAA is federal legislation which will not be replaced by the territorial legislation. It largely replaces other environmental assessment regimes in the Yukon with a couple of exceptions. For instance, if the National Energy Board is triggered by some activity in the Territory, then there will be CEAA brought into a discussion about either a joint panel or some other process. Again, the *Inuvialuit Final Agreement*, which dates back to the mid-1980s, will also continue to apply where the North Slope is concerned, and there are relationships that have to be built between the Inuvialuit and the Yukon process to ensure that any development on the north coast is properly assessed.

It is different than the processes in Nunavut and the Northwest Territories. It's advisory to First Nations and to governments. That's a clear distinction in the legislation. The governments are the decision bodies. They're the ones who make the ultimate decisions. The board, its executive committee and the designated offices advise government on environmental assessment and socio-economic effects and how to mitigate potential negative impacts -- I use the "impacts" word as well, Lindsay -- as they are perceived in any development that's proposed for the Yukon Territory. There's a clear recognition of the independent decision-making status of First Nations and Governments of Yukon and Canada. These are reflected in the legislation as decision bodies. You'll hear that term time and time again, I suspect, over the next three days; but I think that's a critical point and it comes to my conclusions, which I'll have to get to pretty fast, here.

There are six districts established in the Yukon, again under the legislation, that are quite critical, because 80 or 90 percent, I suspect, of the environmental assessments that are done in the Yukon Territory will be done by these designated offices that will be located around the Yukon Territory. So, that's a

clear function, as well, that's somewhat distinct from Nunavut and the Northwest Territories.

YESAA purposes -- okay, this is all reflected in the YESAA legislation. I'll be talking to this in more detail this afternoon, so I'm not going to go through it in detail this morning; but I think when you look through this list, you can see how impressive the principles are that underline the business that the environmental assessment process is going to be under.

I've underlined a few words here to highlight things like traditional economy, not just Yukon citizens and Yukon First Nation citizens, but also Canadians. It captures a sense of relationship inside and throughout Canada that is very impressive.

The other thing about the purposes that probably some people aren't aware of: Originally, when the Department of Justice was talking about these purposes, they were thinking about putting them in a preamble. The decision was no, let's put them in the body of the statute, because what that's going to do is it's going to give a sense of principles that, if there are conflicts, if there are conflicts with decision bodies and ultimately going to the courts, then the courts can take this and say that, "No, parliament believed that these were the principles that should affect the way in which decision-making is brought to bear on environmental questions." It's in the body of the statute. It has an important presence there, which I think is going to be fundamental to the future of this Territory.

The YESAA partnership -- I think all of you are aware that it's among three jurisdictions: It's Yukon First Nations, it's the Government of Yukon and it's the Government of Canada. Again, that was as a consequence of the establishment of the relationship for DAP under the First Nation final agreements and the *Umbrella Final Agreement* for land claims in the Territory. Again, it's a constitutionally-recognized relationship through Section 35.

What does it say on process? I think most of you are probably aware that it creates a board, it creates designated offices in six locations, it replaces the self-assessment principle, which is under CEAA and the *Environmental Assessment Act* in Yukon.

There are three levels of environmental assessment done. One is -- and as I said earlier probably 80 percent of them will be done -- at the designated office level. There will executive committee screenings for larger projects and, under circumstances and triggers, the board can establish a panel for reviews.

Timelines and rules are set out by federal regulations and the board and designated offices, as well. Decision bodies, as I mentioned earlier, are also an important feature of the process itself. The legislation directly recognizes the First Nations, the Yukon Government and Canada and their respective roles.

DBs and the board advise government; they do not regulate. There is a clear separation of what I'll refer to as "church and state" here in this particular case. I don't know if Dale Eftoda ever thought that he'd be running the church here in the Yukon, but that's what he's got now. What can these decision bodies do? They can accept, they can reject, they can vary, but the reasons must be articulated and the reasons must be made public. If there is to be rejection of the way in which the board reviews a particular issue, whether socio-economic or environmental in nature, they have to make that a public understanding. There has to be the opportunity for public debate. There is no opportunity to hide, in effect, why you are making a decision to run contrary to the YESAA process.

What does it say on substance? There's an implicit recognition throughout the statute the project impact on the health of the environment and the people, thus the tie between the environmental and socio-economic impacts. The statute is riddled with that; so is Chapter 12. The approach to determine triggers used in the Yukon activity and project assessment regulations are different than CEAA and YEAA. The project types and activities are identified and exceptions noted, as opposed to the other way around. That's a detail but it makes it a little bit different, how you read the legislation and those regulations to determine if your project is one that needs to be screened.

Socio-economic considerations and traditional knowledge are now covered and not related just to potential adverse effects. It's about expansive coverage of what are the ultimate social values that come into play on whether a development should be modified or whether it should be given a green light. Cumulative effects are also captured.

What does YESAA apply to? Okay, this is a long and impressive list. These are the triggers in the legislation in Section 47 that relate to federal agencies, relate to territorial agencies; municipal governments are now captured. I think that's a very important feature that people need to bring to bear is that things like the waterfront developments and so on and so forth in the Yukon, those are all now captured. Municipalities are covered through YESAA, even though the decision body for municipalities is the Territorial Government. Authorizations and grants, money, those kinds of things all trigger whether an environmental assessment is done. Those have to be read, of course, in the context of the regulations, which trigger whether an environmental assessment is done or not. This is, I suggest, a very long and incredibly impressive list. I don't know if there's too much of what we anticipate doing in the Yukon Territory that would not fall somewhere within this listing of regulations that relate to what's triggered for environmental assessment. So, good luck to the board and designated offices, because I think you've got a lot of work ahead of you.

Implementation challenges -- I think the board is far better able to describe these than I can. The board's orientation, its relationship to decision bodies, its relationship to the Yukon public, all that has to be worked out. Those, again, are

going to be captured, I think, in a combination of rules, guidelines, procedures that it establishes; and there's a requirement, again, for public discussion around those rules that the board establishes.

The board has to hire its staff; and that's a pretty critical undertaking, because when we look at those principles that we referred to or talked to earlier, everybody who is hired by the board, everybody who is doing EA has to have a conceptual understanding of the philosophy and the kind of approach that's going to be captured in both the environmental and socio-economic sides of those assessments. That's a tall order. The six designated offices have to be established and staffed. Finalizing the assessment district boundaries, I don't know if that's been done yet, but it's probably pretty close.

Intergovernmental protocols to meet the principles, again, this is about relationships; it's about the relationship with the First Nations and the two levels of government, public government. Those kinds of protocols and relationships are fundamental to making this thing work seamlessly when it starts doing its business in the fall of this year.

Activity regulations of the board and designated offices, there's a good and healthy list of them. I'm not going to go through them all, but may I say that when you look at what the board has the authority and the responsibility to prepare, that corrals a huge amount of the business of environmental assessment here in the Yukon, the fact that it can set its timelines. It can set the form and content of the project proposals, which are a key and fundamental first step in your engagement as a proponent, working with the board on your environmental assessment. It can set the terms and the way in which public participation and assessments is undertaken. There's an awful lot that the board must do as part of its rule-setting enterprise. It's also got a fairly impressive list of the "may"s, the "may" clauses that also have to be brought to bear in this question; and the other thing to keep in mind is designated offices also have a similar set of responsibilities, even though they must be consistent — or not inconsistent, I guess is a better way of putting it — with the way in which the board does it. So, designated offices, Mayo, Dawson, wherever it's located, those particular bodies can also set the terms and conditions for things like public consultation, and so on.

Okay, a few quick observations to end this off. We're at a critical juncture in the establishment of YESAA. These kinds of fora will help government as decision-makers, and First Nations, it will help the board in determining the kind of approach that the society and the decision bodies that are representative of the society bring to the questions of development in the Territory. We're at a fundamental juncture here in helping the board shape its direction, and governments, by the way. All governments and First Nations have a strong stake in the outcome. I keep referring to this term: "There are no disinterested bystanders." Governments can't sit to one side and watch as the board produces

its rules. I believe that there has to be a dialogue to ensure that there's an understanding of the values and the procedures and the processes that government has, as regulators, and as decision bodies, under environmental assessment. Those kinds of discussions and that kind of dialogue has to happen now so that the board has a good chance of bringing in the kind of recommendations that are going to be reflective and sensitive to where our decision-makers in government are moving to when indeed they get a project in front of them.

How YESAA is implemented will affect every significant development in this Territory's future, and I gave you the long list earlier of what's in the activity regulations. That's a pretty incredible list. Environmental assessment is not an end in itself; it's a tool to help First Nations and governments in pursuing this elusive creature called "sustainable development". We will face a number of challenging settling-in years, I suspect. There will be a fair number of interesting conversations, I suspect, between the board and decision-makers and certainly with the Yukon public as projects roll in the door to be assessed.

Socio-economic dimensions of YESAA are one key part needed to meet this overall, holistic set of principles that reflect the new age, the new era of environmental assessment in the Yukon.

What is it all about? It's about the most beautiful part of this country. Thank you very much.

LINDSAY STAPLES: Well, I think you can appreciate the challenge that Kirk had. Kirk, I have to thank you. That was most impressive, given the detail that's in that legislation, so thank you very much for that.

If you'd allow me, just two quick observations that I'd like to perhaps emphasize that I think Kirk conveyed to us. One is the distinction that he makes between this Yukon legislation and federal legislation with respect to the fact that this legislation, when we talk about impacts and effects, we're not just talking about negatives. We're talking about positives, as well; and so if you look, for instance, at the overriding purposes and objectives of the legislation, you see terminology in there such as "beneficial social and economic change", "protecting and promoting the well-being of Yukon people", "enhancing the traditional economy". This isn't just about dealing with negatives; it's not simply about mitigating project effects that may have a negative effect on people and the environment. It's also looking at ways in which projects can, if you will, forward the aspirations and goals that communities and people have for their well-being and their future. I think that's a very important part of the legislation.

The second point he made is that there should be, and there ought to be, no disinterested bystanders, and that indeed was one of the reasons for wanting to have this workshop was to put into the same room different constituencies from

the Yukon public who typically don't find themselves in the same room when it comes to talking about, for instance, development. We recognize that there certainly are many significant development interests in the room here today, but alongside of them are representatives of various social organizations: the Disabilities Association, childcare workers. When we talk about the human environment, these are all constituencies that have a stake in development assessment. So, when Kirk says there should be, and there ought to be, no disinterested bystanders, I think he's quite right, that everybody needs to be and ought to be engaged in this process.

So, again, thank you very much, Kirk.

3.0 Building a Development Assessment Process for Yukoners -- The Importance of Socio-economic Effects Assessment - Grand Chief Ed Schultz

LINDSAY STAPLES: With that, Kirk also talked about the vision that went into the negotiation of Chapter 12, and it was 20 years-plus in the making, and there's perhaps no better person in the room to assist us in going over what it took to get to the place where we are today largely as a consequence of many, many years of negotiations, and in particular, the interests that First Nations brought to the negotiating table to achieve the development assessment framework that we have today, and that's Grand Chief Ed Schultz of the Council of Yukon First Nations. If you'd please welcome Ed Schultz.

GRAND CHIEF ED SCHULTZ: Good morning, everybody. My good friend, Kirk, has left me 10 minutes of my original time; but with all of your indulgence I will try to keep my comments poignant, but at least brief. I believe if I may take a second here, I've always wanted to meet this man.

[Shakes Hands with Mr. Berger]

He may not know it, but I know it: On my desk there's an oil and gas magazine, and he's on the cover, and I'm the centrefold. It's true. I have it on my desk. I mean, I'm talking about oil and gas, right?

I'm very honoured to meet you, sir.

Mr. Berger, of course, is a critical individual in the history of the advancement of my people and of Yukoners in general. His inquiry, which I had the opportunity to look at many years ago when I started working in this business with Kwanlin Dun, I was afforded an opportunity to do some research and to try to help that community, as well as First Nations in general. From that body of work, in addition to the other drafts that were on the table at the time — and this was just before the '88 AIP, or agreement in principle, for those who aren't used to that type of terminology — embedded in me a deep conviction that we were on the

right path, and not just us by ourselves, as aboriginal people in the territory, but Yukoners in general, and for some Yukoners, admittedly, reluctantly so, but, nonetheless, I think that we have come to a time where we recognize the value in what originally started as a bilateral negotiation between the Crown and the indigenous population.

Let me give you a little backdrop, if I may briefly for our purposes. I think this is about my fourth or fifth speech this week, and I see a lot of you — some of you must just go from conference to conference to conference. You know. the problem with giving speeches in a small jurisdiction when you have similar subject matter, and I was talking to one of my staff members that I kind of have a template in my head, and then, depending on who I'm talking to, I kind of adjust it; but the problem for the person delivering it, at least for me, is that you even get bored with your own speeches. You're kind of going, "Geez, I'm saying the same old thing." But I'll try to envision that you are an entirely new audience and total novice in the history of our Territory.

In any event, as I was saying, when we look at the history of the Territory and all the major developments in its past, and we can go all the way back, as I've said in many circumstances, to the early fur trade, the impact of the Goldrush, the impact of World War II and the construction of the Alaska Highway, the base metal boom in the '70s and the proposition, at around that time as well, for an oil pipeline. You look at the wealth that has been generated by the Territory for Canada, for the Territory and for certain individuals and certainly for industry and business; but when you look at the indigenous population, and one of the things Mr. Berger had identified was the fact that here in the north, the indigenous population wasn't deriving much wealth from all this activity. He called it for what it was, that it was unfair and it was un-Canadian. He may not have said those exact words, but at least that's what I took from it. I commend him for that body of work, because that fundamentally changed the north. That was something that provided our people, people like Elijah Smith and other leaders of that day, with an affirmation of what they already held to be true, that there had to be an arrangement between the First Nations people of this Territory and other Canadians; one framed in partnership, one that was orientated to the task of decentralizing authority out of Ottawa and putting it in the hands of the people who actually live here, and when you look at the *Umbrella Final Agreement* and all its related chapters, obviously that has prevailed. That is debatable, in certain circles, that it went to the degree that we wanted or they wanted, or this, that, or the other thing, but it is a document of compromise and I'm very satisfied with the end result. It is a document that is highly community-orientated, orientated to constituent residents, by and large, aboriginal and non-aboriginal. It is orientated to the task of decentralizing or devolving authority from centralized agencies or government bodies and placing, to the greatest extent possible, the decision-making in the hands of the people who live here.

So, as a vision, if I can put it like that, at least that is what I've always construed YESAA to be and in the backdrop of trying to achieve that, from my own personal history, I was involved in environmental assessments for quite some time. Some of the people in the room knew me when I was just starting, and I was a little bit of a rabble-rouser, I think, in many ways, both on the job and off the job, but nonetheless age does creep up on you, so you try to settle down.

When I started in EA stuff, we were still working under the old EARP, Environmental Assessment Review Process, right? The "EARP-Guidelines Order", I believe is what it was called. In the Yukon, our practical implementation of that, at least the precursor, was several steps; and one that sticks in my mind was this very large committee, slightly smaller than the audience held in this room, called the "Regional Environmental Review Committee". I don't know how many of you remember that committee but it was quite large and it could be, from time to time, if we could get everybody together; and at every meeting we didn't necessarily get everyone together, but it was quite large, and it would have all the various federal departments and territorial departments and agencies and First Nations and sometimes NGOs, like the Conservation Society, et cetera, et cetera, pretty much anybody who really had an interest in a project that was being proposed at the time. That was an attempt to try to bring all the people together who had a concern or an issue related to a project into one room to try to make some decisions.

Now, I recall my experience at the time because at that time, I was working for the Council of Yukon Indians, which, of course, was the precursor to CYFN today; and I remember sitting there trying to make interventions on behalf of local communities that could be far afield, they could be in Beaver Creek or Old Crow, or whatever, and sometimes they couldn't send their own representative, because it was very costly. And so, they would ask CYI, and they would ask me to go and make these interventions, either with them or on their behalf. I was amazed with the level of the discussions and it was a very rewarding experience, absolutely. It certainly opened my eyes to the complexity of trying to assess projects, but it did kind of reaffirm one conviction that I did hold at the time, that although everybody was well-intentioned — I'm absolutely certain of that — a lot of the decision-making and the ultimate decisions still didn't rest with that particular body. The ultimate decisions eventually rested with the Crown, and/or, particularly on a lot of subject matter, and we were concerned about it, equally, with others. One of the things that I also took from that was that a lot of the local community issues didn't necessarily make it into some of the recommendations or were seriously considered, in my opinion. So, that reaffirmed a lot of the discussion we were having as communities, that we needed a new process, a made-in-Yukon process.

It wasn't just the aboriginal people who were voicing that concern — I'll be very blunt. We used to have a lot of people, and you may know it or not, that some of the people in this room used to come and visit us at CYI and equally share their

concerns about government systems and saw that since we were actually getting a lot of attention and were able to command the attention of the Crown at the time, that they would like to have a partnership from time to time.

That being said, we also recognized that Canada, of course, was looking nationally to creating a new *Canadian Environmental Assessment Act* legislation, and that was as a result of a bunch of, I don't know, nasty things that were happening in Alberta, or something like that, I can't remember exactly. We were being told at the time that, "We're going to come up with a new piece of legislation that will replace EARP, and you don't have to worry about it." But as we started some of the early conceptual ideas, we realized, "Well, no, this does not really fit the spirit and intent of what our agreements are trying to achieve. We really don't want Canada in a strong position to have a whole lot of say, or almost exclusive say, over matters that pertain to our communities."

Why is it that, typically, and around that time — you know, one of the last people to know about a major project, or small project, generally the last people to know were the actual people who lived there. Someone here in Whitehorse or in Ottawa would find out first; because the proponent would come in, and for business reasons they would want to keep it secret, and I understand all that. It would be in the works for several weeks, and maybe months, before the local chief or the local mayor ever heard about it. I was going, "Wow, someone should have maybe told me a long time ago, because now I've got all these people who are a bit concerned and I'm the public official here; I'm the one who has to deal with all this kind of fervour and uproar while everyone else who is making the decision is somewhere tucked away in their offices."

So, we introduced to Canada and to the Territorial Government an idea that we want a made-in-Yukon environmental assessment process. We want one that's framed on a partnership, as was articulated by Kirk. We want one that is highly community-orientated. We want one that considers seriously the traditional knowledge and observations of our people, and this is long before the precedent-setting cases on traditional knowledge or oral histories in discoveries in law. So, we were really on the cutting edge at the time. There was some reluctance, but if nothing else, we're persistent, and we said that was what we wanted.

Fortunately, as time moved on, we got more allies to think that way and particularly when we started looking at devolution and saying, "Well, you know, if we're really looking at a partnership," — and this still is a bit of a controversy for some circles in the First Nation communities, but it's no state secret that I support devolution. I've always been of the belief that, just like in the framework of our agreements, that local people, to the greatest extent possible, should be making the decisions over their own resources, their own lands. So, with that, we recognized that if this thing moves forward in how we envision it, then the real orders of government of high power, or authority and jurisdiction, will be the Territorial Government and the First Nations.

We needed an instrument to make sure that we can do assessments. We already knew that, of course, we were a commodity-based economy, natural resources, and that we will be that for quite some time. But as we were getting involved in other discussions, particularly internationally and nationally, related to energy, climate change and so forth, and we started to determining, or at least in our analysis, that wow, pressures on the north are going to come back. They haven't gone away; they're actually going to come back, and they might come back with actually more zeal than they've ever had before.

I think that, as we can see in today's environment — you know, I've just had the pleasure of meeting with Ambassador Jack Anawak, our Canadian Ambassador to the Arctic Council, yesterday, with a couple of Consul Generals who are visiting and probably met a number of you in the last couple of days. There is a heightened level of interest in the Arctic, a renewed, heightened level of interest. They're particularly interested in our transportation corridors, both in airspace as well as over the seas, and on land. They're highly interested in the natural resources we have, particularly natural gas and oil, and getting access to it, as well as other traditional resources.

I suppose the difference between 1970 and now is some of the global strife that we're dealing with. The problem is that we have a lot of continental security issues that are far more important than they ever have been. September 11th fundamentally changed a lot of things and a lot of frames of minds of how things should be done. Certainly, the United States and Canada, in partnership, have continental security as a priority agenda item. To the greatest extent possible, the United States, we know, and I meet a lot with American representatives, but Canadian government officials as well, are highly interested in ensuring that we cultivate and develop, to the greatest extent possible, our own energy supplies, our own reserves. It only makes sense. As the world increasingly gets to be more complicated, and there's more and more potential for terrorist activities to harm our supply needs, our demand for energy, this obviously is very important.

So, what I'm getting at is that, as we were seeing all these things unfold, as a people we recognized that this had even more importance. It added to the value that we had already seen in it.

I've been asked to talk about the importance of socio-economic effects assessments; and I said to Lori, my staff member, who kindly gave me a ride over here, that, "Well, for me, giving speeches is, as I said, its templates in my head."

She said, "Oh, you hardly do any research."

I said, "Oh, believe me, if it's a new subject, I do research, but once I do it once, then it's kind of in there, and I adjust it."

So, what I'm going to do is dust off a speech I gave in Yellowknife about seven years ago. I was invited by Canadian Arctic Resource Committee, CARC. They were holding a conference in Yellowknife about socio-economic impact agreements. It's kind of like related stuff.

Now, there are a number of points I want to share with you. First is that at the time that I was giving that speech in Yellowknife, the common trend that was happening between indigenous populations and communities and businesses or industry for socio-economic agreements was that there was always certain benefits to be provided, or at least outlined to be provided, to a local population, in exchange for certain things, certain undertakings, et cetera, et cetera, which I really don't have a problem with that until they talk about rights. I've seen a number of socio-economic benefit agreements that had provisions in them that spoke to the rights or provisions that particularly state that in exchange for this agreement, that local population would somehow either put in abeyance or would not exercise, or et cetera, these rights that were recognized under Section 35(1) or other instruments like land claim agreements and so forth.

I can say this, and I'd like to say this very clearly: From that day, and to this day, and continuing forward, I will always champion that those should not be provisions in any socio-economic agreement. Socio-economic agreements aren't about rights. They're about a business arrangement, and asking any people, indigenous or otherwise, to put their rights, either as individuals or as a collective, aside for the interests of business is not in the best interests of those people. I think we should all be very careful to ensure that that does not occur. There are some real serious implications for those types of arrangements and I know that my legal people back where I work get all in a frenzy when they think about things like that, and I'm sure your respective legal people would, too. I would suggest to any of the people who give legal advice to the business and industry community that they should equally be concerned about those type of provisions.

That aside, socio-economic assessments and benefits — hmmm. Well, we certainly wanted to make sure that, in the framework of YESAA, there was a clear opportunity to do some good due diligence, a complete examination of the pros and cons of any proposed activity, one, to ensure that local communities got a direct benefit, to the greatest extent possible, from that activity, with the least amount of negative effects. We know that in the history of the territory, and I'll be very blunt again, and I have been that in the past, thanks to a number, and I might say a minority number in some respects, of bad practitioners in certain economic streams, it has caused problems for us in this Territory, problems that a number of our communities today have to deal with, and not just the communities but all of us as Yukoners and indeed Canadians. One of the things that the land claim agreement brings is that, for those who opt into it, which a majority have now, is that we're willing to be part of the tax stream for the

Territory. You know, that's in exchange so that we have tax authority, too, but nonetheless. Now, as a taxpayer myself, I'm very concerned about the number of my tax dollars that go to deal with things that never should have occurred in the first place, or could have been avoided, or could have been planned for to not occur. When we have the public coffers being depended upon to fill a gap that was created by ourselves, then I don't necessarily blame anyone for taking advantage of that. If it's there, and that's one thing I know about business is that it's a "dog-eat-dog world", and if it's there to be used, I'm going to use it. If it saves my bottom line, if it makes my dividends higher, if it makes my profits higher, if it makes my shareholders have greater wealth, then that's what I'm charged to do. So, when we create opportunities for corporations or businesses to walk away from their responsibilities, then that is our own fault. I don't blame business for that; I blame ourselves. I blame our orders of government, because we created that environment. We have allowed it to occur.

YESAA is designed, at least conceptualised, to be a mechanism whereby we can try to avoid that while, in the same breath, try to make sure that business activities remain a viable activity, that that CEO can still turn to his shareholders or that business leader can still say, "Yes, I'm turning a profit, my dividends are good, et cetera, et cetera, and I'm not going to have a whole bunch of residual liability when I'm done", because we've seen far too many people fold up shop in this Territory, and my people in the communities have seen it time and time again.

When we talk about socio-economic benefits, let's talk about some experiences, if I may, very briefly. I'm not going to say any names, because my legal people told me not to do that any more. Mine "X" is over here. It's a good proposition. It has found, through exploration activity, some very significant reserves of commodity "Y". So, Mine "X" wants to move forward. It goes through its regulatory processes, and after a couple of years, it's ready to get moving but it's developing a labour force in Community "Z"; and in Community "Z" there are 500 people, the good majority of the people who get trained and get a job with Mine "X". They take the job on the promise that, well, Mine "X" has got a life for 40 years. "We're going to be here for 40 years. We'll probably be here longer. Don't you worry about it." So, the people, the labour force from Community "Z", buy new cars, take out loans, mortgages, take on huge debt, just like many of us do in our normal course of activity, wanting, with a belief and a vision of their own, that "I'm going to be self-sufficient. This ain't gonna be a band house no more. I'm going to own my own house. I'm not going to live in this trailer park any more. I'm going to buy my own property." All of us have dreams like that. It doesn't matter who you are.

Well, unfortunately, the management at Mine "X" was not up to snuff. They didn't keep up with all the things that they were supposed to do, even as they were ordered to do. As a matter of fact, under the common law, they were allowed to

just basically say, “Well, this is getting to cost too much. We’ve made a lot of money. Let’s just fold up shop and walk away.” And that’s exactly what they do.

Now, that’s fine for the shareholders of Company “X”. It’s fine for the CEO of Company “X”, but it’s not so fine for the community. It’s not so fine for the citizens of that community, who are now abandoned, with huge personal debt, local contractors and businesses with huge debts owed to them; but the company has absolved itself and walked away. There’s no one to grab. So, we have to turn to the Crown or to the Yukon Government, and we get the courts and everyone else involved; and eventually what happens to Community “Z” with that Mine “X” project is that we the taxpayer are paying increased social programs to help these people who are bankrupt. We’re paying increased amounts of money to environmental protection programs, to mitigation initiatives so that we can deal with the hazards that have been left behind, and we find some way to help — not fully repay, but at least try to give some consideration to the poor smaller business owners who supported Company “X”, who are also facing bankruptcy, which would have a catastrophic domino effect for our economy, so we had to do something. I’m pretty certain every one of you in this room know that this has happened on more than on several occasions in our history.

I’m not making this stuff up. I may not be saying any names, but I think everyone could draw their own correlation to what I’m talking about.

So, we wanted to have a made-in-Yukon process that could try to avoid those pitfalls. Are we going to be absolutely successful? Goddamn, I hope so, I really do. When I look at the representation in this room, of First Nations and non-First Nations people, the different orders of government and the different interests of Yukoners, the people who live here, we who have the stake in everything that happens in and around us, we’re finally on the verge of having a system where we have the say. We have the control. We put in the instruments and the control measures necessary to ensure those things don’t happen again and that we can screen out bad practitioners. I work very closely with a lot of the mining sectors on some very good initiatives, and yes, it’s just like any profession. Even in politics, we have some bad practitioners who tarnish all the rest of us who are really good; but that goes with every profession, doesn’t it? It’s not a unique circumstance to one industry or another. It’s the same with the oil industry, forestry, any profession. You never heard so many lawyer jokes as you do around my building. But, you know, it all goes back to stereotyping things.

We believe that we’ve developed a system that’s in real partnership, that provides an opportunity that allows local people to have enough to say, that gives them the comfort that when something moves forward, that they’re not in the know at the tail end but at the front end, that they’re part of the decision-making process. Yes, eventually, they are a decision body, but somebody has to make those choices, right? I think, and I honestly believe, that when we look at YESAA

as the legislation in itself, and its related regulations, we can't look at that as being the sole intent, because we have to recognize that YESAA flows from a chapter of a final agreement on land claims. When you look at the spirit and the intent of that agreement, that spirit and intent says that we're going to do everything humanly possible to ensure first, we're going to help the indigenous peoples finally be real partners in all aspects of our society; second, once we have achieved that equitable standing, we're going to help all Yukoners move forward and derive full and real benefits from the major projects from hereon in.

I'm having discussions with people like Governor Murkowski, and others, on railroads and all kinds of stuff. We're talking about pipeline opportunities, as well as expanded opportunities for natural gas development. We're looking at the whole range; the field of issues is so large. Some of the largest manned projects in the history of the world are being proposed for here. The true test for this is when those occur, and they have already started.

In May, coming up here in May — and I'll close, because I think my time is up. I used up my 15 minutes, right? I'll just close on this: I enjoy the amount of respect I get from people in this Territory. As a matter of fact, I love it immensely. I must admit it's great, but I was giving a speech in Juneau last year or year-and-a-half ago — anyway, it was in front of Governor Murkowski and a bunch of the senators, congress people — a whole roomful, about as big as this. My friend, the Premier, was giving a speech, and Governor Murkowski gave a speech, and I gave a speech, and Larry gave a speech and a whole bunch of people. Anyway, I was talking about how our people, Yukoners and particularly Yukon First Nations, had to be a part of any major decisions about pipelines and railroads and even the governor's proposition for a water pipeline. Any major project of that kind has to have our full engagement and involvement. In its absence, you will have nothing. Anyways, I didn't say it quite like that, but I was just cutting it really short, okay? It was met with a lot of favour. I got a standing ovation and all that. Anyway, there was a fellow in the room, and I knew a lot of people in the room also didn't like it. They didn't want to hear that. "We've done things a certain way. Who in the hell are you coming around telling us that we're going to do it this way now?"

Well, as a result of that speech, I'm now going to be touring parts of the United States in May as a guest of the United States Government. Now, I recognize that, like I said, my work is important and so forth, but I think what this really symbolizes is an effort on their part to get me to see their great need. It doesn't escape me that the United States has a great need, and I'm very sympathetic to it. My father is an American and all my family on that side. Obviously, if they want to pluck a northern aboriginal leader out as a full guest for about two-to-three weeks, touring the United States to meet with oil people, the Senate Committees on Energy and the Environment, et cetera, et cetera, et cetera, then obviously they're trying to convey a message to me and trying to use me in some way to get us here in the north to understand what their great need is.

So, I only share that with you to emphasize in a real way that things are already happening. People are already being pressured. People are already being advocated and influenced. So, the important work that you do here over the next couple of days is to try to make sure that this gets home, that it gets done. The inner relationship between our orders of government, between our agencies, our institutions and our departments and our citizens at large is so critically important to make it work. You are the brightest and most intelligent people I've ever had the privilege to know or work with, and I have been around. We're very lucky, indeed. So, good luck, and for whatever it was worth, that's all I have to say. Thanks.

LINDSAY STAPLES: Well, that was very compelling, and I think it gave kind of a new meaning to why we are here for the next few days. I'd like to thank Ed very much for that really compelling address. We've got a 15-minute break and then Thomas Berger will be offering up his presentation, so 15 minutes. Thank you.

(Workshop Adjourned at 10:35 a.m.)

(Workshop Resumed at 10:56 a.m.)

LINDSAY STAPLES: Housekeeping matters.

[Discussion on housekeeping matters]

4.0 The Human Dimension in Project Reviews: Keynote Address by the Honourable Thomas Berger

LINDSAY STAPLES: With a number of the presentations, as we move forward there is going to be opportunity for question-and-answer period. With respect to our next presentation by Thomas Berger, I'd encourage you, during the presentation if there are questions that come to mind, please retain those, because we will try to provide some opportunity for him to take questions at the end of his speech.

It is my real privilege to introduce Tom Berger to you. I've actually had this pleasure, not with you, but with others several times over the last 15 years or so. Whenever I'm putting my thoughts together to think about introducing Tom, it, of course, leads me to think of what a great life this man has lived and what a great contribution he has made. He's a practising lawyer today, but of course he was a Supreme Court judge in British Columbia for a decade. He's a published author of many, many excellent, great works. During the '70s, of course, many of us knew him as the Commissioner of the Mackenzie Valley Pipeline Inquiry, an inquiry that I would suggest to you not only had a profound influence on the north and how we look at ourselves as a people, but resonated around the world with

respect to the type of inquiry, the type of questions and the type of answers that the inquiry was looking at and considering and ultimately making judgment upon.

Then, in the '80s, he was invited by the Inuit Circumpolar Conference and the World Council of Indigenous Peoples to conduct a review of the *Alaska Native Claims Settlement Act*, and he did that.

And then, a decade later, he did an independent review for the World Bank, looking at the Sardar Sarovar dam and irrigation project in India.

I first met Tom — he didn't meet me, but I met him in the banquet hall or the conference room of the Royal York Hotel in the late '70s when his commission was in Toronto, engaging the people in that part of Canada in the work of the Mackenzie Valley Pipeline Inquiry. Of course, his report followed closely on the heels of that; and it's probably one of the most dog-eared pieces of material that I've got in my library. I was really grateful when Douglas & McIntyre, a couple of years ago, saw fit to put this into book form.

I don't know if many of you know, and I think that this still stands today, although I stand to be corrected, but I believe that this work and the companion volume was the greatest selling government publication, federally, of all time. For those of you who have had a chance to read it, I think you'll understand why, because it's so engaging and so compelling a read on so many levels to so many people.

I'm engaged in some work now that has given me the opportunity to go back and review some of the wonderful National Film Board films from the '70's, chronicling the work of the inquiry. One of the things that I can observe is that a lot of people that I work with and know today sure looked a lot younger back then.

But one of the things that was quite compelling about the Mackenzie Valley Pipeline Inquiry to me at the time that it was conducted was I was a young sociologist in graduate school in Toronto; and the work of the inquiry, and particularly of this book, really resonated with me as a social scientist, and the human questions that Tom was considering. In looking at this film, you look at how, 30 years later, one of the things you're struck by is just how compelling people were, how charged people were, how engaged people were in bringing their human concerns to a process that clearly for them was completely novel.

I was talking to one of the speakers last night, Bob Gibson, who you're going to hear tomorrow, and he kind of gave me an interesting anecdote about how far-reaching the work of the inquiry is, notwithstanding the implications, of course, that it's had with Tom's work in India; and he related to me that his daughter, who is in her fourth year of university at McMaster University, is writing a thesis that uses the metaphor ... Sorry, the title of the thesis is "The Mackenzie Valley in Hamilton, Ontario", taking the metaphor of homeland and frontier and applying

that to an urban city today, and the city's notion of what its future is and where it is and different perspectives about what people want and imagine for a future for their community.

Tom has introduced to those of us in the social science community, going back 30 years, some outstanding anthropologists and sociologists: Hugh Brody, Peter Usher, Rosita Whorl in Alaska, Steve Brawn in Alaska. These are people who, as social scientists, have done outstanding work at looking at the whole area of project effects assessment on the human environment. I think it's to that that we can look at Tom's early work with the pipeline inquiry as really setting the stage for all of our ideas and thinking around the work of social impact assessment or social effects assessment that has essentially followed from that over the last 30 years.

So, with that it's a great honour to have with us today Tom Berger, and please give him a healthy and hearty welcome.

HONOURABLE THOMAS BERGER: Thank you, Lindsay and friends. It is always a delight to come back to the Yukon where I have many friends who are turning grey, but they're still with us. So, it's always a pleasure to be here.

Let me congratulate you on the enactment of YESAA; and since I come from Vancouver, believe it or not, I hadn't heard about it until I was asked to come to this conference, but listening to Kirk and Ed and Lindsay this morning I have a pretty good idea of the major undertaking that it represents here in the Yukon and the scope of its jurisdiction over development here in years to come.

I've been asked to speak on the human dimension of socio-economic and environmental assessment, and my view is that the human dimension is paramount in this area; because, of course, you have to consider the impact of projects on the human beings who live in the vicinity. Then, in fairness, you have to give those people an opportunity to be heard. That's absolutely vital. The third reason is that I have discovered that if you listen to what local people have to say, the people who actually are standing in the way of the project and want maybe to see it go ahead, maybe they want to modify it maybe they want to cancel it; but if you listen to them and what they have to say, you get better projects.

Lindsay mentioned that I was a judge for a decade in British Columbia. I remember that when I was sworn in as a judge, I was only 38, which in those days was relatively youthful to become a judge; and my father was at the swearing in, and everyone said a lot of wonderful things about me and we went to lunch afterward. He was a retired RCMP officer, who had been with the RCMP on the prairies in the old days. He said, "Well now, look, I know you have a law degree and you're a judge now, but remember there's a lot that can be learned from people on the street and on the farm and in the bush. He told me a

story about a new judge on the prairies, years ago, who, newly minted, came to this farming community on the prairies and he was to try a case where a young man in the community had been charged with stealing a horse. The jury was a jury of prairie farmers. The evidence against the young man was pretty strong. It looked as if in fact he had stolen the horse, but the farmers on the jury were reluctant to convict. They knew him well and didn't want to see him in trouble. Anyway, the judge summed up the law, and he sent the jury back to the jury room and said, "I want you to consider your verdict."

They came back and the foreman said, "Your Honour, we've reached a verdict."

The judge said, "What is your verdict?"

And the foreman said, "Well, Your Honour, we find the defendant not guilty but we think he should give the horse back."

The judge, preening himself on his knowledge of the law, said in a patronizing way, "Well, Mr. Foreman, members of the jury, that's what we call an inconsistent verdict. I'll have to send you back to the jury room to reconsider your verdict."

They went back, returned a few minutes later, and the judge said, "Have you reached a verdict?"

"Yes, Your Honour."

"What is your verdict?"

"Well," the foreman said, "we find the defendant not guilty and we've decided that he can keep the horse."

Well, I want to talk a little bit about some of the things I've done in this field of social, economic and environmental impact assessment; and most of them were so long ago and so far away that, as I came up on the plane yesterday, I thought that no one will comprehend that I really don't know what I'm talking about. But now that I'm here, I realize that all of these things are still current, and I'll have to do the best I can.

My experience has been with megaprojects in rural, wilderness and frontier areas of Canada and other parts of the world and of course, they've inevitably involved the condition and the claims of the indigenous people of those areas, because they are, in most parts of the world, the people who live in those rural frontier and wilderness areas. They often involve two ways of looking at the world, and I've tried to reconcile those two on the footing that the one, which most of us in this room represent, the world of industrial advance and technological achievement, does not destroy the other more traditional way of life, based on the notion of collective ownership of land and hunting and fishing and trapping and gathering.

All of these ideas are in transition, and the ideas and the concerns of indigenous people are in transition; but wherever I've gone, I find that when you finally try to decide what to do, you have those two particular ways of looking at the world.

Now, I see that on the third day of this meeting, you're going to hear a presentation from the Mackenzie Valley Impact Review Board, and for me it has a familiar ring, since I conducted the Mackenzie Valley Pipeline Inquiry back in the '70s. I was appointed in 1974. I completed the work of the inquiry in 1977 and 1978; and let me just refer to that inquiry for a moment, because it had, I think, a very real influence on events here in the north and indeed, as Lindsay suggested, in other parts of Canada.

We, stumbling along to do the best job we could, inadvertently, I suppose, were pioneering in the whole area of social and economic and environmental impact assessment in Canada. You will recall that the idea was to bring oil from Prudoe Bay across the north slope of Alaska and across the north coast of the Yukon to the Mackenzie Delta and there to pick up the Canadian oil from the delta, and then, build the pipeline south along the Mackenzie River to Alberta, where it would join up with the Alberta system, and the oil from Prudoe Bay and from the Mackenzie Delta would be used to serve the metropolitan centres of Canada and the U.S. It was, at the time, a project that was financed by the largest aggregation of private capital ever assembled, and of course, involved an energy corridor, construction sites, helipads, pumping stations and all the indicia of industrial advance.

I was asked by the Federal Government to conduct the inquiry and to consider the impact on the north. Now, we didn't get started for about a year, because everyone wanted time to get ready; but we arranged with the Minister of Indian Affairs and Northern Development, Jean Chrétien at the time, to finance the work of the indigenous people, and, as I recall, we obtained about a million dollars for them to participate on something like an equal footing with the oil and gas industry, which, of course, had already spent 50 million in getting ready for the hearings. We obtained about 500,000 -- perhaps more, I can't remember now -- for the environmental groups. There were about 14 of them that wanted to participate, and I said, "If you will, by tomorrow morning, agree to bring yourselves under one umbrella group, I'll get some money for the umbrella group," and I can still remember that the next day they announced they had formed an umbrella group and there would be only one participant at the inquiry representing the environmental interest.

We heard from 300 experts in engineering and economics and sociology, and everything else you can think of at the hearings that were held at the Explorer Hotel in Yellowknife; I went to the communities, all 35 towns and villages in the Mackenzie Valley and the western Arctic. In fact, I was here, as well as in Old Crow, and visited the north coast of the Yukon to see the calving grounds of the Porcupine caribou herd. At the end of the day, after listening to all of these folks,

and the hearings took about two years, then I sat down with some very outstanding folks. Lindsay has mentioned some of them. Some of them were witnesses, and I was much assisted by their evidence. Some were on my staff. One of them who should be remembered was an outstanding public servant named John Files, of that institution -- I can never remember its name -- that did all the mapping of Canada and the geological....

Anyway, I wrote this report; and you might be interested that when I sat down to write it, I said to the Minister of Indian Affairs and his deputy, "It will take me about six months to complete this."

And they said, "Oh my God, it'll have to be translated into French after that, and that'll take another six months."

And I said, "Well," and I think this is my major contribution to the way the Federal Government operates, I said "Why not have the French editor and his staff sit down with me now, and as I write a draft, they can translate it into French." And that they did. As a matter of fact, the French editor would come down the hallway to my office once in awhile and say, "Tom, I can't translate this. I don't know what you're saying."

And I would look at it and I'd say, "Yes, I don't know what I'm saying. I'd better revise that." But it did take me six months, and at the end of the six months, when I put down my pen, an hour later the French editor put down his pen in his office down the hallway. The report was printed in both languages and tabled in the House of Commons very soon thereafter.

The recommendations I made, and maybe I could just remind you what they were: I recommended that there should never be a pipeline built across the coastal plain of the Yukon, that the calving grounds of the Porcupine caribou herd should be protected for all time and that we should establish a wilderness park there. I recommended the outlines of a park; and I urged, as well, that the contiguous area of northeastern Alaska, then known as the Arctic National Wildlife Range, should be set aside as wilderness under U.S. legislation, and indeed I appeared before two congressional committees at the time, one in the Senate and one in the House of Representatives to make that argument.

In the U.S., the Arctic National Wildlife Range became a refuge under their wilderness legislation in 1980, and of course, we have two parks in the northern Yukon established under the Inuvialuit Agreement in 1984 and the Old Crow Gwitchin Agreement in 1995. They, by and large, represent the wilderness area that I had urged be protected.

I also urged that there be a sanctuary for belugas in Mackenzie Bay, because that is where the whales of that region come to calve. That was never done, but

there hasn't been any oil and gas exploration activity there. So, we still have a de facto refuge there.

I recommended, as I guess everyone will remember, that land claims in the Mackenzie Valley, the western Arctic, had to be settled before we could embark on the construction of a pipeline down the valley, and I said, "This will take 10 years."

Everybody said, "Oh my God, 10 years."

Well, of course, those recommendations were accepted, and the negotiations took place; and now, more than two decades later, there are land claims agreements in the Mackenzie Valley and the western Arctic, except I think for the Deh Cho in the middle of the corridor.

Now, because my friends — I hope they will be friendly — from the Mackenzie Valley Impact Review Board are here, I should remind them, not many people remember this, that after I finished that report in 1977, I sat down with my staff and wrote volume two, which was this: It said, "Look, if you do all these things, set aside the wilderness area in the northern Yukon, a sanctuary for belugas in Mackenzie Bay, settle land claims agreements in the Mackenzie Valley, then go ahead and build a pipeline; because aboriginal people can be owners. They can be skilled workers on the pipeline. These are matters for all of you to decide when the time comes and when all of this has been done; but I said, "And here are the conditions", and I set out a whole volume of conditions. Now, that is 26 years old, I guess, and you folks on the Mackenzie Valley Impact Review Board may have picked it up. It may be as dog-eared as the first volume that Lindsay held up here, but that was the first cut, what you nail the first board to, and I'm sure you can improve very much on that.

Well, in the '80s I went to Alaska, and what occurred in Alaska is fascinating. I won't go through it all; but I spent two years there, from 1983-to-1985, conducting a review of the *Alaska Native Claims Settlement Act* of 1971. I conducted the review for the Inuit Circumpolar Conference, which is an international organization of Inuit from Alaska, Canada and Greenland. The settlement of 1971 was imposed on Alaska native people by Congress. It arose out of the discovery of oil at Prudoe Bay and the necessity, as Congress saw it, to settle aboriginal claims so that development could proceed in Alaska. You may recall that the Alaska natives, who are about 30 or 40 percent of the population of Alaska and live in rural Alaska in 200 villages, that they received 10 percent of the land of Alaska, mainly around their villages, and 900 million dollars. That was the first of the modern land claims that really provided for substantial sums of money to go to aboriginal people and for substantial areas of land.

Now, the State of Alaska, in the share-out of all the land under ANLCA in 1980, received about 30 percent of the land, and the Federal Government, that is the

Government of the United States, retained about 60 percent in oil reserves and national parks and so on.

Well, the interesting thing about the *Alaska Native Claims Settlement Act*, and it's a hellishly complicated statute and I can tell you that I visited about 60 villages in Alaska and held hearings and heard from experts at round tables that we held at Anchorage, and I concluded that it had been, by and large, a failure, and the reason is this: It reflected the tendency of those holding office and representing the ideas, which we all have bred in us, of industrial advance. It reflected their ideas of what the future ought to be for Alaska natives, so they set up these corporations, 200 village corporations and 13 regional corporations. The 900 million was doled out among them. They made the villagers shareholders and they said, "Now you can get on with it and become businessmen," because that was the American paradigm, just as they had in the Lower 48 in 1887, when the Government of the United States decided that the Indians ought to become farmers, because that was what you did in those days, and they passed the *General Allotment Act*, which led to the parcelling out of Indian land; and by 1933, when Roosevelt came into office, two-thirds of their land had been lost through tax sales and alienations. The Roosevelt Administration put an end to the dispersal of Indian land, but it reflected the same notion of people like us deciding what would be best for aboriginal people that appeared again in 1971.

I'll just give you one or two problems that this created. First of all, the people in the villages had no business experience. I would go to a village and say, "How is your corporation doing?"

Somebody would bring out a shoebox and say, "Well, these are the minutes of the corporation, and I think the last minutes recorded are about 10 years ago, and we don't know what happened to the money." Some of the regional corporations have been successful; but the village corporations, by and large, have been unsuccessful. The real problem is that the idea was that aboriginal land, the 10 percent of Alaska held by aboriginal people, would flow into the general ownership of land in Alaska; that is, it would cease to be collectively owned, a tribal asset that could be passed on to generations to come, and would become, like all the other land in Alaska, something that the owner can buy and sell as he wishes. So, these corporations were supposed to do that. The fact is that Congress had to amend the legislation in 1990 to make sure that the land wouldn't flow out of aboriginal ownership into the hands of non-aboriginal Alaskans.

The whole scheme I think has foundered because it just didn't fit. One example, perhaps, will do. They were made shareholders; all the people living in those villages, belonging to those tribes, were made shareholders in their village corporation and in their regional corporation. Well, then the first child was born after the settlement, let's say on January 1st, 1972. That child isn't a shareholder. So, now you have whole generations of Alaskan natives who aren't shareholders

in their own corporations. They are heirs to their parents' shares, but of course, unless every set of parents had just two children and passed their two shares along to the two children, you wind up years later, generations later, with children holding fractions of shares. The scheme is one that isn't workable as long as the aboriginal people say, "Wait a minute. Our land is held collectively and if you are born into the tribe, you become, so to speak, a shareholder on the same basis as everybody else in the ownership of that land;" and it goes on from generation to generation.

That model, as I say, was the first modern land claims agreement, and it's a model that has been rejected in all the other land claims agreements reached in Canada, some in the U.S., and in Australia and in other parts of the world; because that corporate model just doesn't fit. Now, we have some native corporations, but they are not held by individual shareholders; they're held by the community.

I said that the *Alaska Native Claims Settlement Act* was spurred by the discovery of oil at Prudoe Bay, and of course, just as in the Mackenzie Valley we have come full circle, we are full circle again; because just coming up on the plane yesterday, I read about the proposed Alaska gas pipeline, of course, which will come right through the Yukon along the route, I believe, of the Alaska Highway. It will bring the natural gas from Alaska, which, of course, has been inserted in the ground ever since oil was discovered and first produced there back, I believe, in the late '60s.

Well, let me just go on to another project that I think bears some real resemblances to what we have been doing in Canada. In India, I was asked by the World Bank, in the early '90s, to be vice-chairman of a commission that was to look into a water project in India. The chairman was a gentleman named Bradford Morris, a former Undersecretary of the United Nations, an American, a very distinguished international public servant. He was the chairman, and I was the vice-chairman. This was really the World Bank's first international Royal Commission. For Canadians, that's how we would have described it. Mr. Morris, the chairman, was ill through much of the formative months of the commission, and I negotiated the terms on which we would do this with the president of the World Bank. Going on the strength of the need, as I saw it, for independence, I said, "Well, we have to be able to go where we want and talk to whom we want in India, and we have to have our own budget so that we're not coming back to you folks at the World Bank for money every couple of months." We worked out our budget at a million dollars and they agreed to all of these conditions, not without a certain amount of trepidation, because they had never had an independent commission.

The World Bank is the world's greatest source for funds for projects in the developing world; and so, there is a universe of consultants out there, for whom the World Bank is the mother lode. Mr. Morris was retired and living in Florida,

and I was a lawyer in Vancouver, and neither of us cared if the World Bank ever phoned us again — and I should add, indeed they have not. So, we were independent. The project, at the time, was the world's largest water project. It has since been overtaken by the Three Gorges project in China; but there was a 455-foot dam to be built on the Narmada River, and as we started it was already under construction; and as well, I think a 400-kilometre-long canal that would take water to drought-stricken areas of western India. The dam was in Gujarat. The area that was to be flooded was, by and large, in a state called Madra Pradesh, and part of it as well in Maharashtra. These are states in western India. We went to visit what we would call "the premiers", they're called "chief ministers" there, of each state, and we would tell them about the project. Of course, they were interested, eager, to see it go ahead; and because we came from the World Bank, we were treated extremely well. They put on banquets for us and lauded the World Bank for financing the project, and so on.

By the way, no one thinks of the Yukon as populous. I should say that in Maharashtra, the chief minister presides over a state, which includes Bombay, and has 90 million people. Gujarat has about 50 million and Madra Pradesh about 20 million, so that when you saw these chief ministers, you thought, you know, "My God, how do they do it?" Of course, in India, a poorer country than ours, they do not provide the programs and services that we do, and there's much more limited intervention by the state.

Anyway, the great thing about it was that most educated people in India speak English. In fact, it is the lingua franca of India, because Hindi may be spoken by 500 million people, but there are 400 million that don't speak Hindi. Educated people in all of India speak English, so that was a great advantage to us, because we could listen to experts, and we could find out everything we needed to know about the project.

Now, the complaints about the project were many, and it is only because there was a people's movement in the Narmada Valley opposing the dam that we had ever been appointed. The European Parliament and Congress of the United States had passed resolutions, urging the World Bank to establish an independent commission, and that's how we came about.

We visited the chief ministers. We visited the officials of the Nigam. That's what we would call a Crown corporation that was building the dam and the canal. And then, we told them that we were heading into the valley to meet the people who were going to lose their homes, and this led to a certain amount of consternation.

I should tell you that in the valley, people from the government were, by and large, not welcome in the places that were being flooded out; and people from the World Bank weren't welcome, because they were financing the project. I headed into the valley. Mr. Morris, the chairman, who was absolutely a first class

man, he's dead now; but he and I got along famously. He was ill at the time and eventually, though we worked together to complete the commission, he died not long afterward.

I headed into the valley and held hearings in about, I can't remember now, maybe 30 places and people would come from all over the countryside. This was rural India, and I held hearings in Hindu caste villages, which were lovely places where they took two crops a year off the land and people were very much opposed to the dam because, of course, they would lose their farms and lose their livelihood and have to be taken somewhere else and resettled. Then I went, as well, to what they called the Villages of the Adivasi, who are the indigenous people of India, who were there before the people of Aryan descent, who constitute the people of India in the majority today, arrived thousands of years ago. But the Adivasi, the tribal people as they are known in India, number 50 million. There are more indigenous people in India than there are in the whole of North and South America. I went to their villages, and they were lovely places. They were in the forest and on the banks of the Narmada River in land that no one else had used, and they grazed cattle, and they grew some crops, and they hunted and they fished. They didn't speak Hindi; they had their own languages. They weren't Muslims. They weren't Hindus. They had their own religions. They were quite distinct from the general population of India; and in this valley, 250 villages were going to be drowned and at least 100,000 people uprooted; and along the route of the canal, because, of course, the canal is huge, it's about 200 metres in width and 450 kilometres in length, another 150,000 people were to be uprooted.

India has had an unfortunate experience with dam projects. They have built more dams than any country in the world, including Canada or Russia. They divert more water than any country in the world, except Canada, and some of their dam projects have not worked out well. We found, Mr. Morris and I found — and by the way, Hugh Brody came with us to India to serve as our senior advisor on resettlement; and Don Gamble, an engineer whom some of you may know, who specialized in environmental issues, was our senior advisor on environmental issues. We found that the project was a failure so far as measures to protect the environment are concerned. I'll just give you one example. I see that that map, on the left there's a star. I guess that's India. The dam was 100 miles upstream from the Arabian Sea on the western coast of India, and they had not considered the impact on the fishery downstream. There's a hilsa fishery on which about 100,000 people depend, and it would be destroyed by the loss of the flow below the dam. Everybody agreed to this, but nothing had been done about it, and they proposed not to do anything. We said to the World Bank, "Look, for this and a whole series of other reasons, we think that you should reconsider funding this project."

As far as the resettlement was concerned, India had signed loans from the World Bank for hundreds of millions of dollars, and the World Bank has its own

standards that its policy people have put together for resettling people who are uprooted, and India had not observed these standards. In fact, the people who lived in the valley who were prosperous in the Hindu caste villages didn't want to be uprooted, because they knew that 10 million people had been flooded out by the creation of dams in India since Independence; that is, since 1947. You could find them on the streets of Bombay or Delhi, living on the sidewalk. They had been uprooted with no adequate compensation at all.

Now, India had proposed to take measures for the people living in the villages in the valley, but they knew that they would not be compensated adequately in a way that would enable them to buy farms in an equivalent area. You might say that's the best you can do if the project has to go ahead, but one could sympathize with their concern. As far as the Adivasi were concerned, living in the hillsides and in the forest, the trouble was that they were going to resettle them as landless labourers.

I remember saying to the Deputy Minister of Water Resources in New Delhi, the federal deputy minister; we were about halfway through our work and I said, "Now, we're going back home for Christmas as it turned out to be. We're coming back but let me just tell you, sir, about some of the concerns we have. One of them," I said, "is that the Adivasi have lived on that land for hundreds of years under the British and then, of course, since Independence, under your own government, sir, and you have to, under the agreement you signed with the World Bank, to adopt their standards for resettlement, you have to resettle them in communities where they can farm; and all you've done is say that you will treat them as landless labourers and find them jobs somewhere, on somebody's farm, somewhere else in India." I said, "This doesn't live up to what you agreed."

He said, "Ah, but they don't own the land", and he was right: It was publicly owned land, Crown land under the British, owned by the Federal Government under India since Independence.

And I said, "Yes, that's true, but they've been there a long time."

He said, "They've only been there 500 years." This conversation took place in 1992, a date that some of you will recall.

And I said, "Well, where I come from, that pretty much takes us back to the year dot, 1492." Anyway, we said to the World Bank, "This is absolutely unfair to these people and the Bank should reconsider funding."

I've only given you — Lindsay actually has this report we did, and it's hundreds of pages, but I'm only giving some of the things that make clear why we reached the conclusions they did. I should tell you that I went to the meeting of the directors of the World Bank to present our report, and Mr. Morris came with me. And he had been head of the UN Development fund, so he knew everybody in

the developing countries and on the board of the World Bank, which consists of the borrowers and the lenders. Canada sits on the board of the World Bank as a lender, and the U.S. and Japan and Australia and the European countries; and they're outnumbered by the borrowers, who are the representatives of the developing world, but votes are weighted by how much money you contribute, so the U.S. has 25 percent of the voting power. I don't know how much Canada has — five percent — but the Japanese, Australia, North America and Western Europe control the thing, because that's where the money comes from. As a matter of fact, it's because of the U.S. contribution that Mr. Morris was chairman. An American always has to be president of the bank and chairman of any significant committee they establish.

At any rate, Mr. Morris was a wonderful guy, who made friends with everyone everywhere he went; but he had developed a habit of kind of a "good cop/bad cop" presentation. When we met the chief ministers, he would begin with a speech about Ghandi and the world's largest democracy and how we all admired India so much, its role in the world as a neutral between east and west and so on, and he went on in this vein. Then he'd say, "Now, Mr. Berger has some questions." He called me "Judge Berger". He always said "Judge Berger". Well, when we met with the directors of the World Bank, Brad opened with a wonderful speech, "So nice to meet so many old friends again and the wonderful work the bank is doing." He said, "Now I'm going to ask Judge Berger to tell you about our findings and our recommendations."

Well, anyway, the bank decided to adopt our recommendations and withdrew funding. India has sought to continue building the dam, but the Supreme Court of India held it up for 10 years. India is trying to raise the money itself and to complete the dam on its own, but it remains a subject of controversy with marches and counter-marches. One of the leaders of the anti-dam movement has been on many fasts. One of them even brought the Prime Minister to her bedside. This is protest in India. It's done differently than we do it here, but it's quite fascinating.

Now, just before I sit down, or invite your questions, and I don't want to take up all the time here; but here's a couple of footnotes that may be of interest to you. In 1997, I went to Chile for FIDH, the Fédération Internationale des Droits de l'Homme. It's an international human rights federation based in Paris that is very active in Latin America and in Africa. Their job has been to obtain the release of political prisoners, and they were very active in Chile during the years of the dictator Pinochet in saving lives and sending petitions to governments and making representations on behalf of imprisoned persons. They phoned me and said they wanted me to go to Chile as part of a two-man committee they were establishing to look into a dam project called the "Ralco Dam" on the Biobio River, which is the dividing line between that part of Chile where the persons of Spanish and European descent live, and south of that is where the Mapuche Indians live. They're the largest aboriginal group.

The dam was a subject of very real controversy, and this was in 1997, and the dictator had gone. They were under civilian rule and there were protests about this dam. Our committee was, of course, privately financed. A lawyer from Paris named Charles Cates (phonetic) and I went. Now, he spoke Spanish and I didn't, and they had promised me an interpreter; and interpreters did turn up, but I certainly wished that I'd paid more attention in my high school Spanish classes. We were only there for two weeks. We did see something of the condition of the Mapuches and the Andean villages that were to be inundated. They only numbered in the hundreds, not in the hundreds of thousands, as in India. We made recommendations to ameliorate their condition, and they were given to the government and in some limited measure they were adopted; but let me just tell you the thing that I thought was significant. When they phoned me up and asked me to go, I said, "Well, look, you are like Amnesty, aren't you? You know, if someone's in jail in a dungeon in Borneo, you try to help them."

He said, "Yes, we deal with human rights, but we now realize that these large projects that may displace indigenous people really bear on the whole question of human rights: The right to live where your ancestors lived, the right to make a living there, the right to proper compensation if you're displaced." I thought that was an interesting broadening of the idea of human rights in our own time.

Finally, we're talking about the human dimension here, and I don't know whether you know, but Canada has established a nuclear waste management organization that has the job of figuring out what to do with Canada's nuclear waste. Canada's 20 reactors have produced spent fuel rods that are still radioactive that are stored near the nuclear power plants today, mostly in Ontario. These rods have accumulated to the point where they would now fill about five NHL hockey rinks up to the level of the boards. So, a lot of this stuff is accumulating, and nobody knows what to do with it; and the nuclear waste management organization appointed an international panel, of which I'm a member, to review what they're doing from an ethical and social point of view. The other members of the panel are Hans Blix, whom you will have heard of, who is the famous Swedish international public servant, and Gus Speth, who is the Dean of Forestry and Environment at Yale. It's called an "international panel", and I'm on it, but I guess I'm the local on the panel. Anyway, this work is just starting and nobody has figured out what to do; but when you talk about the human dimension, the spent fuel rods remain radioactive for thousands of years, and some elements remain radioactive for as long as a million years. So, the question that all of the countries with nuclear reactors are considering is, "What do we do with this stuff?" The Scandinavian countries are somewhat ahead of us and so is France, because about 80 percent of their electricity comes from nuclear power plants. The method of choice for disposing of the waste is to bury it. In Canada, the idea is to bury it in the Canadian Shield, perhaps two-to-four miles down, and seal it. Then we have discharged our duty to our descendants,

who may be here 10,000, 20,000 years from now, because it won't do them any harm and they can't get at it and accidentally run across this radioactive material.

The other side of that -- this is just one little peek into this thing, and that's all I'm doing myself at the moment -- is to say, well, look, we should make it retrievable, even if we do buy it that deep; because the spent fuel rods can be used for energy in perhaps 100, 200, 1,000 years from now. Canada doesn't reprocess the spent fuel rods, because we have so much uranium we don't need to do it, but most European countries do reprocess the spent fuel rods. They still turn out radioactive waste. So, that's an option open to us. And of course the French are working on what's called "transmutation", when they would by some method that resembles the alchemists' search for gold in the Middle Ages, would turn radioactive material into non-radioactive material. Well, all of this is being done, and it's being done around the world, because our notions of what to do with the waste have been far outrun by our capacity to produce the waste.

So, it's a fascinating issue; and if I may conclude on this note, it illustrates the human dimension because, of course, it isn't just our obligation to people living in villages in Carcross or in Old Crow, but our obligation to human beings who may be living on this planet thousands of years from now.

So, that's all I have to say, except to congratulate you on YESAA and to wish the Mackenzie Valley Impact Review Board the very best and to wish all of you the very best. Thanks very much.

4.0 Questions & Comments - The Human Dimension in Project Reviews: Keynote Address

LINDSAY STAPLES Thank you very much. Just before lunch, we've got time for a few questions. There are people with microphones. This gentleman over here?

GARY LEE: Yes, my name is Gary Lee. I'm with the Yukon Chamber of Mines. I have a question for the judge regarding legislative drafting and timelines. One thing we've seen across Canada between various jurisdictions is you'll take a similar project in which one jurisdiction will take a year and another jurisdiction will take three or four years. Often it's a case of lack of capacity or the decision bodies in the government, staff changes, bureaucracy and red tape. I noticed in DAP here, both in Chapter 12 of the *Umbrella Final Agreement* and in YESAA, they talk in general terms of an "efficient and timely manner". Is there any way of moving forward and getting something a little more definitive, to make, say, statutes or something more definite or sure as far as timelines go?

HONOURABLE THOMAS BERGER: Well, I don't think I'm really in a position to answer that. I think that the best assurance of something like that is if YESAA

gets up and running, and it'll take awhile to do that, at least then everybody knows the ground rules. You have people enforcing the ground rules, who know what they're doing and it isn't being invented month by month, as people go along, which is often the case with some of the statutory measures we've taken to protect the environment in the past. I think that now that we have social and economic and environmental impacts understood to be a discipline in its own right, people study it, they work in that field, they become very well acquainted with it, I think it means that you can proceed more swiftly, perhaps, than in the past.

But look, it doesn't matter whether you're building a mine in Ross River, or someplace, or you want to install slot machines in a casino in a suburb of Vancouver, there are statutory procedures that have to be followed and there are local people who will say, "You know, I don't want that here, and here's why", and they'll explain why. It may, as with the case of slot machine in Vancouver, result in a modification of the projects. All governments are now hooked on revenue from gambling; maybe they even have it here, I don't know. So, they want to go ahead, but they will listen to local people and modify the impact of the project.

With mines and pipelines and pulp mills and dams, the timeline is necessarily greater. I think, though, the best way to speed it up is for the industry, when it sets out at the very outset, at the drafting board, to have somebody by the side of the engineers and the economists, to remind them of the social and economic and environmental impact requirements so that the project proceeds with all of those considerations in mind. That's the best I can do, sir.

LINDSAY STAPLES: Thanks very much. Other questions?

NAOMI KROGMAN: Hi, I'm Naomi Krogman, from the University of Alberta. I wanted to ask you about the public involvement methods that you used across many parts of the world. Someone might guess that in some of those cases, the representation of the speakers wasn't necessarily representative of the population, or there were certain leaders, perhaps, who could frame the issues better than others who don't have as much ability to express their views. What do you think are some of the better methods for getting at a better representation of the views of a large population?

HONOURABLE THOMAS BERGER: Well, you've got a better chance in the rural and wilderness areas because the turnout is likely to be much greater than it will be in an urban area. Look, when I did the Mackenzie Valley thing, people who claimed to be old hands in the north would say to me, "You're not hearing from the real northerners. You're just hearing from a bunch of wild-eyed radicals", and so on — Steve Kakfwi, Jim Antoine, all of whom have served as head of the government in days since. But that's a part of life that is very difficult to avoid. Let me just say that the best way is to persuade people. If you give them time to get ready, to say, "No, I'm not interested in some harangue you

wrote out in your basement the night before the hearing. I'm interested in a rational, properly researched response to this project," I think in most of the areas where I've been I was able to get it.

How do you ensure that you're hearing from the populace? Well, in the Mackenzie Valley in the western Arctic, we had civic turnouts that were remarkable. I think in Old Crow, I actually spent five days, and it was in the summertime and a wonderful time. We started the meetings about 1:00 or 2:00 in the afternoon, and they'd go until midnight. I think we must have heard from maybe every adult person in Old Crow, so that the leadership may have spoken at the outset; but before we were through we had heard from everybody. And if we made them comfortable and they knew that we were willing to listen, we learned a lot. In other places, like Fort Good Hope, we had a tremendous turnout. In a place like Yellowknife, the capital, or like Whitehorse when we came, we might have a couple of hundred people who came and maybe 40 or 50 would speak. Well, that's a minuscule percentage of the population but it's the best you can do, and that's the best I can do.

LINDSAY STAPLES: Thanks for that. Dan.

DAN CORNETT: Thank you for your insight. Dan Cornett, Access Consulting.

I was just interested in a comment that you may have, or some insight, respecting the role of government in socio-economic assessments. I guess the reason that I bring that forward is we're now moving into a level of assessments where we are looking at those directly related socio-economic effects as a result of a project or an activity, and before they had to be linked to an environmental effect. Certainly, Territorial, Federal, First Nation Governments are actively involved in providing those socio-economic vehicles to deal with healthcare or waste water treatment or solid waste; and I would just be interested in your comment. Do you see our government having to be prepared or what they may be doing to actually participate in these assessments?

HONOURABLE THOMAS BERGER: Well, I suppose if government is a proponent, and I noticed when Kirk outlined the new YESAA program, that First Nations governments and municipal governments and the Territorial and Federal Governments may all be treated as proponents and be subject to the scrutiny of the YESAA board, so that one would think that they would get their act together if it's their project. If the project is one sponsored by private industry, I suppose that they would ordinarily leave it to the officials of YESAA in these district offices and the YESAA board to consider the impact of the project; but where governments are proponents, just as a private mining company ought to be aware and include in its proposal the measures it proposes to take to deal with socio-economic and environmental impacts, that would apply to governments as well, I should think.

LINDSAY STAPLES: Maybe with that, I will suggest that we conclude our morning's discussions. I think you all knew, after the last hour, that Thomas Berger is a highly personable fellow, and I would encourage you to seek him out over the course of the lunch hour if you've got any more questions. On the behalf of everybody in the room, Tom, I'd like to thank you so much for your presentation.

So we'll be reconvening in one hour's time, and I understand that lunch is going to be served and it's obviously not in this room, so it's across —

LYN HARLEY: Lunch is a buffet, and it's across the way, so don't everyone run there first as there'll be a big lineup, so you may want to just drift over. So, one o'clock, back here.

(Workshop Adjourned at 12:05 p.m.)

(Workshop Resumed at 1:07 p.m.)

LINDSAY STAPLES: A couple of announcements before we move into our next presentation. The first is that the participants on the First Nations panel, and I think you know in the room who you are, at the end of the day today, when everybody is departing, there's going to be a short meeting, and if you could just come to the front of the room here that would be really helpful. It's for the people of the First Nations panel, which is appearing on Wednesday afternoon. Thank you. So, the First Nations panel, at the end of the day, at the front of the room, please.

Secondly, just over the lunch hour, I talked to a couple of people who are starting to accumulate a short list of burning issues, and the question is, "What do I do with them?" I think the short answer is that, this afternoon we are going to be allowing some time, after the presentations, for both questions and answers but also discussions at your tables. The idea at the table discussion is for you people to identify some of the issues, get them down on a piece of paper, and Lyn will tell you more about that maybe once we get closer to that point in the day. The idea is you will be getting these burning issues down on a sheet of paper and she will be compiling that. We're going to come back to those issues before the workshop is out, particularly on the last afternoon, to look at them. I know, for instance, there are a number of issues that people want to make sure that they have a chance to see documented.

5.0 Socio-economic Effects Assessment and YESAA: Requirements and Challenges of Implementation - Kirk Cameron

LINDSAY STAPLES: So, with that, if I could, I'd like to welcome Kirk Cameron back to the podium again. I introduced Kirk this morning, so I won't do

it again, but you had an overview from Kirk this morning on the basic elements of the legislation, and the focus of this next presentation is to really start to narrow in on the requirements in the legislation as they apply to socio-economic effects assessment. So, welcome again, Kirk.

KIRK CAMERON: Thanks very much. Welcome back. This is always the toughest part of the day to come back up and speak to a group, just after being well fed and wanting to have that afternoon nap, but maybe that's a socio-economic effect we're going to have to look into as a culture.

This is a little bit of a tough one, because when I was first asked to talk about YESAA and what it brings to the whole question of socio-economic analysis and socio-economic effects, it seemed, on the surface, like a pretty simple exercise until you start drilling down into some of the concepts that are captured in the legislation; and you realize very quickly you're into a whole domain of the social sciences and culture and social trends, social analysis, values analysis, that moves into directions that you never contemplated ever going. To that end, I take my hat off to those folks who are appointees to the YESAA board, because they are the ones who are going to have to tackle all this stuff over the next number of years, and they've got a very, from my read of it, a very, very tall order in front of them.

So, let me roll through this. Just a general overview: I think there's a little bit more time now for me to drill into some of these issues with a little bit more sensitivity or depth, and I believe there's also time for questions and answers once I'm finished prattling on here. So, maybe we'll get an opportunity to start the dialogue on what this whole socio-economic creature is all about.

Just a quick outline, again. I want to start again with socio-economic in EA, and generally the context that's captured in DAP and YESAA and so on. The YESAA regime, it's a different kind of creature, and I'll be using that term a lot this afternoon; because it's pretty difficult to pin down as to what this new board structure or this new relationship to society is all about. I want to spend a little bit of time on that, because I think it's important for the dialogue about where and how socio-economic gets defined and utilized in the context of environmental assessment over the next many, many years.

Again, back to the treaty relationship, I'd like to talk about that in a little bit more detail than what I did this morning, again because that's a fundamental aspect of the relationship thing that YESAA is all about here in the Yukon Territory.

Then, on to the guts of it, what is in YESAA. In the purposes of the act, again, I put them up very quickly this morning, but I want to spend a little bit more time focusing in on that; because there's a lot there and I really want to spend a little bit of time getting to just how comprehensive that set of purposes is that really

guides the board, society, the governing structure in our society in making determinations around socio-economic effects.

What is the overarching reason for YESAA? Again, it's captured, to some extent, in the act. I would like to talk about that. There are some definitions in there but, interestingly enough, not a lot. It's as informative on what's not there as it is what's there. Then the details: There are four slides on details in the act. Believe it not, it's a bit of a snapshot. I went through and did a bit of a word search on the act itself. I forget the numbers, but it's in around 50 or 60 hits that I got through the legislation, and that's just in the legislation itself, not in the regulations. So there's a lot of reference to it; there's not a lot of detail about it though, but I want to get to that when we move into this discussion.

A little bit of discussion about how significant socio-economic aspects of YESAA will be to the overall evaluations that are done to projects in the future. A little bit of crystal-ball gazing -- I like doing that. I might as well set the context for some lively and interesting debate. I am sure there are a few of you who will disagree with some of my observations, but maybe you'll agree. Again, some concluding observations that I'll put out and, again, hopefully maybe it will stimulate a little bit of debate around the room. So, let's get started.

The context, again, this is similar to what you saw this morning, talking about environmental assessment being at the forefront of sensitive issues affecting the socio-economic environment; environmental protection itself, which everybody is more knowing of in a classical sense; the aboriginal interests, again, very important here in the Yukon Territory, and again that's about that relationship question; and in terms of federal, provincial and of course territorial relations, because even though it's a little bit different here in the territory, post-devolution we act, walk and quack an awful lot like that duck called a "province". So, there's an awful lot about what we do as a territory that will look and act and relate very much like a province to the question of decision-making around environmental assessment. The complexity and profile of projects undergoing assessment are increasing and involve competing stakeholders' interest, increasing numbers of stakeholders and increasing complexity of the kind of things that the stakeholders bring to the debate.

The challenge is to balance these interests while maintaining productive relationships and developing high quality services to all stakeholders. Now, an interesting little word in there, and I'll be coming back to it again, is "high quality", just the word "quality". Where does that come from? It's a values-laden expression, and what you'll be seeing as I roll through the slides are more of those as we go through this. There are numerous values-laden expressions in YESAA that are about more the art, as opposed to the science, of doing evaluation, and I think that's something that has to be understood here. In the context of the Yukon, the board, designated offices, the way in which environmental assessment, on the socio-economic side is being conducted; it's

about bringing soft hands and care and attention to values in the debate about what's acceptable, what's not, what needs mitigation, what's right and what's wrong? These are really fundamental questions to our society, and these are being put on the shoulders of the board and designated offices to come to terms with some of those tough questions when it comes to making determinations around projects in the Territory.

Now, here's an interesting context piece, I guess again. We think of the YESAA regime as being something akin to environmental assessment processes and so on elsewhere in the country, perhaps elsewhere in the world. It's another structure, another board -- yet again another board -- doing more work at interfering with our lives as developers, trying to get on with the business of mining or development or building a road or putting in a gas pipeline. But there's a very interesting element here, and it's something that's captured in some recent writing by a fellow colleague of mine at the University of Toronto, Graham White, who talks about the treaty boards, the ones that come out of the land claims agreements themselves, and their relationships with the various orders of government are qualitatively different from those contemplated by what might be termed "classical treaty federalism". In other words, you've got a government; it sets up delegated authorities in a board structure, and it goes off and does its bit. If it makes mistakes, it gets fired by the minister of the day. You get a new board in or you might even terminate the board altogether and go on, and government makes its decisions.

That's not what YESAA is all about. YESAA is something different, emanating from a three-party negotiation that resulted in a constitutionally-protected treaty. So, as a consequence you got a structure here that has a sense of its own independence that's bigger than just a delegated authority from one body, being either Parliament or the Legislative Assembly of the Yukon Territory or even a First Nation. It's about the intersection of the three parties, and that's the next quote that I'd like to point to.

"These new structures, these new creatures, constitute a new genus of institution within Canada's federal system existing" — I love this little quote — "at the intersection of the three orders of government."

So imagine that picture: Three orders of government, decision-making in their own right with their own sets of powers — in the case of First Nations, self-governing First Nations, with again their own law-making capacity; and in the middle there are Dale Eftoda and the gang in the YESAA board. And they're trying to sort out, within the context of that, determining deep questions around socio-economic values with these three orders of government to whom they are reporting or related to. They don't report to them, but they relate to those three orders of government. So, they have to figure all of that stuff out. So, over the course of the next three days, as you're talking about socio-economic, imagine the kind of debate and dialogue that the board's going to have to go through, and

— and I argue this strenuously — the three orders of government will have to go through to determine what it is that they want to see by way of the balance between development, good socio-economic assessment, good environmental assessment. Some of it is good science; a lot of it is good values, an association of values to good decision-making. It's a very, very different concept than the old, classic style of delegated authorities to a board.

The implication is the board and designated offices are charged with a constitutional obligation to examine development from a social, cultural, economic perspective, and to advise accordingly to these three orders of government. That's the bottom line. That's a tall order.

The treaty relationship -- I think I have really captured that in some of what I've just said. It is the Chapter 12 of the *Umbrella Final Agreement* and First Nation final agreements that are the ultimate umbrella capturing the YESAA concept. If there are inconsistencies between how the act is interpreted and how Chapter 12 is interpreted, you can, I'm sure, find your way in through the court system to a great debate about what Chapter 12 really meant and whether YESAA, and whether the way the board is interpreting YESAA, is capturing the intent of that legislation. So, the switch wasn't thrown when YESAA was established, leaving the final agreements in the background. Those final agreements are still there, that relationship of the three parties is still there, governing the way in which we, as a society, are going to be interpreting socio-economic values as they move their way through environmental assessment. It's a Chapter 12 objective. They're captured in the YESAA purposes section, which we'll get to in a few minutes.

Here again I want to go through the purposes of the act, which I laid out very quickly this morning, but I want to show you just how many words, used in the purposes of the act, are value-laden and subject to interpretation, interpretation by YESAA and interpretation by those people working for YESAA, the socio-economic experts who will be doing evaluations, and interpreted by the receivers, if you will -- the three orders of government -- who will be taking the recommendations from the board or the designated office in making a final determination on projects.

The first one is pretty straightforward and doesn't really have a socio-economic aspect to it, but it does talk to the question of neutrality, that there could be conducted -- and again, even the word "neutral" captures a certain presence of values. What's neutral to you may be somewhat different than neutral to me. What's neutral to, I don't know, CPAWS, might be different than the Yukon Chamber of Mines. I don't know, Gary, you might have a different view on that, but the chances are the sense of what's neutral even can be open for interpretation and debate.

The purposes of the act requires that before projects are undertaken, their environmental and socio-economic effects be considered. Key in this one is “before the projects get started”. There are some other interesting clauses in the legislation that relate to that advance work that can be done that I think are quite leading edge and very positive, in terms of getting the dialogue going between proponents and interested parties in the Territory, especially the decision-makers. The act speaks to that.

“To protect and maintain environmental quality and heritage resources,” there’s that “quality” thing again. I was reminded of a book I read a couple of decades ago — I guess I’m dating myself here — called *Zen and the Art of Motorcycle Maintenance*, which some of you might have heard of, 300 pages of a book where one guy driving around North America on a motorcycle is trying to come up with a definition of “quality”. You can imagine that term coming to the forefront. I’d love to be a fly on the wall at some of the board meetings for YESAA, coming to terms with the nature of what is “quality” in environmental assessment. Fun stuff!

“To protect and promote the well-being of the Yukon Indian persons and their societies and Yukon residents generally, as well as the interests of other Canadians,” okay, that’s captured everybody and, in some cases, some people three times; because they’re First Nations, they’re Yukoners and they’re Canadians. It goes to a comment I think that Lindsay really highlighted at the end of my talk this morning: “to protect and promote the well-being”. First of all, “well-being,” a highly value-laden concept. Whose definition of “well-being” are we talking about, and to “promote” it, to promote it in what way? In a quiet, sensitive, careful way? Broadcast it? I don’t know; you tell me. These are highly interpretive terms in the purposes of the act that create a sense of presence for this YESAA board, and the whole concept of YESAA, that’s an awful lot bigger than just some technical, scientific analysis of the meaning of a particular project. This is big stuff.

“To ensure that projects are undertaken in accordance with principles that foster beneficial” -- again, one of those value-laden words -- “socio-economic change without undermining ecological and social systems on which communities and their residents and societies in general depend.” Every community in the Yukon Territory has a different social system, a different sense of itself, a different presence, a different understanding of its own residents and how its society interacts with each other. All of that is captured again by the purposes of this act.

“Recognize, and to the extent practicable, enhance the traditional economy of Yukon Indian persons and their special relationship with the wilderness environment.” This almost gets to a spiritual level. The relationship that First Nations have, in my little understanding of it, having spent time with quite a number of First Nation citizens around the Yukon and in the Northwest Territories, is that that’s about spiritual understanding of their relationship to land

and resources. That is going into a domain, into a world, that will require a very different set of understandings being brought to the whole question of the development of a project and whether it's meeting a socio-economic standard, whatever again that might be. A huge challenge!

"To guarantee opportunities for the participation of Yukon Indian persons and to make use of their knowledge and experience in the assessment process," a very important concept, traditional knowledge; but it's not referred to as "traditional knowledge", because there's a complexity. We've done a fair amount of work with some First Nations around the Territory where the complexity of what Yukon Indian people can bring to a debate around development is far more complex than what we narrowly define as being "traditional knowledge". There's a community awareness, there's a local knowledge, that comes from having lived and been resident in a particular area for many, many generations. That has a value to any assessment of a project proposed for an area in the Yukon Territory.

"To provide opportunities for public participation in the assessment process" so many sections of this act relate to the public input, the public participation process, both at the board level and at the designated offices level, and that is going to be one of the serious challenges that the board has is to determine just how that process is going to be put in place effectively without undermining some of those other principles about the timeliness of doing environmental assessment and moving it through to decision-making.

These last two don't really relate specifically to environmental assessment. This one on "timely, efficient and effective manner" for assessments and avoiding duplication, very important! I think Gary mentioned those this morning. Those are critical aspects to industry's perspective on where environmental assessment fits into the overall decision-making of a project.

And "to provide certainty, to the extent practicable, with respect to assessment procedures, including information requirements, time limits and cost to participants," very sensitive, again, to those people who believe that they need to be involved in that overall assessment. And again, procedures that are open, fair, transparent. Again very much of the act is about having those on public registries, being published in advance of them being put into force. There's a lot of that gravy, if you will, around connection back to society that's found in the legislation itself.

The overarching reason for YESAA -- the title itself for the legislation is somewhat revealing. Here we go: "*An act to establish a process for assessing the environmental and socio-economic effects of certain activities in Yukon*".

Two things about that title, and I've emphasized one. The act is about process. The act does not give detailed guidelines, methodologies, approaches, scientific treaties on the way in which socio-economic assessments are to be conducted;

nor does it define what is a negative environmental effect when it comes to the socio-economic dimension. It doesn't define that stuff. That's going to be the business of the board, the business of designated offices, in conjunction and with the decision-makers and the decision bodies who are going to make those judgment calls. The legislation is about establishing the process that will get us there.

What it also reflects here is effects of certain activities in the Yukon. Well, if you reflect back to the list that I showed at the outset this morning, that's a pretty comprehensive list. There isn't an awful lot of significant activity that's going to happen in the Yukon Territory that is not going to be captured in one way or another by the YESAA process. So, that's a little bit of an understatement if you ask me.

Again, this just replicates what I just said, which is the act does not prescribe how socio-economic effects are to be examined, or what constitute acceptable social, cultural or economic trends or events that require mitigation. That detail isn't there. Thresholds are established as to what gets assessed, but the board is left with the discretion as to how it's going to go about doing its assessment; what factors are significant, therefore requiring examination, to bring back to decision bodies on decisions.

The act provides the design of structure and process. Much of the detail is left to the YESAA Board in its rules, in the way it conducts its business, and again, when I use the term "board", that also applies to the designated offices.

In the act, there are numerous definitions, but there are two that are more directly relevant to the question of the socio-economic aspects of studies. "Socio-economic effects" is defined as including "effects on economies, health, culture, traditions, lifestyles and heritage resources." Again, it's a nice list, but it doesn't tell us how each and every one of those is to be treated, or the relationship. Is there a priority, a hierarchy of concerns relating to those, what, six topics that have to be brought into consideration? None of that's there.

"Traditional knowledge" is also defined: It means "the accumulated body of knowledge, observations and understandings about the environment and about the relationship of living beings with one another and the environment, that is rooted in the traditional way of life of First Nations." Very much, the language is more of a spiritual kind. The "way of life", again, how do you capture that, how do you corral it for the purposes of doing good environmental and socio-economic assessment? That's going to be the business that we're going to be in for many years to come.

Okay, here come the details and, again, you won't find a lot of additional interpretation of what "socio-economic" means. You'll see process-related stuff in the legislation. Part 2 primarily contains the sections that relate to how socio-

economic matters are to be examined. So, the board must consider “the significance of any environmental or socio-economic effect of the project or existing project that have occurred or might occur in or outside Yukon, including the effects of malfunctions or accidents”.

Okay, this is going to be pretty dry; I’ll just run through this, but there are some interesting conclusions to this, in that one, there is not just the effect in the Yukon, but if there’s an effect in the Yukon from an outside event, the board has jurisdiction.

Adverse cumulative socio-economic effects, either existing or proposed -- again, by the way, these aren’t direct quotes from the act either. They’re my paraphrasing of them. I’m trying to capture the highlights from the legislation. So, cumulative effects, it’s quite clear that that’s a big ticket when it comes to environmental assessment these days. It’s something that has been debated here in fora like this over the last couple of years. It has been organized by the Yukon and Federal Governments. It will have a significant impact on the way in which the board looks at a project, in terms of what’s the impact of a specific project in the broader context of where it’s being conducted. A really good example would be a mining property in the Dawson area and what the overall cumulative effects all the mining activities have on the overall area.

Alternatives to the project or alternative ways of undertaking or operating it to avoid or minimize significant adverse socio-economic effects — that’s neat. Okay, so the choice isn’t that you can accept it, reject it or vary it. The opportunity is there to provide ways of looking at it from a different perspective and provide views on alternative ways in which the work can be accomplished, so it gives a creative opportunity, a proactive opportunity, to the board to come back and say, “There are different ways in which this particular event can be organized so that it doesn’t have the significant socio-economic impact that we think it will in the particular area that you’re planning on putting it in place.” That can be something as simple as to say, “We know what the overall impact of your development is going to be on the local labour force, so stretch out your design and implementation period for an extra year; because it’s possible that if you give us the extra year, you’re going to allow the labour force to maximize its opportunities under your particular proposal.” Those kind of alternatives — very much the board has the opportunity to bring those forward into the discussion around what makes a good project.

Mitigative measures and measures to compensate for any significant adverse environmental or socio-economic effects, again, the board has the opportunity to bring those forward as a consequence of its examination.

The need to protect the rights of Yukon Indian persons under final agreements, the special relationship between Yukon Indian persons and the wilderness environment, the cultures, traditions, health and lifestyles of Yukon Indian

persons and other residents — very much captured, again going back to that sense that this is about the treaty, it's about the relationship the Yukon Indian people have with the land and this Territory specifically, captured in a number of ways and a number of times in the legislation.

Okay, quickly, I'm getting the nod about time. The board's direction relating to socio-economic, these effects of the project or existing project that have occurred or might occur -- so this is about past and present and future. It talks about cumulative effects, again. It talks about the project, alternative ways of undertaking or operating it, mitigation measures and so on. Even where a project is exempted from assessment, it can still be declared as worthy of review and that can be done through certain mechanisms that are allowed for under the act.

For larger projects, there is the opportunity to consult -- or a requirement, actually, to consult -- with potentially affected First Nations before submitting the proposal to YESAA. Now, that's an interesting concept. There is a legal requirement to go out and undertake some of that consultation in advance, and that's an obligation on the proponent itself.

Designated offices can recommend a range of options where adverse socio-economic effects are predicted. They can proceed with certain terms, they can be rejected due to severe impact, or they can be referred to the executive committee.

Similarly, the executive committee, which is the next step up, and that's the executive committee of the board, it can also refer up to a review level, if you will, if a project is not clear on some key aspects of the socio-economic side.

Reviews can also be invoked where significant public concern is likely or where controversial technology is being proposed. Again a very, very key link back to the community and to what it sees as being critical in respect to a project. This relates back to CEAA; there is a relationship established by the act. Decision bodies must give full and fair consideration to scientific information, traditional knowledge and so on. Again, interesting that the act goes back out and says, "Not only are we going to tell the board about what we expect of it, we're also going to tell the decision bodies what we expect of them when it comes to key aspects of the philosophy that underlies this regime, that dealing with traditional knowledge and scientific information."

Those claimant bodies, those First Nations that do not have land claims agreements in place, there's still an obligation in the act that they are going to be consulted when it comes to socio-economic impact. So, as a consequence, the Kaska aren't left out.

Here are a few more topics. Research can be conducted by the executive committee on key topics that they think will have a bearing on the future of development in the Yukon Territory. There are also a series of other aspects dealing with activities that are partially in the Yukon but also elsewhere, capturing existing projects.

Reviews of plans -- that's interesting. So if the government wants to develop plans that relate to, I don't know, agricultural policy, as an example. If there is an impact that's going to be far-reaching on the Territory, again, the board can look into it and provide its views on policies, plans and so on.

So, how significant is socio-economic? Well, we don't know exactly, because the board is not doing environmental assessment yet; but when you look at the act, when you look at Chapter 12 and the number of hits, if you will, dealing with the social, the economic, the traditional knowledge, the people stuff in the legislation, it's significant. There's no question in my mind that that's probably going to be the most difficult part of the challenge that the board will be facing.

If you look across the border in the Northwest Territories at the recent proposal for the northern gas pipeline project, it's very revealing on the very same topic. You go through that report and what do you see in chapters 9 through 15? Everything about socio-economic evaluation. That's a huge component of that overall — I don't know, is it 7,000 or 9,000 pages? I think Mary is here somewhere. I'm not sure what the overall count is. I'm only up to page 3,700 or something. But look at this: You've got Chapter 9 on economy, education and training; an entire chapter on community and government infrastructure; one on communities, health and well-being; historical, archaeological, et cetera. Here's an interesting one: Visual and aesthetic resources, fascinating stuff.

What about for us? Well, a possible pipeline, a possible railway, a powerline to Atlin, possibly; substantial oil and gas and mineral exploration is now gearing up in a major way. We've got new mines on the horizon by the sounds of things, and community development is happening in a major way with the new, announced infrastructure programs that the Federal Government has. There's a lot going on, all of it having a socio-economic potential impact here in the Territory.

A few quick observations, if I may: Socio-economic assessment will be governed largely by the approach and orientation of the board and designated offices. How they look and treat the socio-economic dimension is going to be very significant. This is not hard science. Determining socio-economic effects presumes an awareness of social and cultural values. There will be some very difficult decisions on finding the right determinations: What's socially acceptable and whose social aspect are you going to be giving consideration to?

First Nations and governments are the decision bodies receiving the work of the board and DOs. Their expectations are vital to helping the board in its determination of what is needed through socio-economic assessment. It's not just about the board acting in isolation. It's about the relationship.

And that's it.

LINDSAY STAPLES: Thanks very much, Kirk. I think what he has done is given you a pretty good idea of the scope of the provisions in the legislation when we're talking about socio-economic. Having done that, of course, the real work of the next two days -- the remainder of the afternoon and the next two days -- is to basically to look at, analytically, how do we get at this? How do we understand these areas? How do we understand, for instance, something like "way of life" or "cultural lifestyles"? How do we understand the notion of encouraging or enhancing socio-economic change that does not undermine ecological systems and social systems? What do we mean by a "social system"? What aspect of the social systems do we want to be looking at?

There's a great deal to cover in this area and the intent of the next two-and-a-half days, as I mentioned, is through a range of speakers and through your discussion, to try to give you a much better idea of perhaps some ways in which some people are approaching these issues and to give you a little food for thought as to how you may want to tackle, methodologically or analytically, some of these very, very broad areas that I think Kirk has quite rightly defined as highly subjective with respect to how you categorize the various elements that fall in with it, for instance, the broad area of health.

Just one other quick point, and this is something you may want to talk about, possibly when you go to your small group discussions, in addition to the questions Lyn has for you, and that is, as Kirk has pointed out, in bringing socio-economic effects assessment into this legislation, and given that we have three orders of government that are affected by this legislation, jurisdictionally, what does socio-economic effects mean for governments? It's one thing to look to a proponent with respect to assessing and taking certain responsibilities for socio-economic effects, but what's the role and responsibilities of government in this particular area with respect to the readiness of communities, with respect to the status of community infrastructure, with respect to wear and tear on roads, with respect to increased incidences of sexual abuse — all of this range of questions. That's something you may want to think long and hard about, because I guess I would suggest to you this is an area in which I'm not sure, in this Territory, governments may have thought very long and hard about, as it related to the assessment process. So, those are just a few quick thoughts on Kirk's presentation.

Lyn is going to introduce you into what we want to try and accomplish over the next 10, 15 minutes at your tables, through a chance for you to just share some of your perspectives with one another. Lyn.

6.0 The Building Blocks of Environmental and Socio-Economic Effects Assessment — Overview

LYN HARTLEY: Hi again. I don't know about you, but my poor little noggin is starting to fill up really quickly. We've had quite a few wonderful talks this morning, as well as following up this afternoon with Kirk. What we want to start doing now is doing a little bit of downloading of that information that's in your mind. So, we heard that a few people at least have come up with some burning questions, so those are the questions that have a little bit of heat that you're scratching your head going, "Hmmm. How is it that we are going to go about doing this," or what about some aspect of the things that you've heard this morning?

So what we would like you to do is -- you are, as you know, in tables. This is kind of the fun part of the afternoon. There are sheets that are on your table, and they are coloured, so I want one person to find the sheet that is mauve, and it has a discussion question. It says, "What are the important legal requirements for socio-economic effects assessment in the Yukon?" So, one person find that. There are markers as well as pens, but we want you to be thinking about, for the next 10 minutes, these two questions: What's most important from what you just heard from Kirk? And, as well, the second question: What's unclear? What don't you get? Where are the areas that we're going to have to get a little bit clearer on. So, 10 minutes, and I'll let you know in 10 minutes, and we'll come back to the next talk. Can you please make sure you do write something down and put your table number on the paper?

[Open group discussion at tables]

LYN HARTLEY: Bringing your conversation to a close gradually....

Okay, welcome back. I need you to do two things, two things — focus on the woman at the front. Two things: Make sure your table number is on the paper; pick someone responsible at the table, get the letter on your piece of paper, and you're probably curious. How come we're having to write down all this stuff? We're going to take all these comments, we're going to roll it up, and get familiar with this: Each time, we're going to have a talk from now on. We're going to have discussion, because we're trying to unpack some of this discussion and get a sense about what is important, and what are the things and the questions that are rattling around in our brains right now. So, we're going to take this information, we're going to roll it up, and lo and behold, two-and-a-half days from now, we're going to actually give you a copy. That's what we're aiming for.

Hopefully that's going to work out. Also, you're going to have a copy in two-and-a-half days from now -- everything we've been talking about -- and also what Lindsay said is that we will be taking all these presentations; we'll be taking everything and cutting a CD for it, and we'll also include this discussion. We're trying to track some of our thought processes as they develop over the next few days.

So, thank you very much. That first one just takes a little while to get going and we've had several talks today and quite a few questions are probably on your mind right now. It's like clearing tables. Get the mauve piece of paper up to the front of the room as best as we can, and Lindsay is going to come up and tell us where we're going next. Oh, Rob Walker is coming up, great!

ROB WALKER: Well, good afternoon. Me, and my sweater, are back. This afternoon we're going to try and provide everybody an introduction to the three disciplines of environmental assessment, social assessment and economic assessment. So, this is where this fellow comes from over here, juggling the three balls. I'm sure you've seen these now. Of course, the one ball represents the environment, with the leaf in it. The other one represents the economy, and the third one represents society. We're trying to figure out how these things are all going to work together. When I was driving in this morning, of course, I knew that it's not really like that. These three balls are totally connected. It snowed. I wouldn't have gotten here if the guy didn't plough the road. That involved our economy, our environment. The whole system is all tied together, so it's a bit artificial to be separating it into three pieces; but the reality is, trying to understand it all in one go is a bit like eating a mammoth in one bite. So, we are going to take it apart into three pieces, and following me will be three presentations, one on each of the topics.

The following days, we're going to seek to find ways to make sense of how these three circles really are connected together. We're going to put the mammoth back together. But each of these three balls is really informed by a different discipline. Each of them has different schools or faculties at universities. Each of them comes somewhat from different — I don't know quite how to put it — different concepts or directions. So, they've evolved their own languages, their own technical languages. So, what I think we need to do today is we need to listen for what is in common between these things.

I had a Fisheries professor once who said that, "There's two kinds of people in the world, there are lumpers and splitters." He was talking about whether this fish and this fish are the same species. Some people would say they're different, and others would argue they're the same. I guess the point is that today we should try to be lumpers and not get caught up on the details of the language, just be generous with it.

A couple of things to look for in common that I see: One, they're all related to planning. Environmental assessment initially came along to be invoked in the planning process while there was still time that the proposed development could be modified or changed so that it would have less impacts and more benefits. They also have a similar shape. I'm a bit of a visual person, so I see that in all of these processes. First of all there's some kind of description of a project or a development that someone's proposing. At the same time, then, we go and we look and we say, "Well, over here is the environment", whether it's the environment environment, or the social environment, or the economic environment. There's a picture of that, and then, the process tries to draw them both together and say, "Okay, one on top of the other. What's it going to look like after?"

The other interesting thing I find about the shape of these processes is that they all start off small, with someone's idea of "This is what I want to do." The "I" could be a company, a government, a society, whatever. But it starts off very small, and as you start trying to say, "How is this going to change things," we start gathering information, and the process gets broader as more and more information comes in: social information, economic information, traditional knowledge, whatever. You'll see in the legislation that it refers many times to the role of the public. It's essential that the public be putting information into the process, and that again links to what Kirk was talking about. Where are we going to understand our values from if we don't get them from Yukoners?

At some point, we have all the information we need, and then, the analysis starts to boil it down, and the process gets narrower and we get fewer options, and then, finally we come to some recommendation about what the project should really be like, and then, a decision gets made. So, I just hope that as you listen to these three separate primers on these topics that you find what's in common and that you can start building some threads to link them together. Thanks.

LINDSAY STAPLES: Thanks, Rob. One of the things I really enjoy about Rob's presentations is he is very good with his arms, and I was thinking of someone walking by when he was kind of doing this, and I was thinking, "This must be like a faith meeting; you know, people are giving testimony here. I believe."

As Rob said, we're working our way to three elements here, and I think his cautionary note is one that we've recognized that we're breaking these things down into what a friend of mine calls "stovepipes", a phenomenon that he deplores. Instead of thinking laterally, we start thinking vertically, and we're fragmented and we're not wholistic, and so on. So, notwithstanding that, and his caution about how we should be mindful of these limitations, as we have this discussion this afternoon, simply what we wanted to do was to give people who are not familiar with the area a basic 20-minute primer in environmental assessment, a primer in social impact assessment and a primer in economic

impact assessment, recognizing that once we move forward beyond this afternoon, things get complicated very, very quickly.

7.0 Introduction to Environmental Effects Assessment - Bill Slater

LINDSAY STAPLES: To do our first primer on environmental impact assessment I would like to call up Bill Slater. Bill Slater is an engineer by training. He has worked with government for some time and has recently left government, as his appearance will indicate to you — sorry, Bill, I couldn't resist. I won't tell you what I said when I saw him; it's been awhile since I've seen Bill. Anyway, Bill is highly qualified. I know him from the area of water management and as a private consultant, Bill has been spending a considerable period of time working with First Nations on the implication of the legislation. So, please welcome Bill Slater.

BILL SLATER: Thank you for that introduction, Lindsay.

Those of you who were at the decision body workshop last week will recall that I was accused of being colour blind on the basis of the colours in my Power Point presentation. I have tried to alleviate that problem today. No guarantees, though.

I am going to just do a quick hopefully 20-minute primer on environmental impact assessment. I know Lindsay, following Kirk's talk, mentioned that we were going to talk about methodology to try and get some better understanding of how we tackle these topics. Certainly, I feel I'm at least in the position where I'm talking about one of the three topics that we probably, for the most of us, understand the best. I am going to focus primarily on environmental effects assessment, not on social effects, although there is some overlap, obviously. We've often considered some aspects of social impact assessment in doing environmental assessments, and certainly the legislation we've worked with has given us the leeway to do that at times.

That's not my colour choice. So, there are essentially three main topics I'm going to talk about this afternoon. First of all, very simply, what is environmental assessment? How do we do environmental effects assessment and a little bit on the relevance of that to social and economic effects assessment.

First of all, what is environmental effects assessment? We're looking essentially at a project and the environment, to give us a few more circles to add here, and the interactions between them. We're looking for acceptable project environment interactions. I think there are a couple of ways that can happen. First of all, we can look at the interactions, and we can see where a project may be done in a certain way or certain portions of a project may be done where we can find acceptable impacts; secondly, in a way where we may be able to take the whole project and find acceptable impacts within that.

So, to get out of the pictures and into the words, what is environmental effects assessment? It's a comprehensive analysis of the environmental effects of a project. That's pretty common language. It's a planning process to ensure that environmental effects are considered in the early planning stages. It's a tool for coordinated decision-making among various natural resource sectors, and I think this comes back to the concept of integrated resource management, thinking about the trappers, when we're making a decision about a mining project, or about water quality when we're making decisions about cutting trees. I think one of the examples that comes to mind for that for me in the environmental effects assessment field, is the Cheviot project. It was a major coal-mining project, and one of the big, important issues that came up in relation to that project was the effects of that in combination with forestry activities that were ongoing. We have to look at all of those things together if we're going to make reasonable decisions about the environmental effects before we proceed with projects.

The fourth one there, a mechanism to revise project plans to address environmental concerns and issues, I think that's probably one of the most common things that environmental assessment does for us. Mr. Berger mentioned it this morning, that we go through these processes, and we see improved projects at the end. Often we don't see the project stopped by environmental assessment but we do see it changed, substantially changed in some cases. It's a forum to effectively compile and consider expertise and information from a variety of technical and non-technical sources. So, that might be government agencies, NGOs, First Nations; obviously, traditional knowledge might come into that.

Some of the common principles of environmental effects assessment, and most of these got mentioned this morning, they come into the purposes of the various pieces of legislation that we have for doing environmental effects assessment. I'm trying today to stay away from tying back specifically to legislation, whether it's YESAA or CEAA or the Yukon *Environmental Assessment Act*; but those purposes are often quite common, and here I've called them "principles". I've broken them into two categories of principles, essentially. The first one here is environmental principles. I'm not trying to assign any priorities to any of these, but I think you will see these principles fairly commonly. First of all, "that promotes sustainable development" -- fairly obvious -- "to apply the precautionary principle." Often that comes up in the purposes of environmental assessment legislation, and certainly it's something we think about as we carry out environmental assessment. Where we've got some uncertainty about what the effects of a project might be, we should be looking at making a decision that errs on the side of caution.

Sorry, I missed the third one there: "to maintain a healthy environment and a healthy economy". That's quite similar, again, to the sustainable development side.

The other group of principles I've put in here are more guidance principles. Again, they're not here in any particular priority. The first one there, "to provide opportunities for public participation", is a very important principle of environmental assessment that has been applied across Canada and other jurisdictions, as well. Again, I reference back to Mr. Berger's talk this morning about listening to what the people have to say, because we get better projects out of this process that way.

The second one there, "to coordinate decision-making", and that's among various agencies or even within agencies. Often we see that as a sort of guiding principle for environmental assessment. "To recognize the special relationship between First Nations people and the environment and to utilize their knowledge in decision-making," a principle that certainly is in YESAA. It has moved its way slowly into CEAA, and we see it more and more in the environmental assessment processes that we work with in Canada, that's for sure.

Again, a principle that comes up in quite a few pieces of legislation: "to ensure a timely process that avoids duplication."

So, to move on to the second piece of this presentation -- how do we do environmental assessment -- I've thrown up a bunch of the pieces of our environmental assessment process here. You'll see a bunch of words there: project descriptions, valued ecological components, description of the environment, mitigations, scope of project. How do we fit all those together to get a reasonable process that incorporates all of those things? I've thrown a bit of a process diagram down here, perhaps quite simplified, although I think along the same lines as what Rob was talking about a few moments ago. Initially, we brought a project proposal. We were looking from that at a project description and a description of the environment. Between those two, we're looking for interactions between them. What is the significance of those interactions? I've thrown in here policy considerations. Often we like to think that those kinds of policy considerations don't influence our environmental assessment decisions but I think, to a large degree, they do, and we need to keep them in mind. And finally, a decision.

So what feeds into some of those things? In describing the project we've got to think about the scope of the project, a very important aspect of environmental assessment. With respect to the description of the environment, what are the important components we need to think about, the valued ecological components, the VECs. And, in looking at the project environment interactions, we've got to think about the mitigation and the scope of the assessment that we're carrying out. Finally, to add a few more pieces that I think cover the whole breadth of the process, is the public input, the traditional knowledge and the technical expertise. Those things feed in at all stages of the process.

So, I want to talk about each of those pieces. First of all the project description, what's it going to entail? It's going to entail all phases and components of the project: locations, physical layout, construction plans, schedules, environmental management plans and practices, things like best management practices, and some of those really amount to mitigation. So, then we move into mitigation measures, operating procedures, decommissioning plans -- a fairly important aspect for lots of projects, and often they're the only way to prevent unacceptable effects in the long term. We can tolerate some effects while a project is ongoing, but we have to do something in the end to make sure those effects don't continue. It's often difficult for us to have certainty about that at the outset of a project design. Finally, something that I think is fairly controversial at times in Yukon, is we need to have sufficient detail to confirm that the project, including its mitigation, is practical and feasible as it is proposed. So, we need more detail in these project descriptions where there is less certainty. We need more detail where there is new technology, where it's being applied in environmental conditions where it hasn't been applied before, and those issues do become quite controversial.

So, feeding into that is the scope of project, an important aspect in trying to figure out what we're looking at for an environmental assessment. Often what we've relied on is something we call the "principal project accessory test", looking at interdependence between components of a project. What components do we have to include? What ones can we leave out of our assessment? So, it looks at interdependence between project components and linkage between them. It comes, initially, from the *National Environmental Protection Act* in the United States. It gets referenced in some of the CEAA documentation, and I know that the board, in preparing their rules, has certainly taken it into consideration. So, the interdependence test is a question of, if the principal project, like a mine for example, could not proceed without the undertaking of another activity, then the other activity should be part of your scope of project. So, that might be a road to get to the mine.

The linkage test: If the decision to undertake the principal project makes the decision to undertake another activity inevitable, then the other activity might be considered part of the project. So, for instance, if you were building a mall, and you knew that you were in the future going to need parking space, then the parking lot maybe should be part of that consideration in your project assessment.

What phases of a project? Once a component is included in the scope, the environmental effects assessment usually includes consideration of all phases. So, we've got to think about construction, operation, decommissioning, all those bits and pieces, any changes.

The other thing that I think is worth thinking about, especially when we start talking about social impact assessment, and I'll step into that a little bit here, is

the planning phase. When we look at environmental effects assessment, really we don't see environmental effects, for the most part, until we start into the construction phase, until there's actually something on the ground. Social effects can occur before that. What's the impact on a community of having somebody propose to build a project there? So, I think we need to think about that as we move from environmental effects into social effects assessment.

What about related projects? Certainly when we're thinking about related projects, a power-generating station in association with a big mine development, is it part of the same project? Or a port facility may be so far away that it's not relevant to consider it in the same assessment, so one needs to take that into consideration. And obviously, one of the big, important inputs here is public and technical input.

So now, to move back to this diagram, I'm going to move on to the green section here on the description of the environment. So, what's important in that so that we can actually look at our impact assessment and consider the interactions? Some obvious things: biological; physical characteristics of the environment; sometimes social characteristics are important, even in environmental assessment; other land uses in the area, and activities in the area, and that could be big projects, it could be small ones. It could be people hunting in the area.

The current status and trends for environmental component, these are our baseline conditions. What does it look like right now? How is it changing right now? And only with that information can we accurately look later and say, "This project has had an effect or it hasn't had an effect."

Valued ecological components, we can't look at the whole environment; we've got to look at only pieces of it. So, what pieces are important to look at? And just a bit of information on actually selecting valued ecological components, because these are the components we're going to use to measure our effects. One of the most important parts of that is input from local communities and existing resource users. What's important for them, and why is it important? Traditional knowledge often feeds into that, what species are in the area, what ones have seen historic changes as a result of changes in the environment. Legal requirements, for example, we often look at salmon in this part of the world because there are some legal requirements around salmon and similarly with political public importance questions on them. Again, commercial and traditional harvest, salmon falls into that again for us. Ecological importance, how sensitive is the species? Is it something that's actually going to change in response to what the project is going to do to the environment? Is it something that is a really good indicator? Importance to scientific research sometimes comes into it. Is there important habitat for a particular species in the area of the project? And social importance, when I think of that I think about eagles in the United States. Certainly they see them as a socially important creature, and it's something that one might want to take into consideration.

Moving on to the purple portion on the project environment interactions, I think there are two key components before we can really identify the outstanding impacts, which is what we really ultimately want to talk about at the end of our assessment. First all, the scope of the assessment, and the factors to be considered falls into that; and that's generally defined in the legislation we work with to a great extent. Then, within that, the scope of those factors: the geographic scope, the temporal scope, what other activities do we need to consider for cumulative effects assessment.

The second component that I think we need to have before we look at outstanding impacts is mitigation measures, what are they?

So, on the factors to be considered side, Kirk mentioned most of them from YESAA in his presentation earlier today, so I don't really want to mention them in detail again. They are on here. First of all, I've put up the ones from CEAA and YEAA. Again, here I'm referencing legislation. Some of these change. There are additional ones added with respect to higher levels of assessment, like comprehensive study under CEAA and YEAA. So, you know, considering environmental effects, cumulative effects, is pretty standard. Then you might consider things like alternatives at a higher level of assessment.

Under YESAA, we see the same things again; and as Kirk mentioned earlier, we've added, even at the lower levels of assessment, things like alternatives, the need to protect the rights of First Nations, the special relationship of First Nations to the environment and the interests of residents. So, we will see some changes, even for environmental effects assessment with respect to how we carry those out under YESAA.

I want to talk a little bit about the scope of the factors that you have to consider. What is the scope of the effects that you want to look at? Geographic scope, first of all: How big an area? Are we looking at something that's fixed for the project? Are they variable, depending on the ecological component? Are we going to vary that, depending on whether it's water quality we're looking at or grizzly bears? Often we do. I mean, we want to look at what's relevant.

I think another thing to keep in mind is the scale sometimes matters a lot. So, if we look at, for instance, grizzly bears and the effect of the project on grizzly bears, we might want to look at a very large scale, because they have a large area of land that they cover as a single animal even. But if we look at something like muskrat, for instance, and its use by particular people, there are examples -- I know a project that Rob worked on certainly provides me with a really good example of why one needs to look small, as well as large. So, in this particular project, there were muskrats in a very small area that were going to be affected. There are lots of muskrats in the Yukon. If we look big, we can say, "There's no big environmental impact here and it doesn't matter", but for the 76-year-old

elder, who used muskrats in that particular area, that was a significant impact for her, and she could no longer go out and trap muskrats and teach her grandchildren what had been her culture; and so we need to remember to look at a scale that's relevant. Sometimes it's difficult to figure out what scale that is.

On the temporal scope, do we look at the duration of the project, the duration of the effects? What about cumulative effects with other projects? What durations do we need to look at for that? Also, within the scope of factors, what other activities for cumulative effects assessment do we need to think about? We certainly need to think about activities with potential for interacting or additive effects on the same ecological components. We don't need to just look at activities where we've seen significant effects from them, because we can have the problem of death by a thousand cuts. A whole lot of very small activities, each of which is not at all significant on its own, may be much more significant when considered with others.

So, what kind of mitigation measures are we looking for? What are they going to do for us? They're going to minimize or eliminate adverse environmental effects. They're usually part of good project design, the best management practices that I talked about earlier. But how do we make sure those get in there? That's often the most difficult. We identify the ones we want to have added, but it's more difficult to identify the ones that are just part of the good project design to make sure they get done. Do we try to mitigate all adverse effects or only those that might be significant? Mostly our legislation doesn't provide us with good guidance about that, but, for the most part, we've tried to identify mitigation wherever possible for all levels of effects.

Finally, I put compensation on the end of the list here. Is it mitigation? We certainly use it as such, but it doesn't either minimize or eliminate effects. It may well do something in exchange, and we certainly rely on that at times.

So, how do we figure out what these project and environment interactions are, which is what we're really interested in; and this, to reference back to Kirk's talk, is also not hard science. It never was hard science, and it's not going to be hard science. So, I think in some ways, our environmental effects assessment, although it is perhaps the hardest science of the three, it is also still not really there on that front. So, there are several methodologies that we use: We use checklists where we list various environmental components and look for various effects that might occur to them; matrices, looking at the components and the various components of the environment, the components of the project, where have we got effects and what are we going to do about them? Things like overlays and GIS are common in projects, especially like forestry, where you've got aerial-type activities. The most common professional experience is where we're relying on input from a whole variety of technical experts to identify what the effects might be. I've added modelling here, because there are some specific

aspects where modelling really helps us. For example, in water quality we often use that.

With cumulative effects, we're looking at the same kind of methodologies to identify additive or synergistic effects on the same ecological components from other projects and other activities. Again here, public, technical, traditional knowledge really, really helps. It's really important in identifying what the effects are and trying to effectively mitigate them.

So, down to those last little three boxes at the bottom there -- the significance, the policy considerations and the decision. How do we evaluate significance? It's one of those words that Kirk was talking about that has no solid meaning to it. It's essentially a risk-based decision-making process where we evaluate consequences of a decision and the likelihood of effects. Often, significance evaluation in environmental effects assessment considers that whole list of factors there: the magnitude, the extent, the duration, the frequency, the reversibility, the ecological context and the likelihood. You'll see, if you look at those, that three of them, to some extent, fit into the category of likelihood: the duration, the frequency and the likelihood, obviously. Duration and frequency overlap to some extent with the consequence-based part of risk assessment.

So there's a variety of tools we use for evaluating significance. Professional judgment is probably the most common there. We can often use a systematic method with the previous list I gave you of assigning values for various categories. People do that.

So, to get down to policy considerations, we obviously have to think about political considerations in some cases for projects and other policy considerations. Cost-benefit analysis may fall into some situations. We don't do that generally at environmental effects assessment, but it can influence the decision you're going to make.

We've already talked in the past about decisions, so I'll make Lindsay happy and skip that slide.

So, there are a couple of things here that got left out: our monitoring and follow-up of that original list and adaptive management plans. Those are really our feedback loop. So, monitoring and follow-up is primarily to confirm environmental conditions, confirm predictions of the environmental assessment, confirm project effects, and provide guidance for future environmental assessments. Adaptive management plans we really see as more of a feedback loop, where we are looking for addressing technical uncertainty. We've got a project that maybe has some aspect of it that we're not sure is going to perform the way it should. We have an alternate contingency, and we've got a monitoring program to say, "If this occurs, we've got to proceed with the contingency."

So, just to wrap up, what is the relevance for social and economic effects assessment? I think the basic steps are likely to be the same, where we describe the project, consider the scope, describe the environment, whether that's -- again, to reference back to Rob, the terminology may be different, community profiles, economic conditions. We identify appropriate indicators that are relevant and measurable, sensitive to the changes we're expecting; and we identify the effects of the project. Adversity is obviously more difficult to define for social and economic assessments. It's not so certain. It may be adverse for one person and positive for another. So, that becomes a little more challenging. We identify measures to minimize, eliminate or compensate for effects, and then, we evaluate the significance. And that's it.

LINDSAY STAPLES: I'd like to thank Bill. That was a tough job, and he did it very well. There was a lot to cover, and I think you've all got an appreciation, if you didn't before, of how complicated the work can be; but it was a really nice overview.

I think he's also thrown out a couple of really interesting questions, one of which I think we're going to talk about tomorrow, which is — you know, Bill is looking at ecological systems, and I guess that one question would be -- and I'm trying to understand ecological systems for the purposes of coming up with a baseline description: Do we understand and approach economic systems in the same manner, and do they have the same constituent elements? I think that was helpful.

Just one last point, because I don't want this one to get lost, he made a really important point about one of the really big differences between, in the early stages of a project, just the sheer announcement of a potential project has a social and an economic impact in a community. It's enough to get people out there buying equipment. It's enough to get people out there upgrading their home, because they think a megaproject is coming to town, and so on. You don't see that typically with respect to environmental effects, just at the stage of the announcement; and so the question of course is, when you're doing socio-economic effects assessment, when does the clock start ticking? Does it start, in a sense, pre-construction and even pre-permitting when you're looking at the potential effects?

So, we're going to take you straight into small groups again, and again Lyn has a couple of questions.

LYN HARTLEY: Under the blue, under the blue, looking for the blue sheet on the table. So, here we are. You can see this was our first primer: environmental effects assessment. Thinking about that, I'm curious, how many folks — raise your hand if you're doing work in this area of environmental assessment.

Okay, so it looks like a good number of you, so you know this stuff. So, some of it is trying to help the folks if this may be the first time they've heard about environmental assessment. Two questions on the blue sheet, if you can think about that for about 10 minutes and record some of the key thoughts. Thank you.

[BLUE SHEET]

LYN HARTLEY: So drawing this conversation gradually to a close, because I have some exciting news that you're going to want to hear about.

Hello, folks, how are you doing out there? Okay, so it's good to see that there are some folks having some good chats out there. Once again, I need some help in gathering up all those sheets from the table. The good news is that we've decided to take a coffee break right now, so let's take a coffee break, a 10-minute coffee break, and then we'll be back.

(Workshop Adjourned at 2:40 p.m.)

(Workshop Resumed at 2:50 p.m.)

8.0 Introduction to Social Effects Assessment - Patt Larcombe

LINDSAY STAPLES: If everyone is ready, I would like to move on to the next primer, which is on social impact assessment. I'd like to briefly introduce to you Patt Larcombe. I'm going to introduce Patt at greater length tomorrow morning. She's going to be talking about the relationship between social systems and environmental systems tomorrow morning, and on the heels of Bill's talk I think you'll find it a really interesting one; but that's tomorrow morning, and I'm really pleased that Patt could be with us.

Patt comes from Winnipeg, and I've had the pleasure of knowing Patt for a number of years. Unfortunately, we don't get to see each other very often; but when our paths cross, it's always a great moment for me. Patt has been consulting for a long time, and she has specialized in the area of First Nations people and their social systems, particularly as they relate to traditional land use and ecological systems. Again, without getting into more detail on her background, she's a person who is very well-equipped to do a primer on social impact assessment. Again, she's come here from Winnipeg to join us and I'd like to welcome Patt Larcombe.

PATT LARCOMBE: Good afternoon, everybody. It's good to be here in Whitehorse. I used to live in Fairbanks so I feel like I'm a little bit closer to home right now. I'm also very honoured to be here and thank you, Lindsay, for the lovely introduction.

I'm going to be talking about, I'm going to call it "social effects assessment for dummies" or "ABCs", and I'm going to try and get through it in 15 minutes. But first of all, just to maybe demystify social impact assessment or social effects assessment it's something that we all do in our daily lives. Anytime we as an individual or a family or a community make a decision, whether that's to get married, to get a new car, to move, to buy a house, to start a family, we are in effect doing social effects assessment. We are making decisions based upon what we predict the changes in our lives might be. So, when we look at in a broader scale, such as under YESAA, we're just taking it and magnifying it a bit, and we're looking at larger communities, we're looking at cultures, we're looking at regions, territories and, in some cases, all of Canada. So here we go, buckle your seatbelts, 15 minutes.

I'm going to quickly go over what a social effects assessment is and quickly what the stages are.

Essentially, it's a process of predicting, analyzing, evaluating and managing change to the social environment. Change can be neutral, in that it's no net difference. It can be adverse or negative, and it can also be positive. The steps are much the same as what we just saw in the previous presentation, the environmental assessment stages. For a lot of practitioners, I think because social effects assessment has not been part of these environmental assessment processes in Canada, not formally, that is why it's so exciting to see the YESAA legislation and see social effects assessment right there in your face, no question, no vagueness; it's right there.

Earlier this morning, I think it was Rob talked about how there are a lot of different names for social effects assessment. Some of the examples are "social impact assessment, health impact assessment, human impact assessment," a lot of names. Each jurisdiction has picked a name that they like. In the Yukon case it's "social effects assessment".

Earlier we saw some of the text out of the YESAA legislation. They refer to it as socio-economic effects, so I'm going to look at "socio", and then, Paul is going to be looking at the "economic", after me. So, the "socio" part of socio-economic effects is very broad. It's not hard science. It is touchy-feely kinds of things, but they are things that make society function well and happily usually. It's how people cope with their life through their economy, their social systems, which I'm going to talk a little bit about more tomorrow, cultural values, how we use the environment, how we live in the environment, how our culture, our identity, our belief systems, everything that makes up society, how it relates to the environment. It's also our built environment, which includes our infrastructure, our houses, our industry, how we organize ourselves as people at the family level, extended family level, organizational, political, community. It also includes our expression of our identity or our expression of our culture through our art, our

dance, our language and our crafts. All of these things combine to make our social system; and in the case of aboriginal people, rights and governance.

These are all things that get looked at, not necessarily every one of them in every project proposal, but it's all the things that we look at to determine how a project might change, adversely or positively, the social system that we live in. These are not all the stages of social impact assessment or environmental assessment, but they're the ones that I'm going to talk about in the next few minutes: scoping, baseline, which I also would call it "understanding the social system", identifying the effects, identifying mitigation measures to address those effects and then determining the significance of what's remaining or the residual effects.

Scoping is like the foundation when you're building a house. It has got to be well thought out, it has to be planned, it has got to be stable. If your scoping process isn't stable, comprehensive and acceptable, then the rest of your process is going to be weak. One of the things that I've certainly learned through my own personal experience working with communities is that if you don't have a good project description, even at the scoping stage, people don't understand what you're asking of them. It's not fair to present somebody with a blank page and say, "What are your concerns?" So, getting a good project description, as much as you can at the beginning, is really critical to a good scoping process.

It's also important to explain to the people who potentially are affected what a social impact assessment is, or what an environmental assessment is. You can't assume that people know what that process is; and if you want participation and if you want effective input, they need to understand how their participation fits into the bigger picture.

At the scoping stage, based on the preliminary project experience, what you're seeking is a preliminary idea of what people's concerns are about the project; and you use that information to refine things like the spatial area of the project, the study region. You can use it to refine not only the components of the social environment that you're going to be studying, but also the physical and the biophysical and the economic. It also helps you to define and plan your process of doing your social effects assessment. So, spending more time at the scoping stage is critical; and if you don't, it's going to bite you in the butt later on. You can also think of scoping as an iterative process. You can also get so far into your environmental assessment and realize that you've missed something or something new has come up, and you can go back through that process very quickly and reintroduce it or add to your planning process.

A second stage is gathering your baseline, and baseline doesn't mean just what's there today. It's not a snapshot of a particular year or a particular day; but it's also the past, how a community has reached the place that they are now and what are the trends, because nothing is ever static. Communities are dynamic. It's not about everything. It needs to be focused; otherwise, environmental

assessments would take 10 years if you were going to get an adequate baseline. However, you need to focus on the things that matter, not just the things that are easy to find or expedient or cheap. There has been some experience in North America of that happening, people grabbing what they can get as opposed to what they should be getting in terms of information.

You really cannot do social effects assessment without community participation. I have seen, and I won't name any names, but I have seen aspects of social assessment documents where they've gone to the census data and other vital statistics without ever talking to anybody in the community; and we all know how census data has a few problems, and in particular with aboriginal communities, census data is notoriously inaccurate and misleading.

Another point would be don't assume the communities are all the same. They may be two aboriginal communities, they may be two communities that are of the same tribe, but that does not mean that they are the same. So, don't make those kinds of assumptions. You need to go and talk to each community.

Just to really quickly go through some examples of baseline information, in terms of demographic characteristics, that could include your current population, past population trends, population number projections, things like age and gender structures. Community and institutional structures are what are the resources in the community? How are they structured? Do they have user group organizations? Do they have political organizations? Do they have recreational organizations? What are the resources available, the human resources, financial and technical resources that are available?

I've lumped a lot into what I call "livelihood", which is a value-laden term, but it can include: What are the economic activities in the community? What are the employment rates? What do children have in terms of opportunities? What do elders have? Culture and identity can include things like language, you know, rates of indigenous language that is being used in the community. Is it stable? Is it in jeopardy? What are the programs in place that are working with the language?

Community infrastructure is housing, roads, community halls, recreational facilities.

Community history, what is their experience? Have they been through other types of projects in the past? Are they stable? Are they suffering from a previous impact? What are the factors and trends that are influencing that community today? Are they coping well? Is there another project coming online that could have a cumulative impact? And I'm not suggesting that for every project you would go in and collect this huge volume of information, but these are types of information to think about assembling in terms of baseline.

Because harvesting is so important, and if you think I'm talking a lot about aboriginal communities, I am, because that's my frame of reference, that's my experience. I'm not suggesting that other communities are not important in the social effects assessment process.

If a project were to potentially have an impact on natural resource harvesting activities, what you're seeing upfront are some of the questions that you might need to answer in terms of collecting baseline data that would allow you to play the "what if" game in terms of if a project is going to proceed, what impact might it have on these activities. Because of time, I'm not going to — you can all read, and I think we're all going to get a hard copy or a CD version of this afterwards.

I did want to point out that transportation and access routes for harvesting, this is a situation that happened in Manitoba a few years ago, and it will give you sort of a bit of insight into what happens when people don't look at what the human impacts are; or they think they're doing it well but they're not. In northern Manitoba, there was a dam — well, there have been many dams but this one in particular, and one of the effects of the dam was that they put an all-weather road into a community, which was seen as a positive effect. They had a river crossing, and they had put two large culverts and sort of a humped road access overtop of it. The big culverts were there for fisheries passage. The large trucks were having some problems getting over it. So, in their great wisdom, they thought they would put a bridge there and flatten it out. The environment assessment went through the whole process, and they identified that, yes, the fish were going to be able to get under and everything. The bridge was built, and then, they realized that the fishermen and the trappers couldn't get under the bridge any more, and they'd effectively blocked their access. If there had been a proper scoping and if there had been a human element to the environmental assessment, something that simple wouldn't have been missed, but it was. For many years it was a safety hazard for the fishers and the trappers.

Just like with doing a biophysical assessment, there's a variety of methodologies for collecting human element or social system data. We don't quite do it the same way we do with fish, although sometimes it seems like it's the same. Community participation is your best bet for getting good information, and it can involve interviews, focus groups and surveys. Communities usually have a lot of resources in their own right. They collect their own information about health and population. They've often got their own internal reports that have very good information. Government sources, reports, census data, vital statistics --there's generally a pretty good wealth of secondary sources, or "grey literature". Consultant reports are flying all over the country. There's also academic work and also, comparative data. It's something that doesn't get paid enough attention, I think; and that is looking at communities who have experienced a similar type of project in the past. And looking at has anybody followed up to see what kinds of effects there were and what the trends were. It's something that, even with environmental effects, you see a lot of the process of doing

environmental assessment, but you don't see a lot of the follow-up, to see how accurate the predictions were and what we can learn from them.

Communities also need to be involved at the identification of effects stage. Again, a project description is necessary, and they may also need to know the physical and the biophysical changes that are associated with project. So, you need a whole body of information before you can actually begin to understand social effects. Tomorrow I'll talk a little bit more about this, but there are some timing issues in doing social effects assessment. The community needs to be effectively informed of what some of the preliminary results are and communication. I would advocate that the community and the researcher, whoever that may be, need to actually work as a team to identify the effects and also the possible mitigation options. This is also a time when drawing from the experiences of other communities can really be helpful.

Determining the significance of effects is a really interesting process, and this is where values really come into play. I'll give you an example with my involvement with the Voisey Bay panel review. The matrixes that the scientists all put together, which were all nicely laid out and they say, "not significant", "not significant", "not significant", in the case of caribou and waterfowl, their perspective that they were looking at for whether or not the effect of the project was going to be significant was that the number of caribou that would be displaced was less than one percent of the entire herd. In the case of waterfowl, they looked at it from the perspective of the entire population of waterfowl in Labrador. So, when you do look at it from the big picture, no, it's not significant; but to a community of 500 people, if the caribou aren't where they used to be, it's an enormous impact. And the community was just so dismayed when they saw all these tables that said, "not significant", "not significant". Nobody ever went and asked, "Is this going to be significant to you?"

Yes, we have to look at the big picture, but we also have to look at the small picture; because there has to be some equity in the social effects assessment process. Those who are affected the most need to have the most input.

So, in summary, the stages of social effects assessment are essentially the same as what you are probably accustomed to with environmental assessment: getting the baseline data to understand the systems. I wouldn't say that there's any less data, because I know there's quite a shortage in biophysical baseline data also. But people can talk and fish can't, so you can actually go in and get the information if you have the trust and the support and the interest of the communities. To be successful and of high quality, that communication and participation is key; and it's not just at the scoping stage, it's all the way through.

Thank you. Did I do it in 15?

LINDSAY STAPLES:

Thanks very much, Patt.

Just a couple of thoughts for your discussions. I think one of the messages that Patt has conveyed is that a baseline is more than simply a description of everything associated with the community. It's not just reams of data and tables. So, simply having a pile of information doesn't necessarily tell you anything about how a community functions, how it operates, what's important, and as a system, what's the glue of that community. So, I think she has raised some really important concerns with respect to how social baselines are compiled and what should inform them.

Secondly, I think she has raised some serious questions about the quality of the data that is available for much social baseline development. She raises the point about how, particularly with a number of northern communities, that what she calls "institutional databases" are not necessarily going to give you much assistance with respect to really understanding the rhyme and reason of what makes a community function. In many cases, as she talked about, it's about building a relationship with a community, and in some cases it's just a simple matter of going to the First Nation office, sitting down with the department of wildlife, explaining what you're trying to do as a researcher, and saying, essentially, "We want to do this piece of analysis. You're obviously going to be potentially impacted by it, and are there any studies or reports or workshop notes or whatever you have that you think might better educate us as to what's going on in your community?" At some levels it's as simple as that.

What's remarkable is the absence of that data in a lot of EISs. You're kind of left wondering, "Well, what's so hard about walking into somebody's office and establishing a personal relationship on the basis of which you can ultimately, over time, share some information?"

So, these are questions you might want to think a little bit about, but obviously, if you don't get the baseline right, everything that happens after that isn't going to be very accurate; and the point that Patt made, as well, about the way in which some data is also assembled -- I mean, you give the example that you did. I recall looking at the Norman Wells Environmental Impact statement years ago, and there were fur sales statistics for the entire Northwest Territories, and you're kind of thinking, "Well, that's interesting, but what has that got to do with the zone of influence, if you will, that this pipeline is going to be affecting?" Not an awful lot; and so, in a lot of cases it's not just the fact that there's information that's being compiled and being presented. The important thing is: Is that what you really need to understand the community or the way of life of a group of people who are going to be affected by the project.

So, Lyn, I guess we're going to break out again?

LYN HARTLEY:

Thanks, Lindsay, and thanks, Patt.

I'm curious to see if the audience — can you raise your hand if you're doing work in this area of social effects?

It's not as many as the first group, and so obviously this is venturing into some new ground for folks here. So, they are the same two questions, so, looking for the green handout on your table, the green handout, the same two questions: What are the important concepts to engage discussion, but more importantly, what questions do you still have? So, 10 minutes.

[GREEN SHEETS]

LYN HARTLEY: So, bringing this conversation to a gradual close, we have Paul Kishchuk in the bull pen. Welcome back. That was the second primer, so we've done environment, social, and now, moving to that third, we're moving into economic effects, and here comes Lindsay to give an introduction. Thank you.

9.0 Introduction to Economic Effects Assessment - Paul Kishchuk

LINDSAY STAPLES: Well, if we could, I would like to move on; and in doing so, I would like to introduce to you Paul Kishchuk. Paul is an economist by training. He's based in Whitehorse. His company, Vector Research, does a great deal of work in the area of economic analyses and impact assessment. Paul, I'm not sure if you're going to speak to this, but this is a question I've always been interested in is why we call economics "the dismal science" or "the dark science". I'm not suggesting you have to speak to that in your presentation today. We're talking about impact assessment, so we'll save that one for workshop number two maybe.

Anyway, if you could, please welcome Paul Kishchuk. We're very fortunate to have Paul with us today.

PAUL KISHCHUK: Hello, everyone. Thanks to the organizers for the opportunity to be here today to talk about economic effects assessment in the Yukon. I did think about getting my hair cut before coming today, but it turns out I needn't have worried about that.

Here we go with a bit of an outline for my talk this afternoon. Economic effects assessment is one element in the environmental, social and economic trilogy framed by YESAA. We saw this morning that this is a difference with YESAA, in comparison to some of the previous EA legislation that we've seen in the Yukon. I'm going to talk about scope, as it relates to economics effects assessment. I'm going to introduce a definition of what is an economic effect. I'm going to present a bit of a conceptual framework. I'm going to get kind of abstract on you. Economics is a bit like that. I'm going to briefly present some illustrative approaches. It's a very broad field. In some ways it's an old field, and it has

application beyond environmental assessment. So, some of the techniques and approaches that are used have application elsewhere. I'm going to talk about a couple of potential challenges related to economic impacts assessment.

This morning we saw that the scope of YESAA is broader than previous environmental assessment legislation, and this is very much true for purposes of economic effects assessment. This again is a bit of repeat from this morning. We saw that assessments are to consider the significance of any environmental or socio-economic effects of the project or existing project that have occurred or might occur in or outside the Yukon. Kirk has touched on this, and I was interested to hear him talk about the bit about outside the Yukon; and the implication that I took from the way that Kirk framed it was that these were projects happening outside the Yukon and effects were flowing into the Yukon. From my perspective, I think about it very much the other way, that when there are projects within the Yukon, there are effects that flow outside of the Territory. So, for example, a mining project gets built with heavy equipment that is not manufactured in the Yukon. An effect of that project, a benefit of that project, is transferred outside the Territory to a manufacturer located outside the Territory, somewhere else in Canada, maybe somewhere else in North America. So, again, I guess I should point out that the effects are spanning borders; we're not just talking about within the Yukon.

Under YESAA the land base that's involved is broader than, for example, under CEAA, where it was a federal requirement. We've now seen a much broader land base introduced. This will have implications for economic effects assessment, because we're now talking about settlement land, municipalities and not just, for example, a narrower land base.

Another difference with YESAA, compared to previous legislation, is that there's an activity-base trigger instead of an action-based trigger. So, for me, from an economics perspective, this means that there are going to be more projects triggered. So "activity-based" meaning the long list that we saw this morning that's spelled out in the regulation, as opposed to an action-based trigger where the Federal Government, for example, would be involved in the funding of a project or issuing some kind of authority and approval. So, there's a broader scope there for economic effects assessment to be triggered and considered.

At the same time as the scope is broadened, what is meant by a "socio-economic effect"? It seems to be relatively undefined in YESAA, and I pulled a definition here from the definitions section in the legislation: "socio-economic effects' includes effects on economies, health, cultures, traditions, life-styles and heritage resources." This morning I've been looking for a more specific definition within the legislation and I haven't found it yet. If anybody knows where it is and could point me to it, I would appreciate that.

What is an economic effect? I've been doing a little digging. In preparing for this, I went and dig a little digging, looking for a definition of what is an economic effect or an economic impact and was a bit surprised to find that there really aren't any definitions out there. There certainly are no standard definitions of an economic effect. So, I put one together, as is my wont. I've called this a working definition: "An effect of a project on the economic circumstances of an individual, business or government." What I've tried to bring in here is that one difference between economic effects and social effects is economic distinctions between agents. An agent can be an individual. It can be a business, a corporation, a government; sometimes it's a community. I thought about including "community" on the list here. I'm still not sure if "community" belongs. In my mind, it's not really in the nature of an economic agent. So, an economic circumstance meaning "a change to an individual, a business or a government." I've chosen "circumstance" carefully, because economics is a positive field. It tries to deal with positive measures as opposed to normative measures, so it's less value-based than social assessment and perhaps environmental assessment. So, economic circumstances, a circumstance is something that can change either way. It can be a positive change, or it can potentially be a negative change.

In terms of the separate agents that I've listed there, an economic circumstance that might change for an individual as a result of a project might be measured in terms of jobs: How many jobs, how many people have jobs, the wages and salaries associated with those jobs.

Businesses experience effects in the way of spin-off businesses, so there's a new, related form of business that's created through local purchases of goods and services.

Government are affected through things like tax revenues and in the provision of programs and services to people. When projects come along, there are effects on the supply of programs and services that governments have to respond to.

I'll point out something else here. From the perspective of businesses, in the legislation, this is really the key place where businesses hang their hat, okay. Businesses don't really show up as an institution or an organization, on the environmental side, perhaps a little bit on the social side, but from the business perspective, in terms of economic effects assessment, this is where they fit.

As I said earlier, I'm going to get a little abstract on you. Here's a conceptual framework for looking at economic effects. I've proposed that it involves four elements: timing, degree, physical location and perspective. So, each economic effect that you can think of can be considered from each of these elements.

The first element has to do with timing, whether the effect is direct in nature or whether it's flow-on. So, does it happen immediately as the project is occurring; so, for example, during the construction phase, there'll be jobs associated with

that. Those are direct effects. Flow-on effects carry on after the project is established, after construction is finished, so ongoing employment from the project. So, direct effects are immediately apparent. Flow-on effects come along after. In terms of the language, sometimes you'll see reference to "indirect and induced effects". Flow-on effects include indirect and induced. Sometimes these are called "secondary effects," as well. The duration of the effect is also a consideration here. So, you might have 100 jobs created from a project, but you'll be interested in knowing for how long will there be 100 jobs. Is it for five years? Is it for 10 years? Is it for 40 years?

Degree is the second element, and this is the extent to which an effect changes an economic circumstance. Effects can be positive or negative, and degree is related to the concept of significance, which has come up today already. I believe we've got a whole session on it tomorrow morning, so to what degree does the effect change an economic circumstance?

The third element is physical location, having to do with how far from the project location the effect is felt. So, are the economic effects limited to the community, do they involve the entire territory or do they extend into the national economy, into Canada's economy?

The fourth and final element is perspective -- from behind whose eyes the effect is seen. So, again, we see these same elements. I've added communities here to the list of individuals, businesses, governments; communities are included there, as well. It makes a difference from whose perspective you're looking at an effect, and we can break it down among those four.

Okay, to quickly look at some illustrative approaches to effects assessment, and I've broken these down into two broad types, the first being model-based approaches. An example here is cost-benefit analysis, and Bill mentioned cost-benefit analysis. He's right that it's not always used. It has a particular application, and that's to compare between different projects. So, governments are more likely to use cost-benefit analysis than a private proponent. The private proponent is interested -- they have a profit focus, so they're interested in their financial rate of return from the project, not so much the social rate of return. Cost-benefit analysis brings in some of the social effects and attempts to measure, both on the cost side and the benefit side, the costs and benefits associated with a project. This requires, in some way, monetizing the costs and benefits, and by "monetizing" I mean you have to assign a dollar value. There's an implicit assumption that all of the factors that are relevant somehow trade in a market, that there's a price determined, that you can attach a price as a measure of the worth of something, okay. It's an implicit assumption that cost-benefit analysis sometimes runs aground on, because it gets into trying to measure, not just tangible things, but things that are intangible. The science is improving, but we're not all the way there. It's still difficult to measure, in dollar terms, intangible things. So, cost-benefit analysis has its uses but some limitations.

A second example of a model-based approach is input-output analysis. We see this most commonly in the form of multipliers. People will talk about an employment multiplier associated with a project. Multipliers derive from complex mathematical models known as input-output tables. These are produced by Statistics Canada, and they're specific to national, provincial or territorial economies. They do not exist at the community level. The most detailed level they come down to is territorial. They are available throughout that range -- national, provincial and territorial -- but not at the community level. Multipliers allow tracing of changes in an economy resulting from a spending injection, so a shock of some kind: A project comes in, and a proponent says that they're going to spend \$20 million. You can take the \$20-million figure, plug it into input-output analysis and come up and trace what the effects are going to be on jobs, gross domestic product, the measure of economic output, wages and salaries and tax revenues. Again, all variables are monetized. This means that we're dealing with variables that have a dollar value attached to them. As an example, input-output analysis is not by any means a new method of assessing effects. It actually has roots back in World War II, and it was first used as a war-planning tool.

In terms of some non-model-based measures -- perhaps before I get into this list, just a comment on the model-based measures. One advantage of the model-based measures is that it allows comparisons between projects. They're intended to be comprehensive, whether it's cost-benefit analysis or a multiplier analysis. It's intended to be comprehensive in evaluating the effects from a project. So, you can run the numbers and come up with a cost-benefit ratio for one project, you can compare it to a ratio for another project, and you can make a decision on that basis. Similarly, with multiplier analysis, you can compare jobs coming from or associated with one project, in relation to another project.

When we get into non-model-based measures, these are more in the nature of a checklist. When you run through the checklist, the idea is you have as comprehensive a checklist as you can, but the checklist will be different for each project. So, what you lose in going to a non-model-based approach is the ability to compare between projects. To some extent, though, you are able to get into more detail. With a model, if it's not captured in the model, you can't do much about it; but with a non-model-based approach, you can try and fill in as best you can.

Some of these things cross over. In model-based measures we'll see counts, measures of the number of jobs, the associated wages and salaries. We won't see things like the indirect effects from those jobs and wages, but you can still calculate the direct effects. You can bring in other ideas like human capital training opportunities associated with the project. The skills and knowledge that people gain from training on the job or through formal training that they may go off and get so that they may get a job with the project, that has an economic value that can be accounted for, using a non-model-based approach. The value

of local contracts and purchases shows up here; again, we're not able to calculate the indirect and induced effects, but the direct effects. You can get into measures like incidence analysis. Typically, the economic benefits of a project tend to be enjoyed by the many, and the costs are borne by the few. So, the distribution between benefits and costs isn't always properly aligned, and this goes beyond the bounds of economic effects assessment. Sometimes the economic effects are concentrated within a community, but the environmental effects will be borne by a larger community or vice versa. So, incidence analysis is a tool that can be used for trying to sort out who wins from a project and who loses.

Some more on the list of non-model-based measures, we're going to look at things such as crowding out, in terms of jobs, employment and businesses. An example here is if a project comes to town and that town already has pretty much everybody working, if a new employer comes to town and people leave employment to go to the new business, previous employers are not going to be very happy. The numbers will show that the new project has created, say, 100 jobs, but if the community is now short 100 people to work in existing businesses, there has been complete crowding out. The same thing happens with businesses: Projects come in, new businesses come and get set up, and existing businesses can be crowded out. So, on the surface it might seem that "new" means the net effect is positive, but not necessarily. It depends where you are. In the north, just to go back to employment, where unemployment levels tend to be relatively high, employment crowding out is less of a concern.

It's possible to track tax revenues outside of models simply by calculating number of employees, what their average wage is, what they're going to be paying in income tax to the Federal Government, the Territorial Government. In the Yukon, with self-governing First Nations, we have First Nations now sharing in personal income tax, so some of that personal income tax revenue, using that for an example, would flow to First Nation Governments, as well. We can get into attempts at measuring positive externalities that are associated with projects, an externality being an effect that spills over. It's unintended. It can be positive or negative. Positive externalities include things like expanded markets, improved business environment, enhanced community services. Negative externalities, and I've limited this list to economic effects; negative externalities, of course, have application more generally to social effects, as well as environmental effects, so things like increased land prices, greater use of local public infrastructure, additional greenhouse gas emissions. Those sorts of things can show up in the form of negative externalities.

In terms of a couple of potential challenges, the Yukon economy is very small, and the projects that we're likely to see here are also going to be small. This also goes back to the scope of YESAA now includes not just megaprojects any more but also projects of a much smaller scale. As an illustration of how small the Yukon economy is, the Yukon GDP is a tenth of one percent of Canada's

GDP. On the surface you might think that that means that economic effects are easy to trace. If you spend \$10, it's such a small economy, that certainly we can identify the extent of that effect. It doesn't really work that way. Because the Yukon economy is so small, economic data is sporadic, which means that there's not a lot of it. Sometimes there are attempts made at producing data, but for confidentiality reasons, it's never released. Stats Canada has very strict rules about when they will and when they won't release data. We run into confidentiality considerations all the time, and that's at the territorial level. When we go down to the community and project level, data becomes even more of a challenge sometimes. So, one of the challenges on the economic side, I wouldn't say it's an Achilles heel, but economic analysis, economic effects assessment, is reliant on economic data, on secondary data. If the data is not there, it's not there. We're less able to go out and create it. It's possible, but it's very expensive. So, economists tend to rely on data as being given.

So, in terms of helping to implement YESAA, I would encourage people here with an interest in seeing YESAA implemented, when Stats Canada phones, talk to them. Part of what we see in the Yukon is a problem with response burden, and Patt mentioned this in aboriginal communities. Because the population is so small here, people respond to surveys more often than they would if we lived in a place where the population was larger. The burden creates non-response. People are less happy to participate in surveys, so the response rates tend not to be so great in the Yukon. So, a bit of a plea here: Because economic data comes from those phone calls, it's helpful if you do your best to help Stats Canada in collecting that data, because for some of it there is no other avenue. There is no other way to collect that information.

A second challenge, and this relates to the model-based approaches, which tend to show up, I've seen them quite often in economic impact assessment in the form of multipliers, sometimes in the form of cost benefit. Model-based approaches implicitly assume that relevant factors trade in markets, with a result that some costs and benefits are not captured in the analysis. So, typically, one of the criticisms of using gross domestic product as a measure of the standard of living is that it doesn't include all costs, like environmental costs. This is the famous *Exxon Valdez* example, that when that ship ran aground off the coast of Alaska, Alaska's GDP increased in the following years. That GDP increased, because there were jobs derived. People got jobs cleaning up the environmental mess, but the GDP numbers have no way of accounting for the environmental cost that was associated with that accident. So, again, this is more of a concern with model-based approaches. Traditional use values, as an example, aren't typically included in GDP calculations; but they are, as we've seen, a key part of YESAA.

There has been some work trying to get around the limitations of model-based approaches, and we see this in things like the genuine progress indicator and the United Nations human development index. So it's an active field but, like

environmental assessment and social assessment, economists don't have it all figured out and they don't necessarily have it all right.

That's all I have to say.

LINDSAY STAPLES We'd like to thank Paul for that. I was really pleased that one of the underlying messages of his talk was that, in trying to take a snapshot of an economic system, or a social system, the question is: What's the equipment that we're using to take the snapshot with? How good are the models that we're using, and how significantly can we rely on them? I think Paul really quite clearly showed the deficiencies of some of the standard models that are being used and have been used and continue to be used in taking that snapshot. I think that one of the important points he made is that, particularly in a place like the Yukon, there is a considerably amount of economic activity that occurs outside of the market. I think that speaks to his point on traditional use and how do you recognize and capture the importance and significance of that economic value, if you can't measure it.

He also introduced that where we have non-market activity, are there cash substitution values that we can use to try and measure and give a cash equivalent value to non-market activity, one example being the cost of, and I'm not going to use the traditional use example -- the cost of, say, volunteerism, the importance of the voluntary sector in an economy. So, when people, for instance, give up their volunteer contributions to participate in a new project, what is the impact of that on the volunteer sector and what is the cash equivalent of having to replace that activity or that contribution that you were getting for free, essentially, or supposedly for free, in cash terms and now having to pay for it?

So, he raises some really important questions, and maybe one for you folks to take away and think about is, in the Yukon, in describing an economic system, what's important to think about and what's important to consider? He's laid out, I think, a variety of models and a number of approaches, but I think what he's saying is that: When we're doing economic effects assessment in the Yukon, again it's not a case of, "Hey, there's a can on the shelf and we add water to it and we've got our model." It's much more challenging than that. We've got to be careful about how we generalize about economic systems, because there are some characteristics to economic systems, just like social systems, that we want to be careful about, you know, the pictures that we're taking and what it is that we're trying to understand.

Then finally the point that he raises about data; and again, I think that this is going to emerge as a theme in this workshop that we recognize the importance of good baseline snapshots. In calculating and in determining effect, it's an effect on something, and of course the something that the effect is on is our community, is our economic system, is our culture, is our way of life, and so on. So how do we take the snapshot? Again, I think, with respect to our economic

systems, Paul is suggesting that we've really got to be careful about the picture that we're taking, and when we look to what data or information is there to help us take that picture, in many cases it's very wanting.

A question that he didn't put to you, but I would, is if you don't have reliable, quantifiable economic data, to take a snapshot of your economy, is there other data that can help you take that picture that may not be quantifiable; but notwithstanding that, it can still help you take that picture.

So, anyway, having said that, I think we're back into tables again.

LYN HARTLEY: So, this is the last conversation that you're having today, so if you can look at the peachy colour, orange. This is the last of the three primers, but thinking about important economic effects in your group. So, 10 minutes.

[PEACH SHEET]

(Workshop Adjourned at 4:15 p.m.)

(Workshop Resumed at 4:27 p.m.)

LYN HARTLEY: Gradually bringing this conversation to a close.

So, you also might want to say goodbye because, remember, tomorrow you're going to be moving on to a new table. So, perhaps thank the folks for sharing their knowledge with you today.

But don't leave just yet, we need to collect the peach/salmon-coloured pieces of paper, and bring those to the front. Once again, we're hoping that we're going to be able to summarize some of this information for a report two days from now. Also, just so you know, when you come into the room tomorrow, there will no longer be letters on the table. There will be numbers, so you're going to be looking for a new table, a fresh start, and today we're just going to do a run-through, a recap, of today, but tomorrow we're going to building on a lot of the knowledge that we did start today. Lindsay.

10.0 Review of the Day - Lindsay Staples

LINDSAY STAPLES: We've covered a lot of ground today and for those of you who need an aspirin, they're free in the room across the hall. You're getting a lot of content and if you thought today was something, wait until tomorrow.

Just to really quickly recap, I hope one of the things that we've been able to do today over the course of both of Kirk Cameron's presentations is to give you an

idea of some of the really important aspects about the legislation, the legislative framework, the legal requirements for how development assessment or project reviews need to be done in the Yukon and the some of the big differences from the rest of Canada. I think a number of speakers have pointed that out, and how this whole area of socio-economic effects assessment is really a whole new dimension; and it brings with it a new burden, if you will, as well as new opportunities, on governments of every order, as well as obviously for proponents.

This whole business of having good information and good data -- obviously there are implications for government in many of these areas and, as well, when it comes to looking at mitigation of project-related effects in the area of social and economic effects that, you know, government does have significant jurisdiction. It's no accident that we invited someone from Health Canada to come here and do a presentation on day three. So, the scope of effects that we're accustomed to in the past in the Yukon has shifted dramatically outward. As well, I think Kirk did a nice job of showing us just the scope of effects that we need to be thinking about under this legislation. How we think about them is really the big challenge and of course this workshop is a first step in that regard.

The primers that we had this afternoon, Bill Slater, I thought, gave us just a wonderful overview of the steps conventionally associated with doing environmental impact assessment; and then Patt, I think, added to that by taking it into the social dimension and reminding us that when we think about social systems, we need to be thinking about how society is organized. It's not simply good enough to note in your environmental impact statement that there are six churches, three schools, 255 hospital beds and so on. What does that tell you about a community? That's the deeper question that I think the legislation is asking us to address: How do we understand a community? Simply a listing of data does not help you understand a system, just as simply saying, "There's 1400 moose in this particular area" does not help you really understand the ecosystem that that moose is part and parcel of, and I think we'll have a lot more to hear about that tomorrow.

I think that Paul, at the end of the day, did a wonderful job of giving a really quick overview of some of the models, both conventional and otherwise, that are out there with respect to how we understand economic systems and some of the problems associated with it.

So I guess, having said all of that, anybody who came at nine o'clock this morning, looking for the pat answer, I hope you've been disabused of that expectation long ago. There's a lot of work to do here, and there's a lot to think through. I think that one of the things that I'm looking forward to in the third morning, when we hear from Mary Tapsell, who has come over from Yellowknife to talk about the experience of the Mackenzie Valley Board, is that it's a steep

learning curve. There's a lot of burden and a lot of pressure for people who work in this area. So, I look forward to Mary's talk.

In terms of tomorrow, tomorrow morning we're starting with a presentation on sustainability and sustainability as it works into environmental effects assessment. Sustainability and the principles of sustainable development are a general purpose or objective of both Chapter 12 of the *Umbrella Final Agreement* and the legislation, as well. So, what to do about sustainability is I guess the question that is being addressed tomorrow morning.

There is also a talk on significance criterion determination, particularly as it relates to socio-economic effects. David Lawrence is with us for that. I'll tell you that this is a very, very difficult area of effects assessment; and I think we've got one of the best people in the field to help us on this very, very difficult area. So, I'm really looking forward to that.

Then, as well, the whole area of taking effects assessment down to the community level, recognizing that the Yukon is a society of a diversity of values and ways of life, we've got a former Yukon premier who will be with us tomorrow on that, Tony Penikett.

Bob Couchman is with us tomorrow, as well, who will be speaking to what do we really understand by community? What do we mean by community when we talk about "community effects assessment"? And then, of course, as well, we have a First Nations panel to bring their perspective to bear on the aspect of community and community effects assessment. So, there's a lot to look forward to tomorrow, and I welcome you back tomorrow morning.

I would like a final housekeeping note: If the First Nations panellists could stay behind, just for a brief discussion about tomorrow, that would be helpful, just at the front of the room here. The rest of you, have a safe trip home and thanks very much for a good day.

(Workshop Adjourned at 4:35 p.m. to February 2, 2005, at 9:00 a.m.)