

**NATIONAL ENERGY BOARD  
OFFICE NATIONAL DE L'ÉNERGIE**



**Hearing Order OH-001-2016  
Ordonnance d'audience OH-001-2016**

**Enbridge Pipelines Inc.  
Line 10 Westover Segment Replacement Project**

**Pipelines Enbridge Inc.  
Projet de remplacement du tronçon Westover de la canalisation 10**

**VOLUME 2**

**Hearing held at  
Audience tenue à**

**Crowne Plaza Hamilton Hotel and Conference Centre  
150 King Street East  
Hamilton, Ontario**

**October 18, 2016  
Le 18 octobre 2016**

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Imprimé au Canada

HEARING ORDER/ORDONNANCE D'AUDIENCE  
OH-001-2016

IN THE MATTER OF Enbridge Pipelines Inc.  
Line 10 Westover Segment Replacement Project  
Application pursuant to section 58 of the *National Energy Board Act*  
and section 45(1) of the Onshore Pipeline Regulations

**HEARING LOCATION/LIEU DE L'AUDIENCE**

Hearing held in Hamilton, Ontario, Tuesday, October 18, 2016  
Audience tenue à Hamilton (Ontario), mardi, le 18 octobre 2016

**BOARD PANEL/COMITÉ D'AUDIENCE DE L'OFFICE**

J. Ballem	Chairman/Président
M. Lytle	Member/Membre
S. Kelly	Member/Membre

## **APPEARANCES/COMPARUTIONS**

### **APPLICANTS/DEMANDEURS**

Enbridge Pipelines Inc.  
- Mr. Duncan Purvis  
- Mr. Robert Bourne

### **INTERVENORS/INTERVENANTS**

Six Nations of the Grand River  
- Mr. Ben Jetten

National Energy Board/Office national de l'énergie  
- Ms. Michelle Haug

## TABLE OF CONTENTS/TABLE DES MATIÈRES

(i)

<b>Description</b>	<b>Paragraph No./No. de paragraphe</b>
Opening remarks by the Chairman	322
Registration of appearances	348
<u>Enbridge Pipelines Inc.</u>	
Mr. Jason Houncaren	
Mr. Mark Laybolt	
Mr. Eric Prud'Homme	
Ms. Kara Schwaebe	
Mr. Ray Philipenko	
Mr. Mitchell Yaremko	
Mr. Craig Neufeld	
- Examination by Mr. Purvis	373
- Examination by Mr. Jetten	450

## LIST OF EXHIBITS/LISTE DES PIÈCES

<b>No.</b>	<b>Description</b>	<b>Paragraph No./No. de paragraphe</b>
A79905	Enbridge Pipelines Inc. - Line 10 Westover Segment Replacement - Stakeholder Consultation Record	1197
A79906	Six Nations of the Grand River - Brochure package	1235

--- Upon commencing at 1:12 p.m./L'audience débute à 13h12

322.               **THE CHAIRMAN:** Good morning, ladies and gentlemen.

323.               My name is Jamie Ballem and I am the presiding member of this Panel today established by the National Energy Board to consider the application of Enbridge Pipelines Inc., which I will refer to as Enbridge, for the Line 10 Westover Segment Replacement Project.

324.               My fellow Panel Members are, to my left, Steven Kelly, to my right Dr. Murray Lytle.

325.               In addition to the Panel, I'd like to introduce you to our Board staff; Sharon Wong and Lori-Lee Turcotte, our regulatory officers; our Board counsel is Michelle Haug; Kyle Duran is our Hearing Manager, he's at the back.

326.               Waseem Chaudhry our IT guy at the back. If we have problems with the mics, he's the man. Greg Browning is our Security Specialist. Our Process Advisor is Matt Groza. Hhe's at the back if you have any questions. And Whitney Punchak is our Social Ec Specialist.

327.               The court reporter sitting here is Sean Prouse. Last time I didn't get his last name right but I got it this time, Sean, I hope.

328.               The NEB staff are wearing name tags so they can be easily identified, and feel free to approach any of them if you have any questions. If you have process related, please talk to Matt Groza.

329.               Prior to getting into the specifics of how this hearing will unfold, I would like to provide a couple of safety points.

330.               In the event of an emergency, if you could leave the doors that you entered and just follow the exit signs downstairs to out front of the building. And we would ask each party to ensure that all the members of their party are accounted for.

331.               And for security reasons, please do not leave any bags or personal belongings unattended in the hearing room. If you have any concerns regarding safety, please speak to Greg and/or any other of the staff.

**Opening remarks  
Chairman**

332. And probably more importantly, washrooms facilities are out the door, down to the second floor is the washrooms we'd like you to use. When you go to the washroom you'll have to turn in your tag and then get it back when you get back from the washrooms.
333. A live audio stream is being broadcast via the Board's website. We welcome those who are listening in.
334. Electronic transcripts of the proceedings will also be made available on the website daily.
335. And finally, for the respect of those attending this hearing we would request that attendees keep their electronics silent if you could.
336. After the registration of appearances and any preliminary matters are dealt with, the evidentiary phase of this oral hearing will begin. The Board will follow its customary practice in respect to the presentation of evidence by the Applicant and by intervenors.
337. Enbridge's witness panel will be seated, witnesses will be sworn or affirmed by Ms. Turcotte, and then the panel will adopt its written evidence and will then be available for cross-examination from Six Nations of the Grand River, as was indicated in our Procedural Directive dated October 6<sup>th</sup>.
338. Following questions by Board counsel, the Board Members may ask questions of the Enbridge panel as well. For intervenor witnesses, the same process will happen. The witness panel of Six Nations of the Grand River will be seated, Enbridge will have an opportunity to cross-examine that panel, our Board counsel will have questions, and possibly the panel itself will have questions.
339. We will only call upon participants for cross-examination that have indicated they intend to cross-examine a witness panel.
340. After the evidentiary phase of the hearing is complete, the Board will proceed to the oral argument. It is my understanding that there is only one party that will be presenting written argument, and that's Mr. Farquhar. And he has indicated to us -- subject to change, but he has indicated to us that he will be filing his written final argument at the close of oral hearings. So we will then be asking parties how long you need between the close of the oral cross and when we start oral argument.



341. During the proceeding, the Board will be viewing exhibits electronically and to ensure an efficient process we would ask counsel to follow the procedures that were in our Procedural Directives. In particular, if you have a list of exhibits that you could give to our regulatory officers it really does speed things up, especially if you can refer to the Adobe page it's a great assistance. And that way we can move along.
342. Copies of the Procedural Directive are available at the back of the room, and there are a number of other documents including the Exhibit List and Order of Appearances.
343. If any party is uncertain of the process or requires information concerning entering of exhibits or other hearing-related matters, we would ask you to speak to Board counsel, Ms. Haug.
344. Today we intend to sit until 5:00 o'clock, with a break sometime in the middle of the afternoon. And that will depend, counsel, if we're getting in the 2:30-3:00 k range if there's a natural break in your cross-examination just let us know and we can take a break at that time. We don't want to disrupt your flow.
345. Tomorrow we intend to start the hearing at 8:30, go until noon, take a break at lunch, and then after lunch we'll start up again with the same idea of going until 5:00.
346. One caution, I guess or one comment, both parties the counsel has indicated how much time you intend to take in your cross-examination. If you could keep Ms. Haug advised of how you're proceeding that gives us an idea when things may happen, when we may have oral arguments, and that way we can be a little bit more efficient.
347. As you're aware -- and if you're not aware of it being warm in here you will be in a few minutes. Please feel free to -- thank you gentlemen for having your jackets off. It made me less uncomfortable to take mine off. Because of the heat we'll try to be as informal as we can and still respect the hearing process.
348. We will begin today with the registration of appearances, and you need not register your appearance if you have already done so in writing.

## Registration of appearances

349. So, Ms. Haug, I think -- nobody, were not registered-- really? Okay.
350. Enbridge, you've seated your panel and you're up.
351. **MR. PURVIS:** Good afternoon.
352. I'm Duncan Purvis, regulatory counsel with Enbridge. And with me is Robert Bourne, also regulatory counsel with Enbridge, and we are appearing on behalf of Enbridge.
353. **THE CHAIRMAN:** Excuse me, Mr. Purvis. We have a little fan going behind us here so if you could get just a little closer to the microphone I'd really appreciate it.
354. **MR. PURVIS:** Would you like me to introduce myself again?
355. **THE CHAIRMAN:** We know who you are.
356. **MR. PURVIS:** Okay, thank you.
357. **THE CHAIRMAN:** Okay, sorry, Six Nations of -- Six, yeah, you guys have to register your appearance. Sorry.
358. **MR. JETTEN:** I'm very sorry, I thought we were registered by letter earlier but anyways.
359. I think the letter that -- my name is Ben Jetten, Chair and Members. I believe the letter that registered us is -- I'll try to find the exhibit number here -- but we can certainly register again if we have to.
360. **THE CHAIRMAN:** I think we're fine, Mr. Jetten. We'll ---
361. **MR. JETTEN:** I believe ---
362. **THE CHAIRMAN:** When my microphone's on, yours if off, so you're going to have to say ---
363. **MR. JETTEN:** Yes, I believe it is an exhibit already.

**Enbridge Pipelines Inc.  
Examination by Mr. Purvis**

364. **THE CHAIRMAN:** Okay. You may seat your panel, Mr. Purvis.

365. **MR. PURVIS:** Thank you, Mr. Chairman. Enbridge will be seating one witness panel that will be dealing with all the issues being considered in this proceeding. I will introduce them to you.

366. First -- in the first row closest to me is Mark Laybolt, who is an engineer with pipeline design at Enbridge. Next to him is Craig Neufeld, who is an Environmental Planner and Senior Technical Consultant with CH2M.

367. Next to Mr. Neufeld is Mitch Laybolt -- or Mitch Yaremko, who is the Senior Environmental Analyst at Enbridge. And next to him is Eric Prud'Homme, who is the Senior Manager of Stakeholder and Aboriginal Engagement in Enbridge's eastern region.

368. Starting at the back row, also closest to me is Jason Houncaren, who is the Acting Director of Engineering and Construction with Enbridge. Beside him is Kara Schwaebe, who is the Supervisor of Land Services Canadian Projects at Enbridge. And next to Kara is Ray Philipenko, who is Senior Manager of Leak Detection at Enbridge.

369. Could I ask the witnesses to be sworn?

370. **THE CHAIRMAN:** Ms. Turcotte?

**ERIC PRUD'HOMME: Sworn**

**MITCHELL YAREMKO: Sworn**

**CRAIG NEUFELD: Affirmed**

**MARK LAYBOLT: Affirmed**

**JASON HOUNCAREN: Sworn**

**KARA SCHWAEBE: Sworn**

**RAY PHILIPENKO: Sworn**

371. **THE CHAIRMAN:** Thank you, Ms. Turcotte.

372. Mr. Purvis, do you want to adopt your evidence?

**--- EXAMINATION BY/INTERROGATOIRE PAR MR. PURVIS:**

**Enbridge Pipelines Inc.  
Examination by Mr. Purvis**

373.           **MR. PURVIS:** Sorry, problems with the microphone.
374.           Mr. Houncaren, beginning with you, you're on this panel to answer questions about project need and purpose; project description; economics; alternatives and justification; potential commercial impacts; general route and land requirements; contingency planning for spills, accidents, or malfunctions during construction and operation; pipeline integrity, emergency management, financial matters, security management; operations and construction matters.
375.           Is that correct?
376.           **MR. HOUNCAREN:** Yes.
377.           **MR. PURVIS:** And your direct evidence has been filed as Exhibit A79982. Is that evidence true and accurate, to the best of your knowledge?
378.           **MR. HOUNCAREN:** Yes, it is.
379.           **MR. PURVIS:** Do you adopt that information as part of the evidence of Enbridge in this proceeding?
380.           **MR. HOUNCAREN:** I do.
381.           **MR. PURVIS:** Can you confirm that the application documents, which are comprised of Exhibits A74506 and A74508-13 through -28 were either prepared under your direction and control or were reviewed by you and are true and accurate, to the best of your knowledge?
382.           **MR. HOUNCAREN:** Yes, they are.
383.           **MR. PURVIS:** And do you adopt that information as part of the evidence of Enbridge in this proceeding?
384.           **MR. HOUNCAREN:** I do.
385.           **MR. PURVIS:** And can you confirm that the responses to information requests from the National Energy Board and intervenors, which are Exhibits A75432, A77227 through A77230, A77519, A78492, A78493, A78683, A78835, A79182, A79404, A79856, A79858, and A79889, were either prepared under your direction and control or were reviewed by you and are true and

**Enbridge Pipelines Inc.  
Examination by Mr. Purvis**

- accurate, to the best of your knowledge and belief?
386.           **MR. HOUNCAREN:** Yes, they are.
387.           **MR. PURVIS:** And do you adopt that information as part of the evidence of Enbridge in this proceeding?
388.           **MR. HOUNCAREN:** I do.
389.           **MR. PURVIS:** And finally, can you confirm that application updates and reply evidence, which are Exhibits A76417, A76743, A77907, A78970, A79406-1 through 7, A79569, A79979, and A80024, were either prepared under your direction and control or were reviewed by you and are true and accurate, to the best of your knowledge and belief?
390.           **MR. HOUNCAREN:** Yes, they are.
391.           **MR. PURVIS:** And do you adopt that information as part of the evidence of Enbridge in this proceeding?
392.           **MR. HOUNCAREN:** I do.
393.           **MR. PURVIS:** Thank you.
394.           Mr. Laybolt, you are on this panel to answer questions about engineering matters, decommissioning matters, general route and land requirements, construction matters, pipeline integrity and operations.
395.           Is that correct?
396.           **MR. LAYBOLT:** Yes, it is.
397.           **MR. PURVIS:** And your direct evidence has been filed as A79982. Is that evidence true and accurate, to the best of your knowledge?
398.           **MR. LAYBOLT:** Yes.
399.           **MR. PURVIS:** And do you adopt that information as part of the evidence of Enbridge in this proceeding?

**Enbridge Pipelines Inc.  
Examination by Mr. Purvis**

400.           **MR. LAYBOLT:** I do.
401.           **MR. PURVIS:** Thank you.
402.           Mr. Prud'Homme, you are on this panel to answer questions about public engagements, Aboriginal engagement, and Indigenous matters; is that correct?
403.           **MR. PRUD'HOMME:** Yes.
404.           **MR. PURVIS:** And your direct evidence has been filed as Exhibit A79982. Is that evidence true and accurate, to the best of your knowledge?
405.           **MR. PRUD'HOMME:** Yes.
406.           **MR. PURVIS:** And do you adopt that information as part of the evidence of Enbridge in this proceeding?
407.           **MR. PRUD'HOMME:** Yes.
408.           **MR. PURVIS:** Thank you.
409.           Ms. Schwaebe, you are on this panel to answer questions about land matters, land acquisition, acquisition documents, landowner issues and commitments, landowner routing requests, land requirements for acquisition, and public engagement.
410.           Is that correct?
411.           **MS. SCHWAEBE:** That's correct.
412.           **MR. PURVIS:** And your direct evidence has been filed as Exhibit A79982. Is that evidence true and accurate, to the best of your knowledge?
413.           **MS. SCHWAEBE:** It is.
414.           **MR. PURVIS:** And do you adopt that information as part of the evidence of Enbridge in this proceeding?
415.           **MS. SCHWAEBE:** I do.

**Enbridge Pipelines Inc.  
Examination by Mr. Purvis**

416. **MR. PURVIS:** Mr. Philipenko, you are on this panel to answer questions about leak detection; is that correct?
417. **MR. PHILIPENKO:** That's correct.
418. **MR. PURVIS:** And your direct evidence has been filed as Exhibit A79982. Is that evidence true and accurate, to the best of your knowledge?
419. **MR. PHILIPENKO:** Yes, it is.
420. **MR. PURVIS:** And do you adopt that information as part of the evidence of Enbridge in this proceeding?
421. **MR. PHILIPENKO:** I do.
422. **MR. PURVIS:** Thank you.
423. Mr. Yaremko, you're on this panel to answer questions about environmental matters, socioeconomic matters, contingency planning for spills, accidents or malfunctions during construction and operation, and general route and land requirements.
424. Is that correct?
425. **MR. YAREMKO:** That's correct.
426. **MR. PURVIS:** And your direct evidence has been filed as Exhibit A79982; is that evidence true and accurate to the best of your knowledge?
427. **MR. YAREMKO:** Yes.
428. **MR. PURVIS:** And do you adopt that information as part of the evidence of Enbridge in this proceeding?
429. **MR. YAREMKO:** Yes.
430. **MR. PURVIS:** Thank you.
431. Mr. Neufeld, you are on this panel to answer questions about

**Enbridge Pipelines Inc.  
Examination by Mr. Purvis**

environmental matters, socioeconomic matters, general route and land requirements.

432. Is that correct?

433. **MR. NEUFELD:** That's correct.

434. **MR. PURVIS:** And your direct evidence has been filed as Exhibit A79982; is that evidence true and accurate to the best of your knowledge?

435. **MR. NEUFELD:** It is.

436. **MR. PURVIS:** And do you adopt that information as part of the evidence of Enbridge in this proceeding?

437. **MR. NEUFELD:** Yes, I do.

438. **MR. PURVIS:** Thank you.

439. Information with respect to your areas of expertise is provided in Section 6 of the application, which are Exhibits A74508-1 through 12, as well as in supplemental filings, which are Exhibits A74854, A78552, A78970, and 79406-8, correct?

440. **MR. NEUFELD:** That's correct.

441. **MR. PURVIS:** And can you confirm that this information was either prepared under your direction and control or was reviewed by you and is true and accurate to the best of your knowledge and belief?

442. **MR. NEUFELD:** Yes, I can.

443. **MR. PURVIS:** And do you adopt that information as part of the evidence of Enbridge in this proceeding?

444. **MR. NEUFELD:** Yes, I do.

445. **MR. PURVIS:** Thank you.



**Enbridge Pipelines Inc.**  
**Examination by Mr. Jetten**

446. Mr. Chairman, the panel is ready for questions.

447. **THE CHAIRMAN:** Thank you, Mr. Purvis.

448. Mr. Jetten, you're on. Just before you start, Mr. Jetten, there has been some -- a little bit of noise outside our door. If required, we may take a break. I apologize in advance if we do, especially notwithstanding the Applicant, Six Nations of the Grand River, for the time that you've taken to come here today. We appreciate hearing from you and I apologize if there's any disruption that happens during your cross-examination of your witness.

449. So, Mr. Jetten.

**--- EXAMINATION BY/INTERROGATOIRE PAR MR. JETTEN:**

450. **MR. JETTEN:** Thank you. Thank you, Mr. Chair and Members. Again, my name is Ben Jetten; I'm legal counsel representing Six Nations of the Grand River on this hearing. And I'd also -- given the unusual heat in the room, I also thank you for accommodating all legal counsel in allowing us to shed our coats and not be quite so formal.

451. **THE CHAIRMAN:** This is going next.

452. **MR. JETTEN:** Okay.

453. I'm a little bit old-school here so I've got a lot of paper; so I apologize in advance. And I'm a little bit on my own, too, so if I'm bit slow on things, again I want to apologize in advance. But I think I'll -- I'll try to be as efficient as possible because I don't believe in wasting time.

454. And I'm not sure I caught all the numbers -- so I apologize to the witnesses in advance, too -- in that long litany but I understand the reason for getting through that so that all the evidence is adopted.

455. So if I go over a few documents here, if you can tell me -- or whoever wants to put up your hand, you can tell me whose document it is or who prepared it, then we'll cut to the chase and I'll know who to ask the question of.

456. The first thing I understand is that the application was filed by the -- by Enbridge with the Board on December 4<sup>th</sup>, 2015. Is that correct?

457. Who wants to answer that?

458. **MR. HOUNCAREN:** Yes, that's correct.

459. **MR. JETTEN:** Okay. You might need to identify yourself for the record, for the benefit of the reporter who -- unless the reporter tracks the mic, you might just want to identify your name just for the record.

460. **MR. HOUNCAREN:** I'm Jason and yes, that is correct.

461. **MR. JETTEN:** Thank you.

462. And just for convenience, what would we call the document with all of the various parts to it that is submitted with the application -- original application? In other words, does it have a name; does it -- is it just "supporting documents for the application" or is it -- because they have different sections and different purposes? And I know a number of you had different roles in different parts of it but ---

463. **MR. HOUNCAREN:** Sure. I think the document that you're referring to, itself, we would refer to as "the Application" which has various chapters detailing ---

464. **MR. JETTEN:** Yes.

465. **MR. HOUNCAREN:** --- different aspects of the project. We refer to that as "the Application".

466. **MR. JETTEN:** All right. I just want to make sure I've got the lingo right and that we're on the same wavelength here.

467. So I'd like you to help me as to who may have written certain parts of it and, in particular -- actually, before I ask who wrote certain parts of it, was there anyone that had overall charge of the entire document; you know, in other words, do a final read and take overall responsibility for the submission of it?

468. Jason again?

469. **MR. HOUNCAREN:** Yeah, so as I mentioned when Duncan asked

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

the question -- so I'm adopting the application -- I apologize; I need to make eye contact here. I'm adopting the application and all the other exhibits that Duncan listed.

470. Now, at the time, my predecessor was involved and had oversight of the entire application as it was developed.

471. **MR. JETTEN:** Okay. And who was that?

472. **MR. HOUNCAREN:** His name is David O'Brien.

473. **MR. JETTEN:** All right.

474. And then if we can go to the section called "Stakeholder Consultation", which is Section 4, and it's Exhibit A74506-7; do you know who wrote that section?

475. **MR. PRUD'HOMME:** That would be me, Eric.

476. **MR. HOUNCAREN:** So that's Mr. ---

477. **MR. PRUD'HOMME:** Prud'Homme.

478. **MR. JETTEN:** --- Prud'Homme? Okay.

479. **MR. PRUD'HOMME:** Yeah.

480. **MR. JETTEN:** Okay, thank you.

481. And the section called -- I think it's Section 5, and it's Exhibit A74506-31, and it's a section called "Aboriginal Engagement"; did you, Mr. Prud'Homme, write that section as well?

482. **MR. PRUD'HOMME:** Yes, I did, sir.

483. **MR. JETTEN:** Okay. And in writing it, did you get any input from anyone that reports to you?

484. **MR. PRUD'HOMME:** Yes, that's right; I did.

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

485. **MR. JETTEN:** And who did you get input from?
486. **MR. PRUD'HOMME:** From my teammates, Sonia Fazari, Herb Shields ---
487. **MR. JETTEN:** Sorry, the name?
488. **MR. PRUD'HOMME:** Herb Shields.
489. **MR. JETTEN:** Herb Shields?
490. **MR. PRUD'HOMME:** So those are the direct reports in terms of aboriginal engagement on my team.
491. **MR. JETTEN:** Okay. And did you have any direct contact in writing that with any other person at Enbridge?
492. **MR. PRUD'HOMME:** Yes.
493. **MR. JETTEN:** Who was that?
494. **MR. PRUD'HOMME:** Our legal team.
495. **MR. JETTEN:** I'm sorry?
496. **MR. PRUD'HOMME:** Our legal team.
497. **MR. JETTEN:** Your legal team, okay. But in terms of the content of it, was there anyone else at Enbridge?
498. **MR. PRUD'HOMME:** There may have been as well, my people supervisor -- my people leader, Kim Brenneis, who attended some of the meetings as well.
499. **MR. JETTEN:** All right.
500. Sorry, my binder's falling apart here. Just bear with me; I don't want to lose it all.
501. **THE CHAIRMAN:** Mr. Jetten -- sorry, Mr. Jetten, I'm just

wondering if we could get a table to put beside the podium.

502. Kyle, if you could check with someone to see if we could get ---

503. **MR. JETTEN:** Actually, I think we've come up with a solution, so...

504. **THE CHAIRMAN:** We're good, Kyle.

505. **MR. JETTEN:** Thank you for that suggestion.

506. And Mr. Prud'Homme, are you familiar with the document called "Reply Evidence of Enbridge Pipelines Inc." dated September 23<sup>rd</sup>, 2016 which was made Exhibit A79569-2, and it was reply evidence to the Six Nations of the Grand River affidavit of Mr. Paul General of June 20, 2016 and to some of the oral traditional evidence that the National Energy Board community meeting held on June 28, 2016?

507. **MR. PRUD'HOMME:** Yes, I am.

508. **MR. JETTEN:** And are you the author of that document?

509. **MR. PRUD'HOMME:** Yes, I am.

510. **MR. JETTEN:** And are you the author of the entire document or just part of the document?

511. **MR. PRUD'HOMME:** The documents that would relate -- sorry, part of the document that would relate to my area of expertise, which is Aboriginal and Stakeholder Engagement.

512. **MR. JETTEN:** So your reply was to this portion dealing with Six Nations of the Grand River?

513. **MR. PRUD'HOMME:** With question to Aboriginal engagement, yes.

514. **MR. JETTEN:** So if I'm looking -- do you have the document in front of you?

515. **MR. PRUD'HOMME:** Just give me one second.

516. **MR. JETTEN:** Yeah, okay. Thank you.

517. **THE CHAIRMAN:** Mr. Jetten, are you going to be -- thank you. Never mind. Ms. Turcotte got it up for us; I just wanted to have it for us.

518. **MR. PRUD'HOMME:** Yes, I do have the document.

519. **MR. JETTEN:** I'm going to come back to the document in further detail, but I just wanted to establish some preliminary comments as to who prepared it.

520. So have you had an opportunity to turn that document up, Mr. Prud'Homme?

521. **MR. PRUD'HOMME:** Yes, I did. Thank you.

522. **MR. JETTEN:** And so if we're looking at pages 4 through 8, paragraphs 5 through 34, did you prepare all of those paragraphs?

523. **MR. PRUD'HOMME:** Yes.

524. **MR. JETTEN:** Okay. Now, actually we will want to turn up a portion of the document. It is --if we could turn to paragraph 13, which is on page 5, there's a -- I'd like to read the first two sentences of that paragraph. It says:

*"Enbridge made a specific request of Six Nations on August 6, 2015 for information about traditional land use practices. Enbridge was advised by Six Nations in response that there were no traditional uses presently being performed along the Project's then proposed route."*

525. So my first question is, did you write those two sentences?

526. **MR. PRUD'HOMME:** Yes, I did.

527. **MR. JETTEN:** And were you at the August 6, 2015 meeting?

528. **MR. PRUD'HOMME:** No, I was not.

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

529.           **MR. JETTEN:** And who attended for Enbridge?
530.           **MR. PRUD'HOMME:** So we had Sonia Fazari from my team, Darren Drum (ph) from environment, and on my team at the team at the time Mark Bowler was also involved in stakeholder engagement for this project.
531.           **MR. JETTEN:** Okay.
532.           Now, if we could go back to the -- I think it was the original application documents as Jason described them. And it was -- let's see if I have the exhibit number again -- Exhibit A74506-7. And I think we established that you were the author of this section; is that correct?
533.           **MR. PRUD'HOMME:** Yes, that is.
534.           **MR. JETTEN:** And that was pages 1 through 26?
535.           **MR. PRUD'HOMME:** Yeah, everything that's related to stakeholder engagement.
536.           **MR. JETTEN:** I'm sorry?
537.           **MR. PRUD'HOMME:** Everything that related to stakeholder engagement.
538.           **MR. JETTEN:** All right.
539.           **MR. PRUD'HOMME:** From Aboriginal consultation.
540.           **MR. JETTEN:** And did you have any assistance in the drafting of that section?
541.           **MR. PRUD'HOMME:** All sections that pertain to Aboriginal consultation were done with the help of my team, of course.
542.           **MR. JETTEN:** I'm asking about the stakeholder consultation section.
543.           **MR. PRUD'HOMME:** Yes.
544.           **MR. JETTEN:** Okay.

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

545. And on page 1 -- if we could just turn it up -- under section 4.1 you have quoted from Enbridge's policy on corporate social responsibility, correct?

546. **MR. PRUD'HOMME:** Yes.

547. **MR. JETTEN:** And one of the bullets that you've noted from the policy is as follows:

*"Enbridge is committed to timely and meaningful dialogue with all stakeholders, including shareholders, customers, and employees, Aboriginal and Native American peoples, governments, regulators, and landowners, among others."*

548. Correct?

549. **MR. PRUD'HOMME:** Yes, that is.

550. **MR. JETTEN:** And then further down in the next paragraph you state:

*"Enbridge believes in open and transparent communication with landowners, occupants, local Aboriginal leaders, communities, organizations, and other stakeholders near its operations."*

551. Correct?

552. **MR. PRUD'HOMME:** Yes.

553. **MR. JETTEN:** Now if we could go to -- so you would agree with me then that it's the policy of Enbridge to engage Aboriginal peoples early in the process as well?

554. **MR. PRUD'HOMME:** Yes, as much as possible it is.

555. **MR. JETTEN:** As much as possible; what do you mean by the word "much as possible"?

556. **MR. PRUD'HOMME:** Well, let me correct myself. As early as the



- project is launched.
557. **MR. JETTEN:** And do you mean prior to the submission of the formal application?
558. **MR. PRUD'HOMME:** In this case, yes.
559. **MR. JETTEN:** What about in all cases?
560. **MR. PRUD'HOMME:** I can only speak for myself. I would not be able to give in terms of a general policy or record, historical record for the company, but we do use our consultation program as our guideline.
561. **MR. JETTEN:** And was that your intention in reciting the goal here?
562. **MR. PRUD'HOMME:** Yes, it was.
563. **MR. JETTEN:** And if we look to page 2, section 4.3 at the bottom; do you see that, "Stakeholder Identification"?
564. **MR. PRUD'HOMME:** Yes.
565. **MR. JETTEN:** And after mentioning Aboriginal peoples as being part of the stakeholder group in section 4.1, you identify in 4.3 all of the parties that were considered stakeholders for this project, correct?
566. **MR. PRUD'HOMME:** Yes.
567. **MR. JETTEN:** And if we look at that list on page 3, starting on page 3 of 26, it includes contacting elected officials in the County of Brant and the County of Haldimand and the City of Hamilton, correct?
568. **MR. PRUD'HOMME:** Yes.
569. **MR. JETTEN:** And elected officials and municipal staff in various municipalities in the Regional Municipality of Niagara and vicinity?
570. **MR. PRUD'HOMME:** Yes.
571. **MR. JETTEN:** And also the City of Brantford?

572. **MR. PRUD'HOMME:** Yes.
573. **MR. JETTEN:** Does this pipeline proposal go through Brantford?
574. **MR. PRUD'HOMME:** No, it doesn't.
575. **MR. JETTEN:** Okay. And then you've also -- on the next page you have a list of all the industry associations and institutions that are contacted, correct?
576. **MR. PRUD'HOMME:** Yes.
577. **MR. JETTEN:** And then all the various conservation authorities and commissions?
578. **MR. PRUD'HOMME:** Yes.
579. **MR. JETTEN:** And provincial and federal ministries and departments?
580. **MR. PRUD'HOMME:** Yes.
581. **MR. JETTEN:** And then landowner associations?
582. **MR. PRUD'HOMME:** Yes.
583. **MR. JETTEN:** And that's the complete list. Would you agree with me that nowhere have you listed as a possible stakeholder the Six Nations of the Grand River in this identification? I -- why do you need to confer on that? It's straight out of the document.
584. **MR. PRUD'HOMME:** Sorry, section 5 would bring that information.
585. **MR. JETTEN:** Okay, we'll come to section 5, but when I'm -- what I'm talking about here is, you're identifying the stakeholders and you're not -- in this document, you do not advise the Board in the application that the Six Nations of the Grand River are a stakeholder, correct?
586. **MR. PRUD'HOMME:** Yeah, and it's also my understanding from

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

- dealing with First Nation that they do not like to be referred as stakeholders either.
587. **MR. JETTEN:** Well, whether they do or they don't, doesn't Enbridge describe them as stakeholders?
588. **MR. PRUD'HOMME:** We make a difference as much as possible between stakeholders and First Nation Indigenous communities.
589. **MR. JETTEN:** Well, let's come back to 4.1 then, your corporate policy. What -- do you want to read that for me again, the second bullet?
590. **MR. PRUD'HOMME:**
- "Enbridge is committed to timely and meaningful dialogue with all stakeholders, including shareholders, customers, and employees, Aboriginal and Native American peoples, government, regulators, and landowners, among others."*
591. **MR. JETTEN:** So would you agree with me that it's Enbridge's corporate policy, corporate social policy, that to regard Aboriginal peoples as stakeholders?
592. **MR. PRUD'HOMME:** One could agree, reading this, yes.
593. **MR. JETTEN:** All right. But you did not see fit to list Six Nations of the Grand River as an identified stakeholder in section 4.3, correct?
594. **MR. PRUD'HOMME:** That's correct.
595. **MR. JETTEN:** Okay. So then if we could come to section 4.7 -- it's on page 9 of the same document -- and here, for the benefit of the Board, you are advising of -- advising the Board of in-person meetings and presentations, correct?
596. **MR. PRUD'HOMME:** Yes, that's correct.
597. **MR. JETTEN:** And in particular, you list all of the -- a large number of government agencies and municipalities and conservation authorities?

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

598. **MR. PRUD'HOMME:** Yes, that's right.
599. **MR. JETTEN:** And then you go on and talk about some of that. Would you agree with me that at least in this part of the -- at least in this document, there's no mention of any meeting with Six Nations about this project?
600. **MR. PRUD'HOMME:** In this section, no, there is not.
601. **MR. JETTEN:** Okay. And then calls and emails, you advise the Board that -- without any specifics, but you advise the Board that you've sent -- you've either made phone calls or emails to a whole host of municipalities and some government agencies and the Niagara Escarpment Commission?
602. **MR. PRUD'HOMME:** Yes, that's right.
603. **MR. JETTEN:** And again, at least in this section, there's no mention of having contacted the Six Nations government, for example?
604. **MR. PRUD'HOMME:** Is this section, no.
605. **MR. JETTEN:** And then on page 15 of the same document, I'd like to look at Table 4.4.
606. So notwithstanding that you have, to this point, not mentioned First Nations in the identified stakeholders or in persons that have been contacted or for whom there's been presentations at least listed, you have a table that says, "Follow up Meetings", and it's the one, two, three, four, five, sixth item down. Do you see that?
607. **MR. PRUD'HOMME:** Yes, we do.
608. **MR. JETTEN:** And can you tell me what it says under "Stakeholder Group" opposite that entry?
609. **MR. PRUD'HOMME:** So you refer to the middle column?
610. **MR. JETTEN:** Yes.
611. **MR. PRUD'HOMME:** First Nation on the right-of-way.

612. **MR. JETTEN:** And the timing for that?
613. **MR. PRUD'HOMME:** September 2015.
614. **MR. JETTEN:** Okay, and what is that in reference to?
615. **MR. PRUD'HOMME:** So we'd refer to follow-up meetings that take place with First Nations along the right-of-way.
616. **MR. JETTEN:** Okay, and which First Nations are being referred to there?
617. **MR. PRUD'HOMME:** The three Nations that we engaged. The four Nations that engaged with along the right-of-way -- sorry, in September, would be Six Nations in terms of meetings of 2015. We've also engaged with HDI. We've also engaged with Mississauga New Credits of the First Nation and the Métis Nation of Ontario.
618. **MR. JETTEN:** Okay. So the next document I would like to go to is the section 5 Aboriginal Engagement section that you said you prepared. And again, the Exhibit reference was A74506-31, if we could turn that up on the screen, if possible.
619. Are we able to turn that document up or no? All right. I think we've got it now successfully.
620. I'm going to go to a few portions of it, but again I think you said you prepared this?
621. **MR. PRUD'HOMME:** Yes.
622. **MR. JETTEN:** And you received input from your complete team on this?
623. **MR. PRUD'HOMME:** Yes.
624. **MR. JETTEN:** And was this intended to be a comprehensive summary for the Board?
625. **MR. PRUD'HOMME:** As we stated:

*“The information presented in this section reflects Enbridge Aboriginal engagement activities for the Project up to and including November 30, 2015, although such engagement is continuing and will continue throughout the life [cycle] of the Project.”*

626. **MR. JETTEN:** I’m sorry; I didn’t catch the last part?

627. **MR. PRUD’HOMME:**

*“...although such engagement is continuing and will continue throughout the life of the Project.”*

628. **MR. JETTEN:** All right. So this was intended to be the full story to the Board up until the date of the application?

629. **MR. PRUD’HOMME:** Up until the 30<sup>th</sup> of November, 2015.

630. **MR. JETTEN:** Okay. Immediately before the application was filed.  
All right.

631. And if we could go to -- so if we could go to the page 7 of that document, and it’s section 5.3.5, called “Engagement Activities”. Do you see that?

632. **MR. PRUD’HOMME:** Yes.

633. **MR. JETTEN:** And so according to your summary in the table, the meeting to introduce the project with respect to Six Nations -- or to Six Nations -- was held on August the 6<sup>th</sup>, 2015?

634. **MR. PRUD’HOMME:** So a notification package, an extensive one, was sent on June 23<sup>rd</sup>. And the first meeting with regards to the same project was August 6<sup>th</sup>.

635. **MR. JETTEN:** Which you called a meeting to introduce the project?

636. **MR. PRUD’HOMME:** Yes.

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

637.           **MR. JETTEN:** And if you could turn to -- and I'm going to come back to this document, but I'd like to just go to another document for a moment, which is Exhibit A74506-34. And it's dated August the 2015. And it's called "Line 10 Westover Segment Replacement Project". And it appears to have been prepared as slides by Sonia Fazari, Senior Advisor, Aboriginal Affairs with Enbridge.
638.           Do you have that document?
639.           **MR. PRUD'HOMME:** Yes, I do.
640.           **MR. JETTEN:** And Ms. Fazari reports to you, correct?
641.           **MR. PRUD'HOMME:** Yes, she does.
642.           **MR. JETTEN:** And did you have input on these slides?
643.           **MR. PRUD'HOMME:** I reviewed them.
644.           **MR. JETTEN:** Prior to the meeting?
645.           **MR. PRUD'HOMME:** Yes.
646.           **MR. JETTEN:** Okay. If necessary, you can take a moment to review it, unless you already -- unless you have done that recently. But the question I have -- the thing that struck me when I read through this, when I looked through it -- actually, we can just flip through the pages. We see the "Agenda" and presumably this is the agenda for the meeting on August the 6<sup>th</sup>, 2015 with Six Nations, correct?
647.           **MR. PRUD'HOMME:** Yes.
648.           **MR. JETTEN:** So if we go on the electronic monitor the "Agenda" page, which is the next page after the cover -- so we see on the agenda, "Project Scope and Overview"; second, "Delivering Energy and Economic Benefits"; third, "Project Details"; fourth, "Commitment to Engagement"; and then five, "Questions and Discussion". And if we flip through the pages there's comments about "Project Scope and Overview"; "Project Need"; "Project Timeline," correct?

649.           **MR. PRUD'HOMME:** Yes.
650.           **MR. JETTEN:** And then "Economic Benefits to the Region," page  
7?
651.           **MR. PRUD'HOMME:** Yes.
652.           **MR. JETTEN:** Page 8 there's a description that you're advising Six  
Nations of "Local Benefits," property taxes paid to Hamilton and southern  
Ontario municipalities. Why would Six Nations be interested in that?
653.           **MR. PRUD'HOMME:** Well, we present the overall information.
654.           **MR. JETTEN:** Whether it's relevant or not?
655.           **MR. PRUD'HOMME:** We try to be as much as possible relevant.
656.           **MR. JETTEN:** Okay. Then "Commitment to the Environment"; a  
section on "Pipeline Construction"; "Safe Pipeline Operation"; and mention of  
what plans there are for pipeline decommissioning, correct?
657.           **MR. PRUD'HOMME:** Yes.
658.           **MR. JETTEN:** And then there's a motherhood slide about  
"Respecting Local Residents and Communities" and then a section about "Public  
Engagement," correct?
659.           **MR. PRUD'HOMME:** Yes, that's correct.
660.           **MR. JETTEN:** And so was the intent in mentioning the public  
engagement Enbridge telling Six Nations that they would like to consult with Six  
Nations?
661.           **MR. PRUD'HOMME:** Yes, we established that in a package that  
was sent June 23<sup>rd</sup>.
662.           **MR. JETTEN:** Okay. And would you agree with me, having just  
reviewed these slides, there's no -- nowhere on this slide presentation at this early  
stage any agenda item whatsoever asking Six Nations whether they have any  
resource rights in the project area, correct?



**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

663. **MR. PRUD'HOMME:** That question is not asked; you're right.
664. **MR. JETTEN:** Okay. Then I'd like to go back to the exhibit we were just looking at a minute ago, the section 5 portion. Do I need to -- can we turn it up on the monitor? I've forgotten the exhibit number. I can look it up again if I need to. Okay, there it is.
665. So we've got the section 5, "Aboriginal Engagement" section that you wrote. And then I'd like to look at Item 5.4.2. In the first sentence there, you state:
- "On June 18, 2015, Six Nations informed Enbridge that Chief and Council would like Enbridge, as a first step, to host an information open house regarding Enbridge's operations."*
666. See that?
667. **MR. PRUD'HOMME:** Yes.
668. **MR. JETTEN:** So given -- I'd just like to understand this -- the chronology. Given that Enbridge -- I think you told me that Enbridge -- and you pointed out that Enbridge notified Six Nations about this project on June 23<sup>rd</sup>, 2015, right?
669. **MR. PRUD'HOMME:** Yes.
670. **MR. JETTEN:** So can we take it that that June 18, 2015 discussion had nothing to do with the Line 10 Project?
671. **MR. PRUD'HOMME:** It was related to pipelines in general, not specifically to Line 10; that's right.
672. **MR. JETTEN:** And it had to do with understanding pipeline safety; it was for the purpose of educating the public, or the Six Nations public?
673. **MR. PRUD'HOMME:** Indeed, it could be referred as "Pipeline 101".
674. **MR. JETTEN:** Okay. And primarily to deal with what the safety is

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

with pipelines and any issues with it, that sort of thing? Or can you explain?

675. **MR. PRUD'HOMME:** Yeah. Our approach to open house is always to bring subject-matter expert that would be able in real time to answer any type of question that could be asked of any attendees, so be it in terms of the environment, spill prevention, emergency resource, emergency-response capacity, integrity, consultation, regulations with the National Energy Board, for example, only to name a few.
676. **MR. JETTEN:** All right. So since this -- since this wasn't project-specific, what presentation would Enbridge make at "Pipeline 101"? Has it -- do they do that on numerous occasions, you know, Pipeline 101 education session for the public?
677. **MR. PRUD'HOMME:** So the format that we use is not a formal presentation but rather stations with documentation. One of them, of course, would relate to the area we're in, naming all of the projects, all of the assets that we have, so that people can go from one station to the other or be directed to the stations of interest and speak to the subject-matter expert in question.
678. **MR. JETTEN:** Okay. So it's -- there isn't really a formal presentation; it's like little booths, you mean?
679. **MR. PRUD'HOMME:** No. So it would be, if I could use, kind of a fair with different stations, different panels, documentation, that would be related to the different areas of interest for people to wander so that if they can come during the day at any time, they don't miss the presentation but they capture the information at any time during the opening hours of that open house.
680. **MR. JETTEN:** Okay. And when you're giving a Pipeline 101 presentation is the focus normally on helping the public understand safety and how they operate and that sort of thing -- decommissioning, those kinds of things -- what you do for maintenance, leak detection, all of those things?
681. **MR. PRUD'HOMME:** I would say we cover a to z. Different people have different interests and we want to be able to answer those questions.
682. **MR. JETTEN:** Okay. Were any of the Panel members here at the -- oh, so this Pipeline 101 talk to the Six Nations Community, that took place on August the 12<sup>th</sup>, 2015, correct?

683. **MR. PRUD'HOMME:** Yes, that's right.

684. **MR. JETTEN:** And were any of the panel members here today at that presentation?

685. **MR. PRUD'HOMME:** I myself was present and, if you'll allow me just to consult, I'll have to see if there's anyone else. No.

686. **MR. JETTEN:** Okay. But you were there?

687. **MR. PRUD'HOMME:** Yes.

688. **MR. JETTEN:** Okay. All right. So if we look at page 9 at line 7, you actually wrote what the purpose of the open house was.

*"On August 12, 2015, Enbridge hosted an open house to share information on Enbridge's Safety, Maintenance, Integrity Dig Programs and Emergency Preparedness Program."*

689. Correct?

690. **MR. PRUD'HOMME:** Yes.

691. **MR. JETTEN:** All right. And this was something that the Six Nations' Council was interested so that their community would know about this kind of thing?

692. **MR. PRUD'HOMME:** Yes, and Chief Ava Hill actually said that first thing to me when I met her that summer and we followed up on the specific request that was made in June.

693. **MR. JETTEN:** Okay, thank you.

694. And then on page 9 at line 1, you also state part way through that line:

*"...Enbridge representatives met with Six Nations on August 6, 2015 to provide an overview on Project details, the Stage 1 Archaeological assessment report and the planned Stage 2 Archaeological assessment."*

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

695. And then -- oh, sorry, I should have continued.

*“The discussion also involved the planning of the August 12, 2015 Pipelines Information open house.”*

696. **MR. PRUD’HOMME:** Yes, that’s right.

697. **MR. JETTEN:** So -- and when you’re talking about an overview on the project details, that was the -- that was essentially the presentation that Ms. Fazari, who reports to you, had prepared that we looked at a few moments ago?

698. **MR. PRUD’HOMME:** Yeah, there was a guide for the discussion. Of course it does not encompass all the discussion but it is a tool that was used.

699. **MR. JETTEN:** But that was the agenda?

700. **MR. PRUD’HOMME:** Yes.

701. **MR. JETTEN:** Okay. And I guess -- I don’t see in here -- in your discussion of the August 6<sup>th</sup>, 2015 meeting, would you agree with me, because I certainly don’t see it, that there’s no mention made by you of Enbridge having any discussion with Six Nations about traditional use -- uses by Six Nations of any -- of any areas in the project route?

702. **MR. PRUD’HOMME:** Just to be sure I understand your question, when you make “there’s no reference”, you refer to which document?

703. **MR. JETTEN:** The -- what we were just looking at.

704. **MR. PRUD’HOMME:** Which is?

705. **MR. JETTEN:** Page 9 when you’re talking about the August 6<sup>th</sup>, 2015 meeting.

706. **MR. PRUD’HOMME:** This is not represented there, no.

707. **MR. JETTEN:** Correct, okay. And the open house that took place on August the 12<sup>th</sup>, 2015, are you knowledgeable about how that came about?

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

708. **MR. PRUD'HOMME:** Yes, I was present.
709. **MR. JETTEN:** Okay, can you elaborate?
710. **MR. PRUD'HOMME:** Yes, so we were on Six Nation Territory; we installed our different stations; subject-matter experts were present. We had about 50 members of the community ---
711. **MR. JETTEN:** No, no, sorry, I -- maybe you misunderstood my question.
712. **MR. PRUD'HOMME:** Sorry.
713. **MR. JETTEN:** I wasn't asking about the open house; I was wondering how did it -- how was it arranged? How -- you know, how did it get set up? How did it -- for what reason did it even get advertised?
714. **MR. PRUD'HOMME:** So it was a specific ask for Chief Ava Hill and Council to host this open house before any discussions could take place. So that was a request that we acquiesced.
715. **MR. JETTEN:** All right. And do you know, were there prior discussions between Enbridge and Six Nations on unrelated -- on matters unrelated to Project 10 that led to the request to have the open house on the Pipeline 101, as you described it?
716. **MR. PRUD'HOMME:** Yeah, we sent information on June the 15<sup>th</sup>; we, of course, set up the meeting of August 6<sup>th</sup> with them as well.
717. **MR. JETTEN:** No, no, no, but I'm asking about the open house on August the 12<sup>th</sup>.
718. **MR. PRUD'HOMME:** The open house. There was from my team Sonia Fazari discussion with the consultation team to set up, and details were also arranged on the August 6<sup>th</sup> meeting.
719. **MR. JETTEN:** Okay, maybe I'm not making myself very clear. Since we know that the first presentation there was a notification on the -- the notification of the Line 10 Project was June 23<sup>rd</sup>, 2015, correct?

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

720. **MR. PRUD'HOMME:** Yes, that's correct.
721. **MR. JETTEN:** And this request from Six Nations counsel to Enbridge for the open house came on June 18, 2015, correct?
722. **MR. PRUD'HOMME:** It was requested before verbally and then there was a specific formal request, yes, that was made then.
723. **MR. JETTEN:** All right, so it was before the notification about the Line 10 Project.
724. What I was wondering was had Enbridge and Six Nations been having discussion on earlier other lines or something like that, like, Line 9 or something that had led to this request?
725. **MR. PRUD'HOMME:** Yes.
726. **MR. JETTEN:** Okay. So that was the reason that the open house was arranged?
727. **MR. PRUD'HOMME:** It was in the context of the last consultation that took place with Six Nations and the project, yes indeed is Line 9.
728. **MR. JETTEN:** In relation to Line 9. It was the discussions on Line 9 that led to the August 12, 2015 open house?
729. **MR. PRUD'HOMME:** Yes.
730. **MR. JETTEN:** Okay.
731. And indeed if we go to Exhibit -- and for the benefit of the person, benefit of Lori, I'm going to come back to that document that we were on so if you can keep it handy. But I'd like to go to Appendix 5.7 to the application documents, and it was Exhibit A4W243 if I have that right. And this was the invitation to the open house.
732. And, Mr. Prud'Homme, can you identify this document as the invitation that was sent to the Six Nations community about the -- for the purpose of the August 12<sup>th</sup>, 2015 open house?

733. **MR. PRUD'HOMME:** Yes, it is.
734. **MR. JETTEN:** And I guess you'll agree with me because that's what it says that Enbridge is hosting an open house and we invite you to come and talk with our experts about pipeline safety? That's what the invitation says, correct?
735. **MR. PRUD'HOMME:** Yes.
736. **MR. JETTEN:** And are you aware how large the membership of the Six Nations of the Grand River First Nation is?
737. **MR. PRUD'HOMME:** It's over ---
738. **MR. JETTEN:** Would it surprise you to know it's around 25,000 plus or minus?
739. **MR. PRUD'HOMME:** No.
740. **MR. JETTEN:** Okay. You'll accept that?
741. **MR. PRUD'HOMME:** Yes.
742. **MR. JETTEN:** And equally that the reserve population would be around 13,000 persons plus or minus 1,000?
743. **MR. PRUD'HOMME:** Yes, that seems right.
744. **MR. JETTEN:** Okay. And how many people showed up at the open house?
745. **MR. PRUD'HOMME:** About 50.
746. **MR. JETTEN:** Sorry?
747. **MR. PRUD'HOMME:** The number I said is 5-0, 50.
748. **MR. JETTEN:** Okay, thank you.
749. And if we go back to section 5 -- whatever that exhibit number was -- page 6. Actually, if we can go back to page 5 for a second. So Table 5.2 you've

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

- summarized that there was a Line 10 Project PowerPoint presentation; do you see that at the bottom?
750.           **MR. PRUD'HOMME:** Yes.
751.           **MR. JETTEN:** And that goes over to the next page. And just at the bottom of page 5, is that a reference to Ms. Fazari's PowerPoint slides that we were looking at earlier?
752.           **MR. PRUD'HOMME:** Yes, it is.
753.           **MR. JETTEN:** And you say that the circulation method was by email?
754.           **MR. PRUD'HOMME:** It was sent by email in this case -- reference -- yes.
755.           **MR. JETTEN:** Okay. And was that sent after the meeting or before, before the meeting on August the 6<sup>th</sup>?
756.           **MR. PRUD'HOMME:** I could not say.
757.           **MR. JETTEN:** Okay, all right.
758.           And then the next page, page 6, when you're referring to the "Pipelines 101' Open House Notification Postcard". There's a description "Postcard invitation mail-out to 'Pipelines 101'". That's the notification we were just looking at a moment ago as well, correct?
759.           **MR. PRUD'HOMME:** Yes, it is.
760.           **MR. JETTEN:** And that was for a meeting for August the 12<sup>th</sup>, 2015?
761.           **MR. PRUD'HOMME:** Yes.
762.           **MR. JETTEN:** And Enbridge mailed it out two days before that open house?
763.           **MR. PRUD'HOMME:** Yes.



764. **MR. JETTEN:** Okay. And where was that mailed from?
765. **MR. PRUD'HOMME:** Actually, it was hand delivered by the community.
766. **MR. JETTEN:** Pardon me?
767. **MR. PRUD'HOMME:** It was hand delivered by the community.
768. **MR. JETTEN:** Okay. When you say "mail" you don't mean Canada's postal service?
769. **MR. PRUD'HOMME:** No.
770. **MR. JETTEN:** Okay. That's reassuring because I would have thought two days is not very much notice, even hand delivered.
771. So I'd like to go to page 13 of this document, actually starting at the bottom of page 12. It's the section called -- section item 5.6 called "Ongoing Aboriginal Engagement Activities".
772. So in this section, would it be fair to say that you're describing to the Board in the application documents what you're intending to do for the future after November 30, 2015?
773. **MR. PRUD'HOMME:** Yes, overall the ongoing life cycle approach.
774. **MR. JETTEN:** And if we look at page 13 you say starting at line 3:  
  
*"The Aboriginal engagement program will continue to involve a number of activities including mailing out letters and Project information materials, face-to-face meetings and ongoing follow-up activities for any identified interests or concerns."*
775. You see that?
776. **MR. PRUD'HOMME:** Yes.
777. **MR. JETTEN:** And then you say:

*“Additional engagement activities include:”*

778. Do you see that?

779. **MR. PRUD’HOMME:** Yes.

780. **MR. JETTEN:** And then you have a long list of things that are to happen, correct?

781. **MR. PRUD’HOMME:** Yes.

782. **MR. JETTEN:** And one of the things yet to happen is the fifth item down, fifth bullet point:

*“Identifying any Aboriginal groups who may be currently carrying out traditional land and resource use activities within the immediate Project area.”*

783. Correct?

784. **MR. PRUD’HOMME:** Can you repeat the question?

785. **MR. JETTEN:** I’m just asking whether that was one of the future activities that you listed?

786. **MR. PRUD’HOMME:** This has been identified already.

787. **MR. JETTEN:** I'm sorry?

788. **MR. PRUD’HOMME:** We identified that question was specifically asked on August 6<sup>th</sup> and we received a prompt answer.

789. **MR. JETTEN:** Well then, I'm having -- I'm puzzled that -- because at the August 6<sup>th</sup> meeting, we looked at page 9 earlier, and you agreed with me, I understood, that there was no mention there of traditional land use and practices in the description as having been discussed at the August 6<sup>th</sup> meeting, correct?

790. **MR. PRUD’HOMME:** In that section, it does not refer to it.

791. **MR. JETTEN:** Right.

792.           **MR. PRUD'HOMME:** But what I'd like to point out -- sorry, go ahead.

793.           **MR. JETTEN:** Yeah, so my question relates then to as of December 4<sup>th</sup> or November 30<sup>th</sup> -- I think you said everything was current to November 30<sup>th</sup>. As of November 30<sup>th</sup>, you're telling the Board in your application documents that you wrote that additional engagement activities include -- and you've got the fifth bullet:

*"Identifying any Aboriginal groups who may be currently carrying out traditional land and resource use activities within the immediate Project area."*

794.           Correct?

795.           **MR. PRUD'HOMME:** Yeah. Just like to understand; we, of course, assess this throughout the process of the project. Other Aboriginal groups may come forward that had not been identified from the start at that date, or the activities may change throughout the project's consultation process.

796.           **MR. JETTEN:** When you're referring to Aboriginal groups, are you including in that reference a reference to the Mississaugas of New Credit?

797.           **MR. PRUD'HOMME:** Yeah, in this specific project for First Nations, Aboriginal groups have been identified.

798.           **MR. JETTEN:** Okay, and which Aboriginal groups are you referring to when you made that statement?

799.           **MR. PRUD'HOMME:** So the first are the four that we've engaged with this project specifically were Mississauga New Credits of the First Nation, Six Nations of the Grand River, Haudenosaunee Development Institute, and Métis Nation of Ontario.

800.           **MR. JETTEN:** Okay. All right, so you do intend to include Six Nations when you were referring to this here?

801.           **MR. PRUD'HOMME:** Yes.

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

802. **MR. JETTEN:** Okay. And then two bullets down at line 21 you say,

*"Providing opportunities to Aboriginal groups to identify  
interests and potential Project impacts."*

803. Do you see that?

804. **MR. PRUD'HOMME:** Yes, I see it.

805. **MR. JETTEN:** So that is to -- you intend that to happen?

806. **MR. PRUD'HOMME:** Yes, as to say we have a life-cycle approach,  
so ---

807. **MR. JETTEN:** Right, and so the Aboriginal groups there, you're also  
referring to the Six Nations of the Grand River?

808. **MR. PRUD'HOMME:** In this specific case, yes.

809. **MR. JETTEN:** And then also for the future, you advised the Board  
that you will also be -- bullet starting at line 23:

*"Indicating how information and concerns of Aboriginal  
groups have been considered and taken into account by  
Enbridge in the design and planning of the Project."*

810. **MR. PRUD'HOMME:** I see that.

811. **MR. JETTEN:** Right, and by Aboriginal groups, you're also  
including Six Nations of the Grand River, my client?

812. **MR. PRUD'HOMME:** Yes, I do.

813. **MR. JETTEN:** Okay. By the time that you submitted the application  
documents to the Board, National Energy Board, as of December 4<sup>th</sup>, 2015, had  
not the project already been designed and planned?

814. **MR. PRUD'HOMME:** So ---

815. **MR. NEUFELD:** Hi. It's Craig speaking. I guess just to maybe

**Enbridge Pipelines Inc.**  
**Examination by Mr. Jetten**

clarify, planning and design of the project is an ongoing process and continues right up until construction of the actual pipeline.

816.           **MR. JETTEN:** Okay. How -- fair enough. And by that do you mean, Craig, that it's open to some change or modification?
817.           **MR. NEUFELD:** That's correct.
818.           **MR. JETTEN:** All right, and you know, can you give me, in quantitative terms, an approximate percentage as to what would be -- how much would be designed and planned by the time you submitted it to the Board? Is it 50 percent, 25 percent, 75 percent, 95 percent?
819.           **MR. LAYBOLT:** So this is Mark speaking. Around the time of the Board submission, that would be around the time of front-end engineering design, which correlates to pre-30 percent design completion, from an engineering perspective.
820.           **MR. JETTEN:** Okay. And then because there's the use of the word "design and planning", what is -- what distinction is being drawn there?
821.           **MR. LAYBOLT:** Although engineering and planning are integrated, based on Enbridge's approach, the design largely refers to engineering functions, where planning can include other matters that integrate into design in the overall execution of the project, including public consultation, environment planning and assessments, land acquisition; items that are tied to engineering but not necessarily directly -- just the direct engineering assessments.
822.           **MR. JETTEN:** Right. And Mr. Laybolt, can you identify -- was the planning aspect your bailiwick or one of your colleagues here?
823.           **MR. LAYBOLT:** Pardon me?
824.           **MR. JETTEN:** The overall planning responsibility.
825.           **MR. LAYBOLT:** Overall planning of the entire project would not be my bailiwick, no.
826.           **MR. JETTEN:** Okay. Can you identify here, amongst your colleagues, who had that overall responsibility?

827. **MR. HOUNCAREN:** Yeah, I mean, I think the short answer -- and not trying to avoid the question -- is everyone.
828. **MR. JETTEN:** Can you identify ---
829. **MR. HOUNCAREN:** Sorry.
830. **MR. JETTEN:** --- for the reporter?
831. **MR. HOUNCAREN:** It's Jason again. The planning aspect really falls to -- well, everyone on the panel, so a variety of groups. So the environment group is working on planning for their area and there's a number of groups that are planning is ultimately culminating together in the project, but I wouldn't say that there is any one person or one group that solely performs that function.
832. **MR. JETTEN:** All right. So it would be a cooperative or coordinated approach then, is what you're saying?
833. **MR. HOUNCAREN:** Yes.
834. **MR. JETTEN:** Okay, and as at the time of the application, what percentage of the planning, in order to submit this application, had been done?
835. **MR. HOUNCAREN:** I think the number that Mark threw out previously, saying under 30 percent, would be a reasonable approximation to apply to the planning as well.
836. **MR. JETTEN:** Okay. All right. So if we're only at 30 percent readiness for both design and planning, wasn't your application a bit premature?
837. **MR. NEUFELD:** I just want to maybe specify here. The 30 percent planning is in reference to engineering. Regarding the route selection, route selection had been primarily determined. Regarding mitigation and identification of potential effects to the environment and socio-economic effects, that was mostly complete, as identified in section 10 of the ESA.
838. Several supplemental surveys were still outstanding; however, the intent of those supplemental surveys was just to identify site-specific mitigation. Planning regarding mitigation, as I said, was mostly complete.

839.           **MR. JETTEN:** All right. Thank you. So that's Mr. Neufeld, correct?  
Okay.

840.           **MR. NEUFELD:** Yes, that's right.

841.           **MR. JETTEN:** So would it be fair to say that that was the part that  
was your responsibility, what you just described, largely your responsibility?

842.           **MR. NEUFELD:** In terms of identifying and assessing the potential  
effects and mitigation, that's correct.

843.           **MR. JETTEN:** Okay. And am I correct in -- I won't know the detail  
of the technical reports to the degree that you do, but am I correct in  
understanding that since the application was filed on December 4<sup>th</sup>, 2015 that the  
route selection that was originally submitted has since been changed?

844.           **MR. NEUFELD:** That's right, and that's what Eric was referring to  
when he said that the planning process is ongoing. Enbridge had identified a  
preferred route that it proceeded with for the application; however, as stakeholder  
concerns were identified changes to the route were made.

845.           **MR. JETTEN:** All right. So how recent was the change in the route  
selection?

846.           **MR. LAYBOLT:** Can you confirm which route selection you are  
specifically referring to?

847.           **MR. JETTEN:** Well, you're going to have educate me unfortunately  
as to, you know, why the route was changed and, you know, when. I'm more  
interested in knowing when it was changed and to what degree it was changed?

848.           **MR. LAYBOLT:** Enbridge filed as part ---

849.           **MR. JETTEN:** I'm sort of trying to get broad-brush ideas.

850.           **MR. LAYBOLT:** So as indicated in Enbridge's evidence, route  
selection is an ongoing process throughout the planning design phases of the  
project. And the latest filing regarding a route change was filed as A79406,  
which is also known as the proposed electrical transmission corridor route.

851.           **MR. JETTEN:** And what proportion of the route was changed, like, what percentage or what number of kilometres approximately?
852.           **MR. LAYBOLT:** Approximately four kilometres, based on the ESA update filed as part of that.
853.           **MR. JETTEN:** And again, could you just tell me when did you propose the modification or the change to the route for those four kilometres?
854.           **MR. LAYBOLT:** It was filed with the Board on September 14<sup>th</sup> of this year.
855.           **MR. JETTEN:** So I take it that given it was only on September the 14<sup>th</sup> you haven't yet had an opportunity to go back to all of the stakeholders that Mr. Prud'Homme listed before in section 4, like, all the municipalities, the landowners, and the ones not mentioned in section 4 such as my client. They haven't gone back to all of those people and notified them and asked for their comments on those modifications; would that be fair?
856.           **MR. PRUD'HOMME:** We've met with all our stakeholders, the First Nation, to -- or we've sent them information about the re-route.
857.           With regards to your client Six Nations, a meeting occurred on August 17 with the gap team and the wildlife manager and we provided them with an overview of the re-route, provided a map and the re-route, and they had no concern at that time.
858.           **MR. JETTEN:** How do you know they even digested it on the spot?
859.           **MR. PRUD'HOMME:** We asked the specific question and the answer was as quick as we answered.
860.           **MR. JETTEN:** Okay.
861.           **MR. PRUD'HOMME:** I'm sorry, as quick as we asked; English, second language.
862.           **MR. JETTEN:** Well, would it be fair to say that you certainly haven't held any open houses, public open houses? Let's leave aside Six Nations



but just public open houses generally on the route change?

863. **MR. PRUD'HOMME:** On the route change no open house have been hosted.

864. **MR. JETTEN:** Okay.

865. **MS. SCHWAEBE:** This is Kara Schwaebe speaking. Just to add on to that, we did consult with the landowners directly affected, the directly adjacent landowners, starting on August 17<sup>th</sup>, 2016 about the Copetown re-route, the electrical transmission corridor. And we are fully acquired on that route.

866. **MR. JETTEN:** You're fully? Sorry, I didn't hear what you said.

867. **MS. SCHWAEBE:** The land rights have been fully acquired from the fee simple landowners.

868. **MR. JETTEN:** Okay.

869. Mr. Chair, I think this is probably an appropriate time to break if you feel inclined. I can go on but ---

870. **THE CHAIRMAN:** No, I think it is a good time. Since it's going to take maybe a little longer if people need to use the washroom and turn in their badges back in we'll take 20 minutes and we'll come back at 3:10.

871. We're adjourned.

--- Upon recessing at 2:48 p.m./L'audience est suspendue à 14h48

--- Upon resuming at 3:16 p.m./L'audience est reprise à 15h16

**ERIC PRUD'HOMME: Resumed**

**MITCHELL YAREMKO: Resumed**

**CRAIG NEUFELD: Resumed**

**MARK LAYBOLT: Resumed**

**JASON HOUNCAREN: Resumed**

**KARA SCHWAEBE: Resumed**

**RAY PHILIPENKO: Resumed**

872. **THE CHAIRMAN:** Mr. Jetten, you're up again.

**--- EXAMINATION BY/INTERROGATOIRE PAR MR. JETTEN:  
(Continued/Suite)**

873.           **MR. JETTEN:** So Mr. Neufeld, I think we had sort of left off with some questions of you. And I just wanted to find out from you whether -- would you have been the person primarily responsible for the ESA, the environmental site assessment documentation?

874.           **MR. NEUFELD:** Yeah, we had a team of subject-matter experts writing the various components.

875.           **MR. JETTEN:** Okay. And who on the team would have had overall writing responsibility for that?

876.           **MR. NEUFELD:** Overall writing responsibility was a lady, Marcy Monteith, my predecessor on the project.

877.           **MR. JETTEN:** Okay. And when did she start on the project?

878.           **MR. NEUFELD:** She started on the project in summer of 2015.

879.           **MR. JETTEN:** All right. And when did she leave the project?

880.           **MR. NEUFELD:** I guess she's still part of the project as an advisor. I took over the role, her role in directing the ESA and the supplements in -- it was this summer of 2016.

881.           **MR. JETTEN:** All right. And do you know why there was a change in personnel?

882.           **MR. NEUFELD:** Just resource availability within our company.

883.           **MR. JETTEN:** Okay. So that's CH2M Engineering?

884.           **MR. NEUFELD:** That's correct.

885.           **MR. JETTEN:** Okay, all right. And is Ms. Monteith still with CH2M?

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

886.           **MR. NEUFELD:** That's correct.
887.           **MR. JETTEN:** Okay. Now, as part of -- I think you described at the opening in response to questions from Enbridge's legal counsel that CH2M would have dealt with environmental matters, socio-economic matters, general route, and land requirements; is that correct?
888.           **MR. NEUFELD:** That's correct.
889.           **MR. JETTEN:** And in connection with -- can you describe more generally, just to give me a better idea, as to what CH2M Engineering was doing for Enbridge?
890.           **MR. NEUFELD:** Yeah. So CH2M was contracted to prepare the environmental and socio-economic assessment for the Line 10 Replacement Project.
891.           **MR. JETTEN:** Okay. And this is something environmental engineers or environmental planners typically do? They do the environmental, including socio-economic site assessments, correct?
892.           **MR. NEUFELD:** Yeah. It's one thing that we do, yes.
893.           **MR. JETTEN:** Okay. And I just want to find out, was it any part of CH2M's terms of reference from Enbridge to also deal directly or engage or consult or whatever you want to call it, with my client, Six Nations of the Grand River?
894.           **MR. NEUFELD:** No. CH2M had no direct contact with the Six Nations.
895.           **MR. JETTEN:** All right. So you had no direct contact?
896.           **MR. NEUFELD:** No, that's correct.
897.           **MR. JETTEN:** Okay. And have you been involved with other environmental assessments prior to this one?
898.           **MR. NEUFELD:** Yes, I have.

**Enbridge Pipelines Inc.**  
**Examination by Mr. Jetten**

899.           **MR. JETTEN:** Okay. Can you give me some examples?
900.           **MR. NEUFELD:** Yes. The Line 3 Replacement Program -- sorry, Enbridge's Line 3 Replacement Program.
901.           **MR. JETTEN:** Can you give me some non-Enbridge examples?
902.           **MR. NEUFELD:** Yeah. I was involved in several environmental and socio-economic assessments for multi-well drilling programs in Saskatchewan. I was involved with a section 58 application for a pipeline replacement in southern Alberta for Plains Midstream.
903.           **MR. JETTEN:** For who?
904.           **MR. NEUFELD:** Plains Midstream.
905.           **MR. JETTEN:** Okay.
906.           **MR. NEUFELD:** And I guess I've been involved as a reviewer on several other projects as well in various capacities.
907.           **MR. JETTEN:** Okay. And in connection with those other projects that you mentioned, would you engage or deal from time to time with some of the First Nations that might be affected by those projects?
908.           **MR. NEUFELD:** Yeah. It depends on the specific terms of reference for each individual contract and each individual project. In some cases, the Proponent conducts the engagement themselves directly; in some cases they contract us to conduct that engagement for them.
909.           **MR. JETTEN:** All right. And in this case Enbridge said you don't need to be involved with the engagement with the First Nations?
910.           **MR. NEUFELD:** Yeah, that's correct; we were not involved with the engagement.
911.           **MR. JETTEN:** Okay. Now, during the break we were able to get up a portion of a very voluminous document. And it is the ESA submitted as part of the application. And it's Exhibit number A74508. And I want to refer there to page 5-19. There's a table there called "Table 5.1.1. Summary of Environmental

and Socio-Economic Settings”.

912. And so it probably goes on for a few pages but my question is, was this summary one that your firm prepared?

913. **MR. NEUFELD:** That’s correct.

914. **MR. JETTEN:** All right. And under the second subject matter there’s one on the table on the left-hand side that’s called “Traditional Land and Resource Use”. If we could just move the monitor down a little bit. So that would have been a section that your firm prepared, correct?

915. **MR. NEUFELD:** That’s right.

916. **MR. JETTEN:** And that would have been by your predecessor or by yourself?

917. **MR. NEUFELD:** That would have been by my predecessor.

918. **MR. JETTEN:** All right. And it says, if I can just read the first few sentences:

*“A traditional land use study was not completed for the Project as land use along the existing.. [and] replacement pipeline routes is primarily rural and agricultural, with considerable urban and residential development. Land along the existing and replacement pipeline routes is privately-owned or fee simple land which limits access to the public, including Aboriginal groups.”*

919. And then:

*“The results of the preliminary Traditional Territory Assessment completed...”*

920. And I can’t read that next part. Maybe you could help me there?

*“...completed by the NEB for the Project indicate that Mississaugas of the New Credit First Nation, Six Nations of the Grand River First Nation, Métis Nation of Ontario, and*

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

*Haudenosaunee Development Institute (representing the Haudenosaunee Confederacy Chiefs Council) were identified as having known or traditional territory in the Project area which may be impacted by the Project.”*

921. So that is something that was written up by your firm?
922. **MR. NEUFELD:** That’s correct.
923. **MR. JETTEN:** All right. And that was the rationale provided for not conducting a traditional land use study?
924. **MR. NEUFELD:** Yes, it formed the basis for not conducting a traditional land use study. As stated, the land is primary agricultural, rural, and with considerable residential development, which limits to some extent -- or limits the potential for traditional land use activities to occur.
925. **MR. JETTEN:** Right, okay. And was it your firm as well that was the ones that identified in this ESA the deer wintering habitat or was that somebody else doing that?
926. **MR. NEUFELD:** We identified it in the ESA in collaboration with Enbridge and another consulting firm who were doing the field studies for this project.
927. **MR. JETTEN:** All right. And which firm was that?
928. **MR. NEUFELD:** Dillon Consulting.
929. **MR. JETTEN:** Okay. And were they a sub-contractor to CH2M Hill, then?
930. **MR. NEUFELD:** No, that’s not correct. They were contracted directly to Enbridge.
931. **MR. JETTEN:** Okay. But there’s no one here from Dillon, correct?
932. **MR. NEUFELD:** That’s correct.
933. **MR. JETTEN:** All right. Bear with me for a moment, Mr. Chair.

I'm just finding the next document I want to go to.

934. I just have a quick question as to who prepared a certain document, and that is -- it's Exhibit A79404-10 and it's called "An Updated" -- called "Updated Consultation Activities Around Traditional Land Use" dated -- or filed September 14, 2016, and it's a six-page document. It was an attachment to a response to a Board Interrogatory No. 4-10.
935. And my question simply is, who prepared that document?
936. **MR. PRUD'HOMME:** This is Eric; I prepared that document.
937. **MR. JETTEN:** Okay, thank you.
938. And Mr. Prud'Homme, I'd also like to go now to document A79569-2. Or that's the exhibit number. It's -- we were on this document before; it's the Reply Evidence of Enbridge, September 23<sup>rd</sup>, 2016.
939. And if we can find that document. Okay, that's great; we've got it.
940. I think we established earlier that you had prepared the document with respect to the portion dealing with commenting on Six Nations of the Grand River?
941. **MR. PRUD'HOMME:** Yes, that is true.
942. **MR. JETTEN:** And then -- my questions now are going to relate to the section just after that, which is Part B, starting on page 9. And it's -- the section is called "Environment and Climate Change Canada Letter of Comment" and it deals with various topics including migratory birds, wetlands, Western Chorus Frog, bat species at risk, and so on.
943. Could one of the panel -- or maybe, Mr. Prud'Homme, do you know who prepared that portion of the document?
944. **MR. NEUFELD:** Yeah, that portion of the document was prepared by CH in consultation with Dylan Consulting.
945. **MR. JETTEN:** Okay. So you're the person, Mr. Neufeld, taking responsibility here?

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

946. **MR. NEUFELD:** Myself, primarily, and then Mr. Yaremko as well.
947. **MR. JETTEN:** Sorry?
948. **MR. NEUFELD:** Myself, primarily, and then Mr. Yaremko as well.
949. **MR. JETTEN:** Okay. And what was Mr. Yaremko's role?
950. **MR. YAREMKO:** I'm the environmental analyst on the project, coordinating Dylan and CH, too, so reviewing these submissions.
951. **MR. JETTEN:** Okay. So you're with Enbridge?
952. **MR. YAREMKO:** Yes.
953. **MR. JETTEN:** Yes, okay. And did you have a hand in writing the response too?
954. **MR. YAREMKO:** Yes.
955. **MR. JETTEN:** Okay.
956. So maybe I should ask you, Mr. Yaremko, because you're with Enbridge -- so I take it what this is is dealing with recommendations made by the federal Department of Environment and Climate Change Canada and it's taking the different recommendations that they have in different areas and then setting out what Enbridge is committing to do in response to the recommendations from Environment and Climate Change Canada?
957. **MR. YAREMKO:** That's correct.
958. **MR. JETTEN:** All right. And my only question on this subject area is, does Enbridge consider these various commitments given in this response to be undertakings to the Board in this application?
959. **MR. YAREMKO:** Could you rephrase the question?
960. **MR. JETTEN:** The various statements as to what Enbridge will do in response to each of these recommendations -- is Enbridge undertaking to this



**Enbridge Pipelines Inc.**  
**Examination by Mr. Jetten**

Board here, hearing this application, to actually do these things?

961.           **MR. YAREMKO:** This is Enbridge's response to that submission.
962.           **MR. JETTEN:** My question, though, is, is this a commitment to the Board, or a promise, or an undertaking that Enbridge in fact will do these things?
963.           **MR. YAREMKO:** That's correct.
964.           **MR. JETTEN:** And I'll ask you this, too, Mr. Yaremko; you can direct it to one of your colleagues here if there's a more appropriate person but who on the panel is responsible for dealing with archeology?
965.           **MR. YAREMKO:** That would be myself in terms of the service providers.
966.           **MR. JETTEN:** And what about in terms of dealing with the Aboriginal monitors on archeological issues?
967.           **MR. YAREMKO:** That would be a combination of myself and Eric.
968.           **MR. JETTEN:** Okay. Can you -- and it's mainly to educate me, but -- and just to the Board -- and I may have some questions arising out of it, but can you advise me as to what stage currently the archeological assessments are at?
969.           **MR. YAREMKO:** Currently we've got Stage 2 assessments on the route at about 77 percent complete, Stage 3 assessments at about 90, and Stage 4 at about 27 for the various locations.
970.           **MR. JETTEN:** And can you explain to me what each of those stages represent because I'm not an archeological expert?
971.           **MR. YAREMKO:** Stage 2, essentially, is an undertaking for all areas exhibiting archeological potential. So essentially the entire right-of-way was -- or is up for a Stage 2 assessment. Stage 3 evaluation will be undertaken for all archeological sites that meet the provincial criteria in accordance with MTCS. And again, Stage 4, or the further advancement of a Stage 3, is undertaking archeological sites that meet that provincial criteria for further investigation.
972.           **MR. JETTEN:** So just to put it in lay terms, is a Stage 4 assessment

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

more advanced in terms of what's done and what's investigated than a Stage 2, or is it the other way around?

973. **MR. YAREMKO:** It's a different type of assessment.

974. **MR. JETTEN:** Okay. Can you give me an example of the distinction or the difference?

975. **MR. YAREMKO:** So in general terms, then, the Stage 3 would be an excavation of known features of archeological potential and a Stage 4 would be mitigating those or taking them out, removing them, in general.

976. **MR. JETTEN:** So Stage 4 is more mitigation of things that are found in Stage 2, you mean?

977. **MR. YAREMKO:** Stage 3.

978. **MR. JETTEN:** Or Stage 3, I ---

979. **MR. YAREMKO:** Yeah.

980. **MR. JETTEN:** Yeah.

981. **MR. YAREMKO:** Yeah, Stage 2 would be ---

982. **MR. JETTEN:** Stage 2 is a more general or generic assessment, is it?

983. **MR. YAREMKO:** Correct.

984. **MR. JETTEN:** Okay. All right, I think I get the picture now.

985. So based on the archaeology that's been done so far, is there any expectation that there may have to be some route modifications as a result of archaeological work?

986. **MR. YAREMKO:** It's possible. Enbridge's position is to avoid, where possible. That's our primary objective.

987. **MR. JETTEN:** Okay. Do you have any views at the moment as to whether it appears that some route modifications will need to be made?

988. **MR. YAREMKO:** Yes, we're attempting to, yeah, relocate the right-of-way where we can, where -- yeah.
989. **MR. JETTEN:** Okay, so how many kilometres would you estimate has to be modified because of the archaeology?
990. **MR. YAREMKO:** I wouldn't know. I'm not certain, sorry.
991. **MR. JETTEN:** Okay, can you give me an idea of degree? Is it -- will it be more than four kilometres when we talked about the electrical transmission? Will it be less than four kilometres?
992. **MR. YAREMKO:** Our investigations are still ongoing at this point, so we haven't fully completed the assessments of the right-of-way, so it's difficult to tell the magnitude. We do have a couple of examples, but we're not in the final stages yet.
993. **MR. JETTEN:** So how long does an environmental -- or not an environmental assessment -- how long does archaeological assessment take, and typically, what's done for that kind of an assessment? Can you explain that to me?
994. **MR. YAREMKO:** It's very site-specific, depending upon the nature of what's out there. Your Stage 2 assessment can be done fairly quickly. It's just a surface -- a collection of surface scatter. Then if it -- that site, if you find something that requires a Stage 3, it can be certainly more involved with unit-by-unit excavation for delineation. So it's very site-dependant.
995. **MR. JETTEN:** Okay, so what sort of activities would you have to do for a Stage 3?
996. **MR. YAREMKO:** You would have to delineate the site, based upon your findings from the Stage 2, and then conduct an appropriate number of excavations in consultation with the licensed archaeologist and First Nations monitors.
997. **MR. JETTEN:** Okay, and can you physically describe to me -- or visually describe to me, I should say -- what sort of excavations do you do? Do you do it by hand, do you use machines, do you use bulldozers, do you use

- backhoes, or what do you use?
998.           **MR. YAREMKO:** In the Stage 3?
999.           **MR. JETTEN:** Yes.
1000.          **MR. YAREMKO:** The Stage 3 is a hand excavation, primarily sifting soil with screens and handwork.
1001.          **MR. JETTEN:** Okay, and the Stage 4, what -- can you describe visually what you do for that kind of a stage?
1002.          **MR. YAREMKO:** There's various methods, I think, that can be used for the Stage 4. Certainly, machine excavation is one method that can be used to remove layers of soil so that the work can get done.
1003.          **MR. JETTEN:** All right. And along how many kilometres of pipeline -- how many kilometres of pipeline have the archaeological assessments already been completed?
1004.          **MR. YAREMKO:** I'm not specifically sure, in terms of kilometres, that that would be -- currently, we'd have that represented as complete.
1005.          **MR. JETTEN:** Can you give me some other visual picture as to, you know, how much we're talking about or how long it will take?
1006.          **MR. YAREMKO:** I think we're anticipating having Stage 2 done this year.
1007.          **MR. JETTEN:** Okay. And how many different areas are -- is a Stage 2 being done?
1008.          **MR. YAREMKO:** Stage 2 needs to be completed on the entire footprint of the right-of-way.
1009.          **MR. JETTEN:** Okay. Sorry, did you say Stage 2 needs to be done on the entire footprint?
1010.          **MR. YAREMKO:** The assessment area is the entire footprint.

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

1011.           **MR. JETTEN:** That's for the Stage 2 work?
1012.           **MR. YAREMKO:** For the Stage 2; however, we've completed roughly 77 percent.
1013.           **MR. JETTEN:** Okay, 77 percent of the entire distance of the pipeline route?
1014.           **MR. YAREMKO:** Yeah, it's not distance based; it's area based.
1015.           **MR. JETTEN:** Okay. How far out do you go from where the pipeline would be located?
1016.           **MR. YAREMKO:** The project is currently doing the footprint.
1017.           **MR. JETTEN:** Okay, so -- but by "footprint", what do you mean?
1018.           **MR. YAREMKO:** By footprint, it includes the permanent easement as well as the temporary workspace and extra temporary workspace needed for pipeline construction.
1019.           **MR. JETTEN:** Okay, that makes sense. That makes sense, because the construction is going to go and potentially affect archaeological items that might be impacted by the construction. Is that the reason for assessing the footprint?
1020.           **MR. YAREMKO:** That's correct.
1021.           **MR. JETTEN:** Okay, so -- all right, and for the Stage 3 assessment, which is the more intensive one, if you will, would that be a fair description, more intensive?
1022.           **MR. YAREMKO:** That's correct, I'd say.
1023.           **MR. JETTEN:** So I take it that that -- wherever the Stage 3 has been done, that's only been done within the stage area, that Stage 2 area that's already been completed? In other words, you have to do a Stage 2 before you ever get to a Stage 3?
1024.           **MR. YAREMKO:** That's correct.

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

1025.           **MR. JETTEN:** All right. And so for the other 23 percent of the Stage 2 area that has not been done, it's possible that you may need Stage 3 archaeological assessments still to be done?
1026.           **MR. YAREMKO:** It's possible.
1027.           **MR. JETTEN:** Okay. And then the Stage 4 assessment, I think you described that as being 24 percent completed? Correct me if I wrote that down wrong.
1028.           **MR. YAREMKO:** Twenty-seven (27).
1029.           **MR. JETTEN:** Twenty-seven (27) percent? Okay. And where is that being done?
1030.           **MR. YAREMKO:** In the areas identified by Stage 3.
1031.           **MR. JETTEN:** All right, so it's like a tiered approach? If I understand this in my head, it's a tiered approach similar to the idea -- I'm more familiar with environmental assessments where you have -- or like, a site assessment, where environmental engineers or planners do a Phase 1, check for contamination, and then they do a Phase 2 once they have assessed that's there's area of likely impact.
1032.           But -- so the archaeologists do something similar; they look at Stage 2 for the entire footprint, and then if there's a determination that there's some areas of concern, you have to go to a Stage 3 and do more detailed assessment; is that correct?
1033.           **MR. YAREMKO:** That's correct.
1034.           **MR. JETTEN:** And then once you've done the Stage 3, if you find things that are of an issue, it's got to go to a Stage 4, which is more intensive yet again?
1035.           **MR. YAREMKO:** Not necessarily. A Stage 3 doesn't necessarily mean you're going to go to a Stage 4.
1036.           **MR. JETTEN:** No, I realize you don't go automatically to a Stage 4,

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

- but the Stage 3 process might identify something that requires some additional assessment through a Stage 4?
1037.           **MR. LAYBOLT:** That's correct.
1038.           **MR. JETTEN:** Okay. And what physical -- can you give me a visual idea of what physical methods are used by archaeological experts in connection with a Stage 4 to determine whether there's archaeological remains that are of, you know, archaeological interest or that need to be preserved?
1039.           **MR. LAYBOLT:** Can you repeat the question, please?
1040.           **MR. JETTEN:** Visually, you know, can you describe for me what kind of physical activities they undertake or use for a Stage 4 assessment?
1041.           **MR. YAREMKO:** There are various techniques. It can be hand excavation, or depending upon the nature of the find and suitability it could be a mechanical excavation as well for assistance.
1042.           **MR. JETTEN:** Okay. And in terms of the archaeology, would there be included in that human burial grounds by let's say Aboriginal people; would that be part of the archaeological assessments?
1043.           **MR. YAREMKO:** That type of discovery could be possible.
1044.           **MR. JETTEN:** Okay. And in terms of doing these assessments, I've had mentioned to me by my client -- and I would like you or one of the other experts to explain it -- something called "directional drilling". I've heard that term used and I guess it's a term used for -- is it something to do with construction methods that would be used by Enbridge or on behalf of Enbridge?
1045.           **MR. LAYBOLT:** Yes, directional drilling is a construction technique that is from time to time employed by Enbridge to construct the pipelines.
1046.           **MR. JETTEN:** Okay. And that's Mr. Laybolt?
1047.           **MR. LAYBOLT:** Yes.
1048.           **MR. JETTEN:** All right. And can you describe what directional drilling is?

1049.           **MR. LAYBOLT:** Fundamentally directional drilling uses a trenchless technique by mechanisms of a boring machine to install -- to drill a bore path and then subsequently pull the pipe through to install it within the easement.
1050.           **MR. JETTEN:** All right. And is directional drilling proposed to be used for this route?
1051.           **MR. LAYBOLT:** Yes, there are currently two mechanisms of directional drill proposed for the route that I previously referred to as the electrical transmission corridor route and both locations were identified in that filing.
1052.           **MR. JETTEN:** Sorry, directional drilling and sorry what's the other method you mentioned?
1053.           **MR. LAYBOLT:** I didn't mention a second method.
1054.           **MR. JETTEN:** Okay.
1055.           **MR. LAYBOLT:** There are two locations ---
1056.           **MR. JETTEN:** Oh, two locations.
1057.           **MR. LAYBOLT:** --- of directional drills.
1058.           **MR. JETTEN:** Okay. And sorry, what was the second location?
1059.           **MR. LAYBOLT:** In Enbridge's filing A79406-6, they are identified as the Westover HDD and the Copetown Woods HDD.
1060.           **MR. JETTEN:** All right. And what's the other possible drilling method that Enbridge would typically use for a construction, and could you give a description to me; what's it called and a description?
1061.           **MR. LAYBOLT:** The vast majority of pipeline construction is completed by conventional construction, which consists of using equipment to excavate a ditch from surface directly adjacent to where the pipeline is to be installed.



**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

1062.           **MR. JETTEN:** And does that have a certain name, or it's just excavation?
1063.           **MR. LAYBOLT:** Just conventional construction.
1064.           **MR. JETTEN:** Okay.
1065.           **MR. LAYBOLT:** Open cut.
1066.           **MR. JETTEN:** Open cut, okay.
1067.           **MR. LAYBOLT:** Yeah.
1068.           **MR. JETTEN:** Mr. Chair, if I could just pause for just a minute? I just need to consult with my client just for ---
1069.           **THE CHAIRMAN:** By all means, take your time.
- (A short pause/Courte pause)
1070.           **MR. JETTEN:** So if I could just come back, Mr. Laybolt, again. So with respect to areas of the pipeline route where there has been conducted a Stage 3 or a Stage 4 and there's identification of archaeological matters of concern or the potential for them, what construction methodology is Enbridge proposing to use, directional drilling or the conventional open-cut construction?
1071.           **MR. LAYBOLT:** So to my knowledge, the Stage 3 and Stage 4 locations along the entirety of the route would be via open-cut construction. But by merits of completion of the archaeological program, namely Stage 4, the workspace is adequately cleared by proper documenting and excavation of any findings within that workspace thereby mitigating the concerns associated with conventional open-cut construction. This would largely be indicative if alternative measures could not be implemented.
1072.           **MR. JETTEN:** Okay. And for those areas where there has been or there intends to be directional drilling let's assume that you've done directional drilling and then installation as you're basically pulling the pipeline through rather than using an open cut; you're pulling it through to install it, correct?

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

1073.           **MR. LAYBOLT:** That is correct, using trenchless construction methods the pipe is pulled through an excavation that's not made by directly accessing the route from directly above that location.
1074.           **MR. JETTEN:** All right. So you mentioned that there's two locations, the electrical corridor and the Westover Copetown Woods areas where directional drilling is going to be used?
1075.           **MR. LAYBOLT:** There are two locations where directional drills are currently planned by the project; that is correct.
1076.           **MR. JETTEN:** Okay. And the balance would be the conventional construction?
1077.           **MR. LAYBOLT:** For the vast majority of the right-of-way, excluding through other areas sensitive to open-cut construction such as across major roadways and railroads.
1078.           **MR. JETTEN:** And what do you use there?
1079.           **MR. LAYBOLT:** Construction across those locations is done via conventional bores.
1080.           **MR. JETTEN:** Sorry, conventional?
1081.           **MR. LAYBOLT:** Conventional bores.
1082.           **MR. JETTEN:** Okay. But not open-cut. Okay.
1083.           So can you explain to me where the -- in the areas where the directional drilling is to occur, let's say the pipeline is installed and then years down the road there's a leak in that area for whatever reason or there has to be some sort of repair activity taking place. Can you bear with -- it's the hypothetical that we have, okay? Are you with me so far?
1084.           **MR. LAYBOLT:** I understand your situation, yes.
1085.           **MR. JETTEN:** Okay. So we've got that situation. What methodology will Enbridge use to take the repairs? Particularly given the fact if you've got a leak you've got to do something quickly. Are you just going to be just

**Enbridge Pipelines Inc.**  
**Examination by Mr. Jetten**

- boring into the area just using excavators and backhoes or what methodology is used?
1086.           **MR. LAYBOLT:** Can you confirm that you are in fact talking about an emergency response situation?
1087.           **MR. JETTEN:** Well, let's talk about an emergency response situation and then a non-emergency response situation. We can deal with both. Let's deal with the emergency first.
1088.           **MR. YAREMKO:** In response to that, so Enbridge needs to get archaeological clearance for the segment above the HDD as well. So we'd be proceeding with getting the appropriate clearances in that case.
1089.           **MR. JETTEN:** Do you mean you get the clearances now for a possible repair down the road or do you have to get them at the time?
1090.           **MR. YAREMKO:** As part of the process we will do the clearances on the entire route, including the path over the path of the HDD.
1091.           **MR. JETTEN:** Okay. So you're going to get those now before the construction occurs?
1092.           **MR. YAREMKO:** That's correct.
1093.           **MR. JETTEN:** Okay. So the reason I'm asking these questions is because my clients are concerned -- I'll just tell you they're concerned that if there has to be a dig because of a maintenance situation or a repair that in an area where there hasn't been the careful checking first for the archaeological remains that, you know, heavy machines will simply come in and lay waste to all of the soil and the archaeological remains. And that's the concern I want to raise with you. And I'm just wondering what Enbridge is doing in response to that.
1094.           **MR. HOUNCAREN:** So it's Jason again. That's a valid concern. It's exactly the concern that's shared by the provincial regulator, which is the reason why the entire construction footprint has to receive archeological clearance regardless of the construction method we might employ. And it's for exactly these sort of situations, that in the unlikely event that there was some sort of emergency down the road or even a routine repair, there's the potential we might not have the time to do that archaeological work. So it has to be done for the

- entire construction footprint prior to receiving authorization.
1095.           **MR. JETTEN:** All right. And in terms of the panel members here today, would it be fair to say that you, Mr. Laybolt, in terms of your responsibility for construction matters, has to worry about archaeological impacts?
1096.           **MR. LAYBOLT:** As I referred to before, prior to construction commences the workspace for construction is cleared archaeologically to address concerns of that matter.
1097.           **MR. JETTEN:** But are you involved with any of that?
1098.           **MR. LAYBOLT:** Sorry, can you repeat the question?
1099.           **MR. JETTEN:** Are you involved with any of that, with the interface between archaeology and construction?
1100.           **MR. LAYBOLT:** The interface between archaeology and construction would be in conjunction of myself with Craig and Mitchell.
1101.           **MR. JETTEN:** Okay. All right. And would I be correct in understanding that you have not met any of the archaeological monitors from Six Nations in connection with this project?
1102.           **MR. LAYBOLT:** To my knowledge not in a formal manner, no.
1103.           **MR. JETTEN:** And sorry, did you say Craig would be the other person?
1104.           **MR. LAYBOLT:** My interface for construction would be in conjunction with Craig and Mitch being the CH2M and Enbridge's environmental representatives.
1105.           **MR. JETTEN:** Okay. So I think Mr. Neufeld already said that he hasn't met anyone from Six Nations, correct?
1106.           **MR. NEUFELD:** That's correct.
1107.           **MR. JETTEN:** And then what about you, Mr. Yaremko? Have you met with any of the archaeological monitors from Six Nations?

1108.           **MR. YAREMKO:** Not from Six Nations.
1109.           **MR. JETTEN:** Okay. Would either of you three gentlemen have any objection to actually meeting with them and, you know, taking through what you're planning and have them have a chance to absorb that and then get their feedback or comments?
1110.           **MR. YAREMKO:** In response to that, archaeological monitors have been actively participating through the Stage 2 and Stage 3 field components on the project beginning in the summer. So that is actively ongoing.
1111.           **MR. JETTEN:** So my question, though, was none of them seemed to have had the opportunity to meet with any of you three. My question was, do you have any objection to meeting with them?
1112.           **MR. HOUNCAREN:** We can come back to that question in a minute. But I do think it's worth pointing out that the construction manager that we intend on having this project when it comes to construction is a resident out here and has been actively engaged in the archaeological program for the entire summer. And I have no doubt he has met every one of the First Nations monitors, including the monitors from Six Nations.
1113.           So while Mark and Craig and Mitchell may not have spent time out here on the ground interacting with those folks, I don't want to leave you with the impression that nobody from Enbridge has met with them and discussed their concerns along the way.
1114.           **MR. JETTEN:** And who is this person?
1115.           **MR. HOUNCAREN:** His name is Mike Jespersen.
1116.           **MR. JETTEN:** Okay. Just bear with me for a moment.
1117.           So I've just been told that the concern is not simply that the monitors meet with the person that you mentioned or somebody that would be involved with a Stage 3 or a Stage 4, but that actual persons from the Six Nations resource office have the opportunity to raise some of the issues, because they're the ones, ultimately, that have to take responsibility in their community for preservation of archaeological matters, not the monitors who may be hired -- may have been

- hired.
1118.           And so I was just wondering if the first gentleman you mentioned or any of you would be prepared to meet with, for example, Joanne Thomas of the Six Nations to discuss archaeological matters?
1119.           **MR. HOUNCAREN:** Absolutely. I would commit not only Mike to coming but I would also be willing to have that discussion myself.
1120.           **MR. JETTEN:** Okay, so I'm not sure who would answer this question, but maybe Mr. Yaremko. So the Stage 4 assessment process is, as you've described it, about 27 percent done, but there's more to be done than the 63 percent potentially, because there could be -- some of the Stage 2 or some of the Stage 3 could be pushed into a Stage 4 situation.
1121.           I just want to discuss with you a hypothetical to know how it works. If, in discussions with the archaeologists or with Enbridge or the construction manager, the Six Nations felt that they didn't want a particular area that was in Stage 4 constructed through -- in other words, they didn't want it removed because it was a burial ground, let's say -- and they wanted to leave it in situ, what would happen then? Do -- would Enbridge go around that area or would they use directional drilling to sort of go underneath the area?
1122.           **MR. YAREMKO:** I think in that instance, really -- again, avoidance is our first and primary objective ---
1123.           **MR. JETTEN:** M'hm.
1124.           **MR. YAREMKO:** --- to that. So we would certainly explore any alternatives we would have to avoid that particular area of concern.
1125.           **MR. JETTEN:** All right, and what if -- so in other words, you would commit to further discussions with Six Nations about that sort of a situation?
1126.           **MR. YAREMKO:** Yes, that's part of the consultation process, certainly.
1127.           **MR. JETTEN:** All right, and what happens if Six Nations disagrees with what Enbridge wants to do? Hypothetically, would you simply decide and plough ahead or would you go -- come back to the Board and ask for the Board's

direction as to what should be done in this circumstance?

1128.           **MR. YAREMKO:** In response to that, again, I think it's Enbridge's primary interest to resolve these amicably where possible. I think what Enbridge is committed to, though, is making sure they meet the Ministry of Tourism and Culture guidelines to ensure that the clearance is obtained for the project.
1129.           **MR. JETTEN:** So in other words, the ultimate -- in the case of a disagreement -- I'm trying to make sure that what happens in the case of a disagreement -- that's what lawyers always want to know. Like, what's the dispute resolution mechanism? So in the case of the archaeological -- archaeology, it would be the Ontario ministry that would be the ultimate person that you would say would make the call in terms of clearance or not clearance?
1130.           **MR. YAREMKO:** They have the authority, yes. Again, Enbridge would be doing all it could to mitigate concerns.
1131.           **MR. JETTEN:** Okay. All right. Now, I think this is probably your bailiwick as well, Mr. Yaremko, because being with Enbridge, but -- and also because of the subject matter -- but would you have any objection to consultants with appropriate expertise conducting a traditional land-use study before construction?
1132.           **MR. PRUD'HOMME:** We actually -- this is Eric. We actually offered site-specific traditional land study to be done. Funding has already been offered to Six Nation, and there's also an offer that was made on the table for a general traditional land studies for their territory; however, they left the discussion, so just like as a reminder, the offer is still on the table and the door is still open for such.
1133.           **MR. JETTEN:** Okay, and you're talking about a fairly recent offer in that regard?
1134.           **MR. PRUD'HOMME:** The offer was made with regards to the affidavit that was provided in June of 2015. We promptly, on June 23<sup>rd</sup>, sent a letter to Six Nation and we did have a meeting early in July, and during the summer, those offers were made, yes.
1135.           **MR. JETTEN:** And when you say -- when you refer to a site-specific study, what do you mean by "site-specific" as to -- as opposed to a project study?

1136.           **MR. PRUD'HOMME:** Well, it would be for us. One of the question that we have wanted to have an answer to, of course, always is to have specific information about sites that of are interest culturally or in terms of traditional land use. So in terms of a scope, that would be a smaller scope, but we also made the offer of a broader scope, a traditional land-use study for the whole territory as well.
1137.           **MR. JETTEN:** Okay, and if such study was done, I would assume it would cover -- and I don't know if it's Mr. Yaremko or yourself again -- but such a study would set out the effects on traditional purposes? I assume that would be one part of it?
1138.           **MR. PRUD'HOMME:** We have asked the Six Nation to provide us a scope. It is not for us to decide what is best or is of concern to them. We believe that it is for them to bring their interests and for us to provide, as much as possible, tools and resources for them to accomplish that goal.
1139.           **MR. JETTEN:** All right. Since -- I mean, expertise is obviously required for this sort of thing. Typically, on these studies, would it be fair to say that the consultants who work on them, similar to environmental site assessments, would set out the effects or potential effects on the traditional resource uses? Maybe Mr. Neufeld can even answer this -- a summary of mitigation measures proposed and also how they are incorporated into the environmental protection plan for the project?
1140.           **MR. NEUFELD:** That could be one aspect or one way of taking -- or doing the traditional land and resource use study. I think the specific direction of that study would be directed, in part, or in a large part, by the First Nations themselves, identifying what interests they're concerned about, what concerns they have.
1141.           **MR. JETTEN:** Okay, fair enough. And finally -- and I just have a question about -- it's Exhibit number A79569-2. It's the Enbridge response to Professor Charles Hostovsky's report and it was filed on October 14, 2016, so just Friday.
1142.           And do we have that -- oh, looking for the document -- it's A79569-2; it's one of the last documents filed.



**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

1143.           **THE REGULATORY OFFICER:** We'll just be one moment, please.
1144.           **MR. JETTEN:** Okay.
1145.           Okay, so I don't know if I -- I don't think I asked this question earlier. And it may be that different people have provided different portions but can you -- can one of you advise as to who prepared the responses on behalf of Enbridge as to this response?
1146.           **MR. PRUD'HOMME:** I was responsible. This is Eric speaking. I was responsible for responses that pertain for consultation with our stakeholders and Aboriginal communities.
1147.           **MR. JETTEN:** Okay. What about the ones dealing with the environmental site assessment; who was responsible for those responses?
1148.           **MR. NEUFELD:** That would be myself.
1149.           **MR. JETTEN:** Okay. So where we see -- and that's -- just to identify you for the record, it's Craig Neufeld.
1150.           **MR. NEUFELD:** Yeah, that's right.
1151.           **MR. JETTEN:** So where we see the report reference ESA, where professor Hostovsky has taken portions of the quote and asked questions or made comments, the responses have been prepared by you, Mr. Neufeld?
1152.           **MR. NEUFELD:** Primarily, yes, that's correct.
1153.           **MR. JETTEN:** Okay. And in particular I'm interested in the one on page 2 at the bottom, in the bottom box, called "ESA Page 5-8". And there's a discussion in the response about botanical surveys completed in 2016 as outlined in a section of the supplemental ESA. When was the supplemental ESA, mid-August, roughly, of 2016?
1154.           **MR. NEUFELD:** Yeah, an ESA update was filed with the Board on August 15<sup>th</sup>.
1155.           **MR. JETTEN:** And then -- so can you explain to me why the

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

- botanical surveys were not complete by the time of filing of the application?
1156.           **MR. NEUFELD:** At the time of the initial filing -- well, there were various reasons but land access wasn't necessarily obtained at the appropriate timing to do those -- do those specific surveys in all locations.
1157.           **MR. JETTEN:** Okay. And is it because you have to get the right times in the growing season to be able to know if you've found the plants; is that ---
1158.           **MR. NEUFELD:** That's correct. Certain plants flower at different times of the year.
1159.           **MR. JETTEN:** Okay. All right. And I take it that the botanical surveys have not yet been completed even.
1160.           **MR. NEUFELD:** There are certain portions along the pipeline that have been rerouted from the initial application where certain botanical surveys are still outstanding.
1161.           **MR. JETTEN:** So -- and the belief is that the additional botanical surveys will be completed in the spring and summer of 2000 along the replacement pipeline route where surveys have not been previously completed, correct?
1162.           **MR. NEUFELD:** Yes, that's correct.
1163.           **MR. JETTEN:** And what percentage of the pipeline route is that that's left to be completed?
1164.           **MR. YAREMKO:** The remaining botanical surveys are primarily associated with the electrical transmission corridor route.
1165.           **MR. JETTEN:** Okay. Any other areas?
1166.           **MR. YAREMKO:** No, that's it.
1167.           **MR. JETTEN:** All right. And then on page 9 for the response dealing with ESA, page 6-10, there's a -- at the -- the bottom of the box -- and is this your response as well, Mr. Neufeld?

1168. **MR. NEUFELD:** That's correct.

1169. **MR. JETTEN:** So it says:

*"Enbridge surveyed all private fee simple landowners along  
the Project's proposed route..."*

1170. Was that Enbridge doing it or CH2 and Hill doing it?

1171. **MR. NEUFELD:** Actually, maybe I should clarify with respect to that survey that was done; that was done by Ms. Schwaebe.

1172. **MR. JETTEN:** Sorry, by?

1173. **MR. NEUFELD:** Ms. Schwaebe.

1174. **MR. JETTEN:** Okay.

1175. **MS. SCHWAEBE:** So it's Kara Schwaebe speaking.

1176. We hired a third-party independent land company called CanACRE. They undertook the surveys with 84 percent of the landowners which are fee simple -- that's the land where it's their own -- by fee simple landowners, and they asked every landowner whether First Nations had been granted access in the past, or granting access currently, or if they were aware of the activities on their property.

1177. **MR. JETTEN:** Okay. And was this a written survey or an in-person survey?

1178. **MS. SCHWAEBE:** It was in-person survey.

1179. **MR. JETTEN:** Okay. And what was the -- when you say "surveyed all", you had a take-up rate of 100 percent?

1180. **MS. SCHWAEBE:** Yes, so all landowners directly impacted by the project, meaning they'd have a right-of-way or workspace on their property, were met with personally because not only do we have to ask these questions about their properties but acquire the land rights from them.

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

1181.           **MR. JETTEN:** All right. And when was this done?
1182.           **MS. SCHWAEBE:** We started in June 23<sup>rd</sup> of 2015 when the initial project was kicked off and we continued to meet with landowners when new land rights are identified for acquisition; and we make sure to consult with them on the project as a whole and go through numerous questions regarding their property.
1183.           **MR. JETTEN:** Okay. And do you have a -- do you have a written sheet or whatever as to what the survey is?
1184.           **MS. SCHWAEBE:** We have a record of contact with the questions on it in the survey.
1185.           **MR. JETTEN:** Can I get a copy of that?
1186.           **MS. SCHWAEBE:** Yes.
1187.           **MR. JETTEN:** Do you happen to have it with you?
1188.           **MS. SCHWAEBE:** I do, yes.
1189.           **MR. JETTEN:** Okay.
1190.           **THE CHAIRMAN:** Excuse me; is that already filed as evidence as part of an exhibit or is this a new ---
1191.           **MS. SCHWAEBE:** No, the record of contact is not but the consultation logs, which contain all the details, have been.
1192.           **THE CHAIRMAN:** Mr. Jetten, would you like that to be part of the record?
1193.           **MR. JETTEN:** I think the mic is working now. Yes, I think it should be made an exhibit to get a full picture here.
1194.           **THE CHAIRMAN:** One more question for Enbridge. Is there any personal information that maybe we wouldn't want on the record?
1195.           **MS. SCHWAEBE:** I can respond to that. It's a blank record of

- contact; it contains no personal information on it.
1196.           **THE CHAIRMAN:** Okay. If the Regulatory Officer could give it an exhibit number, and could we get a copy of it please?
1197.           **THE REGULATORY OFFICER:** The exhibit number will be A79905.
- EXHIBIT NO./PIÈCE No. A79905:**
- Enbridge Pipelines Inc. - Line 10 Westover Segment Replacement - Stakeholder Consultation Record*
1198.           **MS. SCHWAEBE:** I also have it electronically if it would be sufficient to submit it on a break. I can submit it electronically as well if that would ---
1199.           **THE CHAIRMAN:** That would be great, thank you.
1200.           **MR. JETTEN:** And have the results of this survey and the particular questions asked about Aboriginal traditional uses -- have they been collected or accumulated anywhere?
1201.           **MS. SCHWAEBE:** Yes, the information is collected in a consultation logs weekly. It's updated on the spot. We do use tablet systems on this project so landowner meetings are uploaded immediately into our consultation system, as well as we export that information on specific First Nation questions we asked or any other questions to CH2M for incorporation in their EPP.
1202.           **MR. JETTEN:** Has the Board been provided that information? Is it an exhibit in terms of the cumulative information in response to those questions without identifying personal information from any particular landowner?
1203.           **MS. SCHWAEBE:** Only in the sense that the consultation log information; that was filed as an NEB IR response. However, that information was confidential as it includes the personal information of each individual landowner. So no, they were not provided the record of contact template.
1204.           **MR. JETTEN:** I don't want to create work for you but is it possible -- and I don't want to put on the record personal information of anybody because

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

- it's not really relevant, but are you able to fairly readily indicate in respect of each of the questions -- there's five questions dealing with Aboriginal traditional uses and there's a box for yes or no. Are you able to assemble how many yesses and how many no's there are in response to each of the questions?
1205.           **MS. SCHWAEBE:** I can actually tell you the answer to that because I personally reviewed it along with our land broker. No one answered "yes" to any of the questions of the fee simple landowners asked.
1206.           **MR. JETTEN:** Okay, all right.
1207.           And I'm just jumping back a little bit on the traditional land use investigation, and I don't know if Mr. Yaremko is the right person or Mr. Prud'Homme but feel free to have both of you weigh in on this.
1208.           Would there be any objection to Enbridge retaining Six Nations monitors to participate in construction monitoring for the purpose of monitoring effects on resource uses important to Six Nations?
1209.           **MR. PRUD'HOMME:** No -- this is Eric -- there is no such objection.
1210.           **MR. JETTEN:** Okay, thank you.
1211.           Those are my questions.
1212.           **THE CHAIRMAN:** You've completed your cross? Sorry, I was writing something down.
1213.           **MR. JETTEN:** Thank you.
1214.           **THE CHAIRMAN:** Okay, thank you.
1215.           **MR. JETTEN:** Just I will bring this exhibit up so that whatever the copies can be made and officially entered into the record that the Exhibit A79905 that we were talking about a few minutes ago.
1216.           **THE CHAIRMAN:** That's fine. Enbridge is going to provide us with an electronic copy as well. Thank you.

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

1217. Just keep going, Mr. Jetten, we're -- so you're completed so we're just going to have a little discussion here for a minute.

--- (A short pause/Courte pause)

1218. **MR. JETTEN:** Mr. Chair, pardon me, there was a couple of small questions that I forgot to ask that I'll -- just before I close off; if I could?

1219. **THE CHAIRMAN:** Go ahead because we were going to adjourn for the day when you're finished because we didn't want to start our questions and then be half finished and then complete them tomorrow, so you go ahead.

1220. **MR. JETTEN:** I think this is just a question for Mr. Prud'Homme because it was something that was just brought to my attention just before we started today and it would be more for the purpose of marking them if it's appropriate.

1221. But, Mr. Prud'Homme, did you or your team ever receive from the Six Nations land and resource office a collection of documents explaining the Six Nations land rights situation as it pertained to the Haldimand Treaty? Not necessarily the Treaty of 1701 which we were talking about but also dealing with their consultation and accommodation procedure? If you want to take a look at it just to see if it looks familiar I can just provide it to you right now.

1222. Unfortunately, I only have the one copy that was provided to me today but I thought I'd just ask you about it to see if it looked familiar and it was something that you or one of your team at Enbridge may have received at some point in discussing matters with Six Nations?

1223. **MR. PRUD'HOMME:** I have not personally but I'm pretty sure my team members, and I know this information for having seeing it on the Six Nations website.

1224. **MR. JETTEN:** Okay, all right. If that's the case, since you would have seen it on the Six Nations website is there any objection to me just marking and identifying this package from Enbridge's counsel?

1225. **MR. PURVIS:** Yeah, no objection.

1226. **MR. JETTEN:** Okay. So let me -- if I could just identify it for the

**Enbridge Pipelines Inc.  
Examination by Mr. Jetten**

- record? And I'm in your hands as to whether you need to give them separate exhibit numbers or just collect it together, but it's a folded brochure put out by the Six Nations of the Grand River for public information and it is something that's provided typically to, as I understand it, by the Six Nations council lands and resources department to proponents of projects. And within the folder or brochure is a one-page sheet called "Six Nations of the Grand River Consultation and Accommodation Procedure" which describes it as a 13-step process that they typically follow.
1227. Then the second document in the folder is a document of some 39 pages in a brochure called "Six Nations of the Grand River Land Rights Financial Justice Resolutions".
1228. And then there's a seven-page document which is actually the Six Nations of the Grand River Consultation and Accommodation Policy, which is on their website and which actually is already in the record of this proceeding as an exhibit to Mr. General's affidavit.
1229. And then finally, there's a couple of other documents, one being a brochure consisting of 31 pages and a back cover called "Land Rights: A Global Solution for the Six Nations of the Grand River".
1230. And then finally a brochure called "Six Miles Deep: Land Rights of the Six Nations of the Grand River". That one, of course, is not in the area where the project route is, but it would be a package that is typically given to Proponents who are within that -- who would be within that particular portion of the area covered by the *Haldimand Proclamation* or *Haldimand Treaty*, which is not really relevant to this particular proceeding.
1231. So if we could just mark that either as separate or one exhibit, I'm in your hands.
1232. **THE CHAIRMAN:** Mr. Purvis, do you have any problem with this being one exhibit number?
1233. **MR. PURVIS:** No, I don't have a problem with that.
1234. **THE CHAIRMAN:** Okay. We would ask Ms. Turcotte if she could give us an exhibit number for that, please?



1235. **THE REGULATORY OFFICER:** The exhibit number will be A79906.

**--- EXHIBIT NO./PIÈCE No. A79906:**

*Six Nations of the Grand River - Brochure package*

1236. **MR. JETTEN:** Now I am truly finished unless you have any questions.

1237. **THE CHAIRMAN:** Just one. You indicated to Mr. Prud'Homme that was your only copy. I'm assuming you have other copies available to you?

1238. **MR. JETTEN:** Yes, my client -- it's the only copy I personally have at the moment. But my client has lots of copies so I can get one from them.

1239. **THE CHAIRMAN:** Okay. Thank you very much, Mr. Jetten.

1240. I think what we'll do is we'll adjourn for the day. We'll start tomorrow morning at 8:30 with Board counsel and then questions from the Panel if we have any questions.

1241. Mr. Purvis, if you could just update our counsel on your timing it gives us a bit of an idea tomorrow.

1242. **MR. PURVIS:** I will do that, thank you.

1243. **THE CHAIRMAN:** We're adjourned until 8:30 tomorrow morning. Thank you, everyone. And hopefully it will be a little cooler tomorrow.

--- Upon adjourning at 4:42 p.m./L'audience est ajournée à 16h42