

INTERNATIONAL CENTRE FOR THE SETTLEMENT OF
INVESTMENT DISPUTES

----- -x
 In the Matter of Arbitration :
 Between: :
 :
 GABRIEL RESOURCES LTD. and GABRIEL :
 RESOURCES (JERSEY) LTD., :
 : Case No.
 Claimants, : ARB/15/31
 :
 and :
 :
 ROMANIA, :
 :
 Respondent. :
 ----- -x Volume 2

VIDEOCONFERENCE:
HEARING ON THE MERITS AND JURISDICTION

Tuesday, September 29, 2020

The World Bank Group

The hearing in the above-entitled matter came on
at 8:00 a.m. before:

PROF. PIERRE TERCIER, President of the Tribunal

DR. HORACIO A. GRIGERA NAÓN, Co-Arbitrator

PROF. ZACHARY DOUGLAS, Co-Arbitrator

Also Present:

MS. SARA MARZAL YETANO
Secretary to the Tribunal

MS. MARIA ATHANASIOU
Tribunal Assistant

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MR. DARRYL LEW
MR. BRODY GREENWALD
MR. PETR POLÁŠEK
MR. HANSEL PHAM
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MR. SIMON LUSTY
MR. RICHARD BROWN
MS. RUTH TEITELBAUM

Representing Roşia Montană Gold Corporation:

MS. CECILIA JAKAB
MS. ELENA LORINCZ
MR. MIHAI BOTEA

APPEARANCES: (Continued)

Attending on behalf of the Respondent:

DR. VEIJO HEISKANEN
MR. MATTHIAS SCHERER
MS. NORADÈLE RADJAI
MS. LORRAINE de GERMINY
MR. CHRISTOPHE GUIBERT de BRUET
MR. DAVID BONIFACIO
MR. BAPTISTE RIGAUDEAU
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C O N T E N T S

	PAGE
PRELIMINARY MATTERS.....	293
WITNESSES:	
DR. MIKE ARMITAGE and NICK FOX	
Direct presentation.....	307
Cross-examination by Mr. Guibert de Bruet.....	350
Redirect examination by Mr. Polašek.....	457
Questions from the Tribunal.....	461

P R O C E E D I N G S

1
2 PRESIDENT TERCIER: Good morning, good
3 afternoon, ladies and gentlemen. I have the honor to
4 open the second hearing day in the ICSID Arbitration
5 Case 15/31 between Gabriel Resources, Limited, and
6 Gabriel Resources (Jersey), Limited, versus Romania.

7 I hope that you had a good rest and that
8 we'll have again an interesting hearing today.

9 A few points before starting. First, we
10 have received yesterday evening--or evening, depends
11 where you are, Transcript of Day 1 submitted to us by
12 David, with an important message. I assume that you
13 have all seen his message for the correction. Thank
14 you very much, David, for that.

15 Secondly, you have also received from our
16 Secretary the times that each Party has spent for the
17 Opening. You told us yesterday that you had no
18 problem with this.

19 Third point concerning the List of
20 Participants, if we have a look at our Paras 26 and 30
21 of PO 13, normally, we should identify and announce
22 all participants at each hearing day and confirm any

1 new participants after each break. I assume there are
2 no new participants, if I'm not mistaken. Can you
3 confirm it on your side, Mrs. Cohen?

4 MS. COHEN SMUTNY: Claimants confirm no new
5 participants.

6 PRESIDENT TERCIER: Fine. And on the
7 Respondent's side?

8 DR. HEISKANEN: We similarly confirm.

9 PRESIDENT TERCIER: Okay. Fourth point, we
10 have received just a few minutes ago a letter
11 transmitted by our Secretary and a letter from
12 Respondent concerning an amendment of Paragraph 66.
13 Paragraph 66 would read as follows: "A link for the
14 live transcription shall be passworded, protected and
15 restricted to the approved list of hearing
16 participants, including those witnesses who have not
17 yet testified." That's not new.

18 "When testifying, both experts and witnesses
19 shall have access to the live transcription." That's
20 the modification.

21 Do you have a comment on your side?

22 Respondent first.

1 DR. HEISKANEN: No comment. This is agreed
2 between the Parties.

3 PRESIDENT TERCIER: Okay. Mrs. Cohen, can
4 you confirm it?

5 MR. POLASEK: Mr. President, for Claimants,
6 we confirm. We have no comments, and this was agreed.
7 Thank you.

8 PRESIDENT TERCIER: Thank you very much.

9 Is it already applied to the two experts?
10 Dr. Armitage or Mr. Fox? Do you have a live
11 transcript in front of you?

12 THE WITNESS: (Dr. Armitage) No.

13 THE WITNESS: (Mr. Fox) No. We have
14 received e-mail just before we dialed in, but we
15 haven't logged in.

16 PRESIDENT TERCIER: Okay. Is this is a
17 problem, Respondent?

18 DR. HEISKANEN: Not an issue on our side.

19 PRESIDENT TERCIER: So, the Rule 66 is still
20 not--is not applicable right now?

21 SECRETARY MARZAL YETANO: We only found out
22 this morning, so I need to send David the e-mails of

1 the Experts and then David needs to send the Live
2 Litigation invitation. We haven't had time to do
3 this. I've just--yeah? Oh, you did? Oh, okay.
4 That's superfast. Okay, perfect.

5 PRESIDENT TERCIER: Can you confirm it,
6 Dr. Armitage? Can you confirm?

7 THE WITNESS: (Dr. Armitage) I can confirm I
8 have the e-mail. Neither of us have logged in. I'm
9 just clicking on it now.

10 MR. POLASEK: Mr. President, if I may make a
11 suggestion, I think if there is no problem on the
12 Claimants' side, if we proceed for the time being
13 without the Transcript, and at the break we can try
14 and see whether we can get it running, but I think, if
15 not, I don't foresee an issue--

16 (Overlapping speakers.)

17 PRESIDENT TERCIER: Okay, so if Respondent
18 has no objection, we will proceed like that.

19 The next point on the general issues concern
20 the objection that has been raised yesterday. The
21 Tribunal discussed this shortly before the Hearing and
22 decided the following:

1 We invite Claimants to prepare a short
2 submission--short, really, a few pages--explaining and
3 elaborating on the question of valuation. And this
4 should be submitted to the Arbitral Tribunal tomorrow,
5 one hour before start of the Hearing. Respondent will
6 have an opportunity to answer, to comment also within
7 24 hours after receipt of Claimants' position, also,
8 in a few days. And depending on the outcome, the
9 Arbitral Tribunal will see what you will do, whether
10 we will ask for further explanation or whether we can
11 be already in the position to take the Decision.

12 Is it clear, Claimant?

13 MS. COHEN SMUTNY: Mr. President, the
14 objection is Respondent's objection, and so the
15 Respondent should elaborate what is the basis for its
16 objection, and then the Claimant should respond to
17 this objection, and so that's--of course, Claimant is
18 prepared to respond to this objection, but Claimant is
19 responding to the Respondent's objection.

20 PRESIDENT TERCIER: Yes, but the point is
21 that we would be also interested to have now the clear
22 position between the dates that have been mentioned

1 and the impact of the valuation. I think this seems
2 to me, or seemed to me, to us important in order to
3 have a clear, more clarified, if need be, clarified
4 position concerning the valuation of the damages.

5 Your request--

6 (Overlapping speakers.)

7 MS. COHEN SMUTNY: Claimants are entirely
8 prepared to elaborate and explain why this is not a
9 claim and why this is an argument based on evidence in
10 the record.

11 The point is simply that Claimants reserve
12 the right to respond to the Respondent's objection.
13 The Respondent is the moving party on this objection,
14 and Claimants reserve the right to respond. That's
15 all. Of course, Claimants are perfectly prepared to
16 elaborate today or tomorrow, whatever the Tribunal
17 prefers.

18 PRESIDENT TERCIER: Okay. I take note of
19 your position. I assume, depending on my
20 co-Arbitrators' position, that we maintain the
21 Decision as we have. You have 24 hours to make a
22 short explanation also on the question of the

1 valuation and the impact it could have on the
2 valuation, then 24 hours for Respondent to comment,
3 and we would open the possibility for you to comment
4 on Respondent's comment and have a short second round.
5 Could you agree with this, Mrs. Cohen?

6 MS. COHEN SMUTNY: Yes, thank you very much.

7 PRESIDENT TERCIER: Mr. Heiskanen,
8 Dr. Heiskanen?

9 DR. HEISKANEN: Yes, we do agree on the
10 understanding that, if required, there will be a
11 second round.

12 PRESIDENT TERCIER: Yeah, I mentioned it.

13 Okay. If my co-Arbitrators do not
14 protest--it doesn't seem to be the case--I come now to
15 the examination of our experts.

16 DR. MIKE ARMITAGE and NICK FOX, CLAIMANTS' WITNESS,

17 CALLED

18 PRESIDENT TERCIER: Good afternoon,
19 Dr. Armitage, Mr. Fox. Welcome in this Hearing. You
20 know--as you know, a very special system with a
21 virtual hearing, so you see the Members of the
22 Arbitral Tribunal and, of course, you guess who are

1 the other persons that are appearing on screen or that
2 would appear.

3 You will be heard in this proceeding as an
4 expert. I think you have received the Declaration
5 that you are invited to read.

6 You have the Declaration of the Experts?

7 THE WITNESS: (Dr. Armitage) No.

8 THE WITNESS: (Mr. Fox) We have not received
9 that.

10 PRESIDENT TERCIER: Sara, could you
11 please--here it is. You have it.

12 First, Dr. Armitage.

13 THE WITNESS: (Dr. Armitage) I solemnly
14 declare upon my honor and conscience that my statement
15 will be in accordance with my sincere belief. I will
16 not receive or provide communications of any sort
17 during the course of my examination.

18 PRESIDENT TERCIER: Okay. Mr. Fox?

19 THE WITNESS: (Mr. Fox) I solemnly declare
20 upon my honor and conscience that my statement will be
21 in accordance with my sincere belief. I will not
22 receive or provide any communications of any sort

1 during the course of my examination.

2 PRESIDENT TERCIER: Okay, good. I don't
3 know if you have received PO 33 concerning the
4 examination of witnesses. I just would like to recall
5 one or two important points that, first, you will not
6 receive or provide communication of any sort during
7 the course of your examination, that you will remain
8 visible at all times during the examination; that also
9 you will have a clean, hard copy of your Expert
10 Report; and that the next point is the question of how
11 we will proceed with who will answer the question, and
12 I will come to it just in a moment.

13 Can you confirm the point, the point that I
14 have just read, that you can agree with it and confirm
15 that it is clear?

16 THE WITNESS: (Dr. Armitage) Yes.

17 THE WITNESS: (Mr. Fox) Confirmed.

18 PRESIDENT TERCIER: Okay. You spoke both
19 together at the same time. That is fine. It is a
20 perfect stereo.

21 In the interest of time, I would just not
22 give you an opportunity to introduce yourself. In

1 fact, we have, of course, read and analyzed your
2 Reports, and, in the first pages we have the summary
3 and then your CV. I do not think with that we need
4 for the interest of time further introduction. I hope
5 you don't take it as a lack of politeness.

6 You have prepared for this arbitration two
7 Experts Reports. The First Expert Report is dated
8 the 10th of February--no, sorry, is dated the 30th of
9 June 2017. It's called "Expert Report of Dr. Mike
10 Armitage and Nick Fox," and the second dated 2nd of
11 November 2018, "Second Expert Report of Dr. Mike
12 Armitage and Nick Fox."

13 Now, you have these two documents in front
14 of you. My question to you is: Can you confirm the
15 contents of these two reports, or do you wish to make
16 amendments or corrections?

17 Dr. Armitage.

18 THE WITNESS: (Dr. Armitage) No, we've no
19 wish to make any amendments.

20 PRESIDENT TERCIER: Okay. And, Mr. Fox, you
21 can for the--

22 (Overlapping speakers.)

1 THE WITNESS: (Mr. Fox) Agreed.

2 PRESIDENT TERCIER: Okay. Good.

3 My next question to you is the way you have
4 prepared it. You did it together. Is one of you or
5 was one of you more specialized in one part or can you
6 confirm or can you tell us how you came to this Report
7 and who is--that you are co-authors--that you are the
8 co-authors and there is not a special part that only
9 one of you has dealt with?

10 Dr. Armitage.

11 THE WITNESS: (Dr. Armitage) Well, yes, the
12 Report was produced jointly by Nick and myself. I
13 would say that, while we're both familiar with all of
14 the reports, there is sort of the source and reserve
15 reporting and 43-101 requirements and a lot of the
16 technical issues I'm closer to because I was managing
17 the Project when we produced the document, when we
18 produced the Report; whereas Nick is much closer to
19 the economic model that we've tabled, so the capital
20 costs and the operating costs assumptions, and the
21 assumptions in the model, the timeframes and that sort
22 of thing, so that is a general split, I would say.

1 PRESIDENT TERCIER: Okay. Now, this has an
2 importance of the way you will answer the questions
3 that will be asked you because, according to
4 Paragraph 57, the Tribunal has decided that, once a
5 question is posed by the cross-examiner, and unless
6 such question relates to the expertise of a particular
7 expert or to a specific party in the Report prepared
8 only by one author--that's not the case--either expert
9 will be able to answer but only one of them will be
10 allowed to answer to each question. And to the extent
11 that there are clear and justifiable grounds to do so,
12 this rule will be applied with flexibility.

13 So, the principle will be you tell us who
14 will answer the question. Normally, it is only the
15 one who starts answering the question that has the
16 right to answer. And if need be and just based on
17 some justifiable grounds, we could accept that the
18 other also add something.

19 Is it clear? It is important to have a
20 clear Transcript and a clear position.

21 Dr. Armitage?

22 THE WITNESS: (Dr. Armitage) Yes, we

1 understand that.

2 PRESIDENT TERCIER: Mr. Fox?

3 THE WITNESS: (Mr. Fox) Understood. That is
4 clear.

5 PRESIDENT TERCIER: Okay. Now, my last
6 point before giving you the floor, is to see how it
7 will go. First you will start with a presentation; am
8 I right?

9 THE WITNESS: (Dr. Armitage) Correct, yeah.

10 PRESIDENT TERCIER: Okay. And for that, you
11 have prepared a PowerPoint presentation. I have
12 received by courtesy just a document a few minutes
13 ago. I would like to thank you.

14 I assume, I don't know if my co-Arbitrators
15 have also received it; yes? Yes? Both of them have
16 received. Thank you very much for this.

17 And I assume it will be also on the screen
18 when you start.

19 Have you an idea how long it could be?

20 THE WITNESS: (Dr. Armitage) We're
21 envisaging about an hour.

22 PRESIDENT TERCIER: Okay. It was, indeed,

1 what was envisaged.

2 Then Claimant will have the opportunity to
3 ask questions, and these questions are for the
4 rebuttal for Claimant's Witnesses and Experts. We
5 have received the list of rebuttal exhibits that could
6 be used. I think we have this list, so I will give
7 counsel for Claimant an opportunity to complete the
8 direct.

9 Then we will have the cross-examination and
10 the redirect. I recall that the Tribunal had the
11 right to ask questions whenever it feels necessary to
12 do that, without limitation.

13 Is it clear, Dr. Armitage?

14 THE WITNESS: (Dr. Armitage) Yes, it's
15 clear, thank you.

16 PRESIDENT TERCIER: Mr. Fox?

17 THE WITNESS: (Mr. Fox) That's clear. Thank
18 you.

19 PRESIDENT TERCIER: Okay. Do you have a
20 point you would like to add, Mrs. Cohen?

21 MR. POLASEK: Mr. President, we do not--

22 PRESIDENT TERCIER: Mr. Polašek? Yeah,

1 okay. Yeah?

2 MR. POLASEK: Yes, yes. We do not. Just a
3 point maybe on organization. There are limited
4 rebuttal documents addressed in the presentation, so
5 we were not anticipating doing this by way of
6 questions at the end of the examination. The Experts
7 already incorporated that into their presentation, and
8 also there is a section about their qualifications.
9 So, I think in light of your remarks at the beginning,
10 we can skip that and start a little further into the
11 presentation.

12 Thank you.

13 PRESIDENT TERCIER: Thank you very much,
14 Mr. Polašek. It is a good information, and thank the
15 Experts already for that.

16 So, on your side, Dr. Heiskanen, and you
17 have a point?

18 DR. HEISKANEN: Nothing to add. Thank you.

19 PRESIDENT TERCIER: Thank you very much.

20 So, please, Dr. Armitage, Mr. Fox, you have
21 the floor.

22 DIRECT PRESENTATION

1 THE WITNESS: (Dr. Armitage) Yes. So, I'm
2 hoping someone's going to pull the slides up. Okay.

3 If you could advance to the next slide.

4 Well, good morning or good afternoon,
5 everyone. This is going to be a joint presentation
6 from Nick Fox and myself. We are going to dismiss the
7 initial slides that we had summarizing our
8 qualifications and experience, but the aim of the
9 presentation, then, is to give some background on the
10 reporting of Mineral Resources and Mineral Reserves,
11 to give you a brief summary of our experience with the
12 Roşia Montană Project, to present the key conclusions
13 of the NI 43-101 Technical Report we produced in 2012,
14 to give a brief comment on the exploration potential
15 on the projects that the Company were exploring at the
16 same time that it was advancing the Roşia Montană
17 Project, and then to address some of the issues that
18 had been raised by Behre Dolbear in its experts'
19 reports.

20 If you have any questions as we go along,
21 we're very happy to stop and answer the questions, or
22 if there are questions at the end, then that's great;

1 we're happy to answer anything you would like us to.

2 Could I have the next slide, please.

3 So, Mineral Resources and Mineral Reserves,
4 and these terms come up a lot in the experts' reports,
5 witness reports, that have been produced and tabled in
6 this Arbitration. Now, over the years, particularly
7 over the last ten years, these definitions or these
8 terms have become pretty well internationally defined.
9 We go back 10, 20 years, each country almost had its
10 own system for reporting. Now most of the key
11 jurisdictions where mining carries on use these common
12 terms. So, when I'm presenting and summarizing these
13 terms, essentially while these are applicable in
14 Canada, according to the CIM definitions, they are
15 similarly applicable in Europe and similarly
16 applicable in South Africa and in Australia for that
17 matter.

18 But the key distinction here is that Mineral
19 Resources-- that is material, mineralization in the
20 ground-- that has potential to be mined economically.
21 And Mineral Reserves is that portion of that Mineral
22 Resource, if you've determined to be economic to mine,

1 based on either a Pre-Feasibility Study or a
2 Feasibility Study. The resource is what's got
3 potential to be mined, and the Mineral Reserve is what
4 you've demonstrated can be mined economically.

5 And resources are reported using three
6 terms. They can be either inferred, indicated or
7 measured, as you have increasing confidence. So,
8 measured resources are those that you have most
9 confidence in, and Inferred resources are those you
10 have least confidence in.

11 Similarly, reserves are split into probable
12 and proven, proven being those reserves that you're
13 most comfortable with, probable being those reserves
14 that you feel more technical work is needed.

15 You may move on to the next slide.

16 This kind of shows how it works a bit more
17 graphically, and this is a direct extract from the CIM
18 definitions, which is the reporting code that was used
19 for Roşia Montană.

20 So, if you look at the left-hand side of
21 this slide, you'll see an arrow there saying:
22 "increasing geological confidence." So, as we are

1 drilling more holes, collecting more data, getting
2 more comfortable with our mineral resource estimate,
3 we move that resource from inferred into indicated and
4 measured, the key issue there being getting it from
5 inferred into indicated or measured because once you
6 have--sufficiently geologically confident to classify
7 something as indicated, that means that you can also,
8 assuming that you've addressed all the issues that
9 will be required to be addressed to determine it's
10 mineable, you can then report that as a Mineral
11 Reserve.

12 So, if you look at the bottom of the figure,
13 you'll see a list there of what are called "modifying
14 factors." So these--this is a list of all the things
15 that should be looked at when you're considering
16 whether you can report your Mineral Resource as a
17 Mineral Reserve. That way, as you can see, this
18 covers mining, mineral processing, the economics,
19 environmental issues, social issues, all the issues
20 that you would look at when you were completing a
21 Feasibility Study on a mining project.

22 The important thing to note here is that the

1 minimum level of technical work to support a Mineral
2 Reserve statement is a Pre-Feasibility Study, and at
3 Pre-Feasibility Study stage we are still looking at
4 many of these factors as, indeed, we are at the
5 Feasibility Study stage. So, the requirement is not
6 that all of these issues must be thoroughly researched
7 and all work has been completed. It's the view of the
8 person doing the reporting to determine if sufficient
9 work has been done in these areas and to give comfort
10 that we've delineated mineralization as economic to be
11 mined--is economic to be mined. So, we don't need all
12 of the permits. We don't need all of the surface
13 holdings. We simply need to have done enough work to
14 be--to have a reasonable expectation that the
15 mineralization is mineable, economically.

16 Could I have the next slide.

17 And, in Canada, there's an additional
18 requirement in that all companies listed on the
19 Canadian Stock Exchanges, when they're reporting
20 technical information--and that includes Mineral
21 Resources and Mineral Reserves--that needs to be
22 included in a Report which follows the format set out

1 in National Instrument 43-101, and this is a format
2 that sets out exactly what must be covered in the
3 Technical Report, the aim being that Technical Reports
4 written for different companies, different projects
5 all follow the same structure, and all cover the same
6 issues and, therefore, can be compared with each
7 other.

8 A specific requirement in the case of a
9 project that has not yet been put into production, So,
10 Roşia Montană, as we know, is at Feasibility Study
11 stage, projects at that stage, those documents, the NI
12 43-101 must be produced by somebody independent of the
13 Company. That's not the case once the mine is
14 operating. Those reports can be produced by people
15 who work for the Company. But at this stage of
16 development, they must be produced by somebody
17 independent.

18 And they must also be what's called a
19 "Qualified Person." And again, that is a defined
20 term. It's a requirement that the person must have
21 the appropriate professional qualifications,
22 educational qualifications, and also the experience in

1 the specific start of mineralization that is planned
2 to be mined. And that Qualified Person takes
3 responsibility for that Report and is subject to legal
4 and professional sanctions if there are
5 misrepresentations in that Report, so it's a very
6 significant position to hold.

7 Next slide, please.

8 So, that's just some background on Mineral
9 Resources and Reserves and technical reporting. This
10 slide summarizes the work that SRK has done in
11 relation to the Roşia Montană Project.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

█ [REDACTED]

2 Subsequent to that, and perhaps the main
3 report we have produced, the public report that's been
4 produced is the NI 43-101 Technical Report we produced
5 in 2012, that was produced--whereas I was the lead of
6 that Report and I'm the Qualified Person and Nick was
7 the Technical Reviewer and also prepared the economic
8 model--that Report was produced by a team of nine
9 specialists.

10 So, as you can imagine, in a mining project,
11 there are a lot of different aspects to be looked at.
12 It's not possible for one person to be sufficiently
13 expertised in all of those areas, so we had a resource
14 geologist looking at the resource, mining engineer,
15 mineral processor, infrastructure specialists,
16 environmental scientists; and so, we had a full team
17 looking at all the different technical aspects of the
18 Project. This Report we produced reflects their views
19 and the feedback that they gave to Nick and I. So, we
20 compiled the Report, but it was actually input from a
21 significant number of people.

22 I last visited the site in 2011. I'd also

1 visited the site earlier in 2007, I think, and Mr. Fox
2 visited it in 2010.

3 In addition to the NI 43-101, I also
4 testified before the Parliamentary Special Commission
5 in October 2013.

6 Next slide, please.

7 This slide presents the main conclusions of
8 NI 43-101 Technical Report. Summarily, we concluded
9 that the Project was both technically feasible and
10 economically viable. We reported a significant gold
11 resource of over 17 million-ounces, a Mineral Reserve
12 of over 10 million ounces. The Report presented a
13 16-year mine life, producing between 400 and
14 600,000 ounces of gold per year.

15 The Report covered all of the technical
16 aspects of the Project, described mining as a
17 conventional open-pit operation, processing, so that
18 is a method by which we're extracting the mineral from
19 the rock. An area had been extensively investigated.
20 The design was conventional. We reported on the
21 tailings dam design, which we considered to be robust.
22 And we reported on all of the infrastructure aspects

1 as well. And I think perhaps the point to note is
2 that there was nothing being planned for this Project
3 that hadn't been used successfully on many projects
4 elsewhere. There was no novel technology involved in
5 any material way.

6 The next slide, please.

7 Oh, in addition to that, the Report also
8 included the review of environmental and social
9 aspects. We heard a lady that spent time on-site,
10 who's an expert in this area, and her view was that we
11 had--that the Company had undertaken a thorough and
12 comprehensive Environmental and Social Impact
13 Assessment study. We felt that the current proposal
14 is the most beneficial to the Roşia Montană area and
15 has the least negative social and environmental
16 impacts.

17 In addition, the Report was entered--the
18 economics of the Project was entered, capital cost
19 estimates and operating cost estimates, which we had
20 reviewed during 2012, and concluded there's a brief
21 site, so earlier that the Project was economically
22 viable. We also presented sensitivities which showed

1 how the economic viability varied with a range of
2 inputs, in particular gold prices, for example.

3 We also presented in the Report a
4 discounted-cash-flow analysis. This is a requirement
5 of NI 43-101 documents for projects at this stage. It
6 is not, though, presented as a valuation opinion.

7 So, in summary, the Project was designed to
8 use standards and established conventional
9 technologies, and had been produced--the work had been
10 produced by well-established consultants.

11 Next slide, please.

12 This is a list of the main consultants that
13 have been involved in producing the Feasibility Study
14 and undertaking work subsequent to that. I won't read
15 through all these, but RGS Global, who managed the
16 exploration program; SGS, who did the independent
17 assaying; GRD Minproc, who properly produced the first
18 Feasibility Study; Washington Group, who produced the
19 final Feasibility Study--

20 (Pause.)

21 THE WITNESS: (Dr. Armitage) Sure, yeah,
22 yeah. So, well, as I say, I don't think I'll go

1 through all of these, but I think you get the
2 impression from the slide, or hopefully you do, that
3 there are a significant number of consultancies that
4 have been involved in the Project to date, and these
5 are all well-known, very established companies, all of
6 whom have specialized in the areas that they covered.

7 Next slide, please.

8 In addition to there being many well-known
9 companies, established companies, who had produced the
10 Feasibility Study and undertaken the technical work,
11 the Project has also been reviewed by a number of
12 other consultancies. So, obviously I've already
13 talked about the Technical Report that we produced in
14 2012. Micon had produced a very similar-style report,
15 again an NI 43-101 compliant report in 2009, and there
16 had been two other reviews that we're aware of, one
17 had been produced by the Canadian consultancy AECOM on
18 behalf of the Romanian Government, that was in 2013;

19 [REDACTED]

20 [REDACTED] And, as you can see from the
21 extracts that we've given there, both of those
22 subsequent reviews supported the observations that

1 were presented in our Report in 2012.

2 And the next slide.

3 PRESIDENT TERCIER: Dr. Armitage, if you can
4 slow down a bit, because I think it's going extremely
5 quickly for our Court Reporter. Please.

6 THE WITNESS: (Dr. Armitage) No problem.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

18 Could we have the next slide.

19 And, in addition to that, the Company was
20 also exploring the Bucium Properties, the two projects
█ Rodu-Frasin and Tarnița. █

█ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20

Next slide.

[REDACTED]

1 So, an overall conclusion in terms of Roșia
2 Montană and Bucium. In our view, the Roșia Montană
3 Project was at a very advanced stage of development,
4 it had been the subject for several feasibility
5 studies, who were essentially just awaiting
6 permitting. The work had been done by many highly
7 respected consultants, which had also been
8 independently reviewed several times. And the
9 exploration projects had potential to add to the value
10 of Roșia Montană, with significant upside potential
11 both at Roșia Montană itself and at the Bucium
12 Project.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

1 We don't agree with this. We believe that a
2 lot of the alleged issues are based on generalizations
3 about mining industry, and they're not based on a
4 specific detailed technical analysis of this
5 particular project, which was the case with the
6 Feasibility Study and the independent reviews that had
7 been completed.

8 Could I have the next slide, please.

9 So, the next few slides talked through some
10 of the issues that were raised by Behre Dolbear in
11 their witness reports, present their opinion or our
12 understanding of their opinion, give our thoughts on
13 those observations, and then also present some
14 examples where Behre Dolbear themselves have had to
15 deal with similar issues on other projects so that we
16 could see how they similarly dealt with them.

17 So, one of the comments that was raised by
18 Behre Dolbear was the reliability of the Feasibility
19 Study, the point being that it had been produced in
20 2006, and we produced our Report in 2012. Well, we
21 don't believe that just because the Feasibility Study
22 was produced in 2006, that makes it out of date in any

1 way. The technical work that had been done was still
2 being done to a high standard. The mineralization in
3 the ground hadn't changed. The intent was still to
4 mine to the same pits that had been submitted as part
5 of the EIA. And the mineral processing was the same
6 as had been envisaged at the time. So, just because
7 the work had been done previously doesn't mean to say,
8 in our opinion, that that is in any way out of date.

9 In addition to that, quite a bit of
10 additional work had been done since the Feasibility
11 Study, notably the Company had ordered some long-lead
12 items of equipment, had undertaken additional work to
13 optimize the processing, there's been work done to
14 submit and respond to queries on the EIA. There's a
15 pilot plant that's treating water.

16 And, on top of that, they had also
17 commissioned the companies that had done the original
18 Feasibility Study to update their capital and
19 operating costs assessment to 2012 terms. So, we
20 don't believe that just because the study was produced
21 six years ago, that means it's in any way out of date.
22 And while we accept that it would be handy if we were

1 looking for project finance for the Project to
2 assimilate a lot of this additional work into a single
3 document, we don't believe that would be a material
4 task.


5 Could I have the next slide.

6 So, this relates to, in the box there, is an
7 extract from a report that Behre Dolbear produced,
8 again a 43-101 Report, that being the same sort of
9 report that we produced. This report was produced on
10 the Rio Tinto Copper Project, and it's dated
11 February 2013, so it's about the time, same time that
12 we produced our Report. And if you can see from
13 looking at the slide here, that the Mineral Resource
14 and reserve that Behre Dolbear audited and presented
15 in its Report, was produced in 2008, and the study was
16 based on a resource report, not a Feasibility Study, a
17 resource report produced in 2010. This Report, as I
18 said, is dated 2013, so they have a situation there
19 where there is a resource that's five years--had been
20 produced five years earlier, but they're still very
21 happy to report Mineral Resources despite the fact
22 that it was five-years old.

1 Go to the next slide.

2 And this is just an extract from the mining
3 public domain information that just really shows that
4 this is about the same project, an extract in the box
5 there: And, as you can see, this project went on to
6 be built. It was built ahead of schedule and on
7 budget. It just shows that even though the
8 Feasibility Study was--a resource estimate was five
9 years out of date, that didn't impede the Project's
10 ability to proceed.

11 If we could go to the next slide, please.

12 This is another example. In this case, the
13 extracts are from a report produced by Behre Dolbear
14 in April 2012, again about the same time we produced
15 our Report. This one relates to the Toromocho
16 Project. And, as you can see if you read it, this is
17 actually based on a mine design and economic
18 parameters that were produced in 2012--in 2007, so the
19 mine designs and the economic parameters all date from
20 2007, and Behre Dolbear still reported this in 2012,
21 and reported a Mineral Resource estimate and a Mineral
22 Reserve estimate. 

[REDACTED]

[REDACTED]

[REDACTED]

4 Go on to the next slide.

5 Now, one of the other comments that Behre
6 Dolbear raised in their Report was the existence of
7 mined-out areas and voids where we are going to be
8 mining or the Company is going to be mining pits, open
9 pits. So there were two issues here. These are voids
10 that are left from historical mining, so where the
11 pits are going to be mining, there has been previously
12 mining underneath. And there are two issues here.
13 One of them is (a) that means that in the area that
14 you're reporting a resource, some material has been
15 mined, so that needs to be taken into account; and, in
16 addition, when you're mining, you're going to come
17 across holes as you mine, which are going to
18 potentially cause challenges. And their opinion was
19 that these issues had not been taken into account.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 And, similarly, the mining through voids,
11 well, that's established mining practice. There are
12 many projects around the world. I've been involved in
13 some where we have mined through voids.

14 Next slide, please.

15 And again, this is another extract from
16 Behre Dolbear's Rio Tinto 43-101 Technical Report;
17 and, as you can see, there was the same issue in this
18 case, that underground voids were known to exist.
19 Some of the locations were known and some weren't, and
20 yet again, this didn't impede, as we've already seen,
21 the ability for Behre Dolbear to report Mineral
22 Reserves for this Project.

1 And look at the next slide.

2 So, this slide concerns the issues of
3 dilution and mining loss.

4 And just perhaps as a brief bit of
5 background to dilution losses, when you mine an
6 orebody in an open pit, it is not typically the case
7 that the ore is sitting neatly in one place and the
8 waste is sitting neatly somewhere else and that you
9 can simply mine all of the ore and not mine any of the
10 waste. Normally when you mine, you are forced to
11 bring a certain amount of waste material with you to
12 send to the plant.

13 Similarly, if it's almost always the case
14 that you won't be able to mine all of the ore because
15 it's the geometry that is such that you can't get the
16 mining equipment in there. So, some of the ore
17 material which you reported is going to go to the
18 waste dump, so that will be what's called "mining
19 losses" whereas the involvement of waste along with
20 the ore you send to your process plant, that's
21 dilution. And this is important because if you have
22 too much dilution, this means you're sending an

1 increasing amount of material to the process plant,
2 you're having to pay for all that to be processed, and
3 the quality or the grade of your mineralization is
4 less because you've incorporated a lot of waste
5 material.

6 Behre Dolbear's speculation was that the
7 loss in dilution assumptions that were included in the
8 model were understated; and, for the purpose of their
9 own review, they suggested this should be increased
10 and just about double. Well, we don't agree with
11 this, and we reviewed this extensively when we
12 produced our 43-101 Report. We took the block model,
13 took the base data, and we re-interpolated the grades
14 into the block model. We looked at the contiguity of
15 the mineralization. We then looked at how we could
16 mine it and where we mined it, what waste we will get.
17 We did a significant amount of work on this, and we
18 felt that the assumptions that had been made by the
19 Company were reasonable.



[REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

9 And it's not possible to just look at a

10 project and judgmentally decide what the dilution

11 should be. It's got to be the subject of a

12 significant amount of work.

13 The next slide, please.

14 So, if you recall this slide early on, which

15 talked about how the Mineral Resource reporting system

16 worked, you see there were many modifying factors

17 along the bottom of that graph; and, as I said at the

18 time, it's not the case that all of those modifying

19 factors need to be thoroughly, completely addressed to

20 their endpoint. There is almost always more work that

21 is required to be done.

22 And if you look at the bullet points towards

1 the bottom there, again these are extracts from the
2 Behre Dolbear Report on the Rio Tinto Project, you
3 will see this was very much the case there, as well.
4 Permits were still in the process of being reviewed,
5 there were many legacy issues facing the project,
6 approvals were needed still to be done. And there
7 were several towns there. And, if you look at the
8 last bullet point, it says there are several areas
9 where more work was required, including additional
10 geological modeling and additional metallurgical
11 testwork.

12 So, again, there were still a lot of issues
13 still to be resolved, and that didn't inhibit Behre
14 Dolbear's ability to report Mineral Reserve.

15 Over the next slide, please.

16 And another issue Behre Dolbear raised was a
17 concern, the sheer number of experts that had been
18 involved in the Project, and the ability, I guess, for
19 something to be missed when you have lots of different
20 people working on it. I don't understand this point.
21 I think that the more good companies that you have
22 working on a project the better. But again, if you

1 look at that extract again from the Rio Tinto of a
2 project, from the Behre Dolbear Report, you can see
3 that, in that case, again there were many companies
4 involved, AMC, GVM, Golders, Merit International
5 Consultants. So again, many consultants involved, but
6 again not something that would make Behre Dolbear feel
7 they couldn't report Mineral Reserves or Mineral
8 Resources.

9 Could we have the next slide, please.

10 At this point, I'm going to hand over to
11 Mr. Fox to complete.

12 THE WITNESS: (Mr. Fox) Okay. Thank you,
13 Mike.

14 Yeah, so we now have a number of slides
15 carrying on for the issues raised by Behre Dolbear in
16 their Reports and our comments on these issues.

17 So, first of all, this slide deals with the
18 geotechnical aspects of the Project. Behre Dolbear
19 made a comment that the geotechnical aspects had not
20 been adequately investigated, which could cause an
21 issue for the slope stability of the open pits. So,
22 just for a background and the understanding,

1 geotechnical drilling is undertaken to obtain data on
2 the rock stone parameters, which is used to inform
3 slope stability analysis, which then informs the pit
4 designs, which then informs the mine schedule.

5 The work undertaken at the time of the
6 Feasibility Study undertaken by IMC and others was
7 considered sufficient for the Declaration of a Mineral
8 Reserve. Indeed, on our review of the Project in
9 2012, we came to the same conclusions, that there was
10 adequate information to inform the pit designs, to
11 therefore inform the mine schedule.

12 Leading up to the work that culminated in
13 the production of the 2012 43-101 Report, SRK's
14 geotechnical specialists conducted a detailed analysis
15 of the geotechnical data that had been collected with
16 a specific focus on the Cetate and Cârnic pits which
17 are noted to be the two pits that are mined at the
18 beginning of the Mine Plan for the first seven or
19 eight years. The outcome of that review included from
20 the analysis while the study assumed an overall
21 uniform pit slope angle, there were some areas where
22 the slopes may need to be shallower; while,

1 conversely, this will be balanced where the pits could
2 in places be steeper. And, indeed, there will be
3 places where the slopes would remain unchanged.

4 So, the conclusions of our review were that
5 the pit designs and the geotechnical work were
6 acceptable for the purposes of the Feasibility Study
7 and, therefore, informing the mine design and the mine
8 production schedule. IMC did review the outcomes of
9 SRK's work and agreed with the conclusions drawn, and
10 the recommendation that further drilling could be
11 undertaken subsequently in the next phases of the
12 Project, such as progressing to the detailed
13 engineering.

14 And, in fact, this is standard industry
15 practice and geotechnical drilling would continue
16 through the next phases of the Project and indeed can
17 continue through the operational phases of the
18 Project. And Gabriel did, in fact, carry out
19 additional drilling in 2013 after the production of
20 our 2012 43-101 Report.

21 With regards to the Orlea and Jig pits,
22 these are due to be mined in the schedule later in the

1 mine life. They are due to start in Years 7 and 8 of
2 the Mine Plan, which would be including the Project
3 development construction period, some 11 or 12 years
4 from the start of the Project, of the implementation
5 of the Project. This would allow sufficient time for
6 additional geotechnical drilling to be undertaken for
7 these two particular pits.

8 If any additional drilling lenders may
9 require, if bank financing was being pursued, would
10 easily be implemented during the detailed design phase
11 and concurrently while negotiating the terms of
12 financing or, indeed, could be a condition precedent
13 for a loan drawdown. Our view is this would not pose
14 a problem or be a source of delay to implementing the
15 Project as envisaged in the Feasibility Study.

16 Could we move to the next slide, please.

17 So, this slide covers a number of aspects
18 raised in the Behre Dolbear Report which are mainly
19 focused around the mining, the processing and
20 infrastructure and implementation of the Project. I
21 will deal with each one in turn.

22 The first two relating to the sulphur

1 estimates and the ore hardness are noted by Behre
2 Dolbear and may not have been adequately analyzed for
3 the purposes of the study. So, our comments on these
4 would be as follows:

5 The sulphur estimates are important for
6 establishing the relationship to the recovery in the
7 processing plant, and algorithms are developed that
8 take into account the gold grade and the sulphur
9 grade, and then you derive a recovery for the plant
10 performance.

11 And, in fact, the database included an
12 extensive amount of samples, over 8,600 samples, and
13 these were analyzed, and they were estimated into the
14 block model in the same manner as the gold grade.
15 These showed low overall sulphur variability. In our
16 view, based on the review of the information, we
17 considered that the information on the sulphur was
18 adequate for the Feasibility Study. And, indeed,
19 based on our technical specialists' review on it and
20 from myself and Dr. Armitage, the level of information
21 on the sulphur exceeded many projects we have looked
22 at at a similar stage of development.

1 Similarly, for ore hardness, this is a
2 parameter that was taken into account to inform the
3 mine planning on the processing schedules to determine
4 whether the ore was hard or soft or in between, as
5 that would dictate the processing throughput that
6 could be achieved.

7 The consultants involved in the work at the
8 time on the Company, extensively logged the data--the
9 information of ore hardness into the database based on
10 the log-in information of the rock type and the
11 alteration type. And then this was again estimated
12 into the block model which, in turn, informed the Mine
13 Plan and the Processing Plan.

14 As with the sulphur, this was considered to
15 be adequately analyzed and, indeed, is in excess of
16 what we would typically see during a feasibility study
17 assessment. There will, indeed, be local variability
18 in the ore hardness as mining progresses, but this
19 would not be unusual or would easily be able to be
20 addressed during mining operations.

21 The next point covers Behre Dolbear's
22 comment of the need for an additional mining shovel, a

1 fourth mining shovels. Three were assumed. Behre
2 Dolbear considered that a fourth would be needed in
3 Year 7 of the Mine Plan and possibly additional
4 haulage trucks.

5 The mining equipment fleet requirements were
6 extensively analyzed by IMC as part of their work for
7 the Feasibility Study, and this work undertook
8 detailed analysis of the equipment hours, the
9 utilizations, et cetera, and did not determine that an
10 additional shovel was required.

11 Our mining technical specialists also
12 reviewed this aspect as part of our review of the
13 43-101 Report, and we had the same conclusion. This
14 had been analyzed in detail. There was no indication
15 of an additional mining shovel needed based on the
16 locations of where the mine would be and the
17 utilizations. We see no basis for the addition of the
18 fourth mining shovel.

19 The next point deals with the ramp-up of the
20 processing plant. Behre Dolbear include a general
21 speculation that the processing plant would not start
22 up as efficiently and as quickly as planned. Again,

1 our comments to this would be our process engineer at
2 the time reviewed in detail the construction of the
3 plant, the initiating schedule, the ramp-up of the
4 plant, which it is noted assumed a six-month ramp-up
5 to achieving the design capacity of the plant.

6 Behre Dolbear provides two examples in their
7 Report of plants that did not, in their opinion,
8 perform well. A couple of comments on those aspects
9 are the two examples chosen are not comparable to the
10 Roşia Montană Project because these two plants
11 selected were polymetallic plants and not gold plants.
12 They were bigger than the Roşia Montană plant, with
13 higher throughputs. And, indeed, they were both
14 located in remote locations. All of those aspects
15 will come with different challenges than a gold
16 project located in Europe.

17 And, in fact, the examples provided by Behre
18 Dolbear, one of the examples achieved design capacity
19 four months after start-up, and we don't consider that
20 that particularly supports the argument that plants
21 typically ramp-up slower than planned.

22 The next point on the start-up date, Behre

1 Dolbear are the delay to the start-up date of the
2 Project, which we understand is largely the product of
3 counsel's instructions. However, in addition to that,
4 they incorporate additions for the longer ramp-up, as
5 I've just mentioned, and also additional delays for
6 updating feasibility studies and obtaining financing.
7 In our opinion, these additional delays are not
8 necessary. The natural progression of a project
9 beyond the Feasibility Study will be to go into the
10 detailed design phase; and then, concurrently with
11 that, you can then undertake exercises to obtain
12 financing, and this would all be done at the same time
13 and would not cause a source of delay, in our opinion.

14 The final point is generally Behre Dolbear
15 make general comments around the infrastructure
16 requirements for the Project in terms of the roads,
17 the power, ore supply, communications. The Roşia
18 Montană is located in an area well-established
19 infrastructure. Notwithstanding this, we had an
20 infrastructure specialist reviewing all of these
21 aspects of the Project for the purposes of the 43-101
22 in 2012. All of these were considered to be

1 adequately analyzed and adequately addressed and
2 adequately cost estimated for the costs, and we did
3 not see any issue with the infrastructure requirements
4 for the Project.

5 Next slide, please.

6 So, this slide covers some comments on the
7 cost estimates for the Project. Behre Dolbear
8 indicate in their Report that connected through the
9 passage of time, as Mike noted, that the cost
10 estimates would not be as accurate, and were also the
11 product of factoring, as Behre Dolbear incorrectly
12 speculates.

13 In fact, for the purposes of the 2012 43-101
14 Report, an extensive exercise was undertaken by the
15 consultants involved with the various aspects of the
16 Project and the Company to update all of the costs to
17 the 2012 terms, and this was done through an extensive
18 exercise of obtaining quotes and repricing from
19 manufacturers and suppliers. For example, including
20 updated quotes and prices on mining equipment,
21 processing equipment, updated rates from Contractors
22 undertaking activities such as earthworks, updated

1 diesel price, power price, and all major consumables
2 and reagents.

3 There was an element of factoring in the
4 updates to the cost, but this was a very minor
5 component to the update, and the majority of the costs
6 were updated in a detailed first principles manner.

7 The capital costs were developed
8 specifically for each technical area of the Project,
9 and these estimates were reviewed by all of our
10 technical specialists, the mining processing
11 infrastructure and so on. The view of the work
12 undertaken was to be developed in a thorough manner.

13 And an important point that we noted in the
14 2012 43-101 Report, in our view, at the time was these
15 costs were, indeed, conservative, cost savings could
16 well be achieved. I think this is a point to
17 highlight as in both mine and Mike's experience, which
18 expands over 30 years of reviewing projects, we
19 actually can't recall another instance of where we
20 have made such a comment on the estimation of the
21 costs on a project.

22 The operating costs were all estimated in

1 accordance with industry standard practices; and, as
2 I've noted, were updated in detail and were valid as
3 of Q3 2012.

4 Similarly, the closure costs were thoroughly
5 estimated and included a 15 percent specific
6 contingency. Behre Dolbear made a general comment
7 that the industry has a history of underestimating
8 closure costs. We don't see a specific Project reason
9 for why the costs should be increased, and they did
10 not identify such.

11 It has been noted already that there is an
12 increase in the cost estimates between the 2009 43-101
13 Report that was presented, and those presented in the
14 2012 SRK Report. This was due to a combination of
15 industry-wide cost inflation as which I have just
16 discussed, and was undertaken in a detailed manner and
17 there were scope changes notably on the capital costs.
18 So there were additional allowance for additional
19 elements on the processing plants, the infrastructure,
20 the resettlement, and patrimony project.

21 As Mike has already mentioned, the Project
22 that was reviewed independently by the Canadian

1 consultancy AECOM in 2013, for the Romanian
2 Government, and they concluded that the estimated
3 capital costs may be overstated, which would cause the
4 Project to be more profitable and the operational
5 costs seemed reasonable. And this independent review
6 is in line and supports the view that we also had on
7 our review of the Project.

8 Next slide, please.

9 So, this slide has some discussion around
10 the capital cost contingency. The Behre Dolbear
11 comment, again, linked through to the passage of time
12 on their view on the status of the study which we
13 disagree with, the estimate would have become less
14 accurate, therefore, a higher contingency would be
15 required, so our comments on this are included in this
16 slide.

17 The estimators of the capital costs and the
18 contributors to the Project consider that the accuracy
19 of the costs were plus-minus 15 percent, that is both
20 at the 2006 Feasibility Study stage and indeed the
21 update that was done in a detailed manner as I have
22 just discussed for the purposes of the 2012 43-101

1 Report.

2 Our review agreed with that assessment that
3 the costs were within the accuracy of plus-minus
4 15 percent and that this level of accuracy is suitable
5 for a feasibility study level of assessment.

6 The 1.4 billion capital costs presented in
7 the 2012 Report included a \$140 million contingency
8 which is some 11 percent on top of capital cost
9 estimates.

10 To derived the contingency that it included,
11 the estimators undertook detailed specific assessments
12 across their respective technical areas on a
13 case-by-case basis on a line-by-line basis, not in a
14 generalized manner, to derive the contingency that was
15 deemed appropriate based on the underlying estimates.
16 We reviewed the information on the capital cost
17 estimates on the duration of the contingency, and we
18 considered that this was reasonable and appropriate
19 with the level of the study at the time.

20 Behre Dolbear, on the other hand, has
21 suggested the capital costs contingency should be
22 increased to 30 percent, which would add 210 million

1 to the cost. This appears to be a generalization to
2 apply a higher contingency because of the view they
3 had of the lower contingency. As I've already noted,
4 our view was the estimate was accurate to a plus-minus
5 15 percent accuracy, and the contingency was
6 appropriate. But we disagree with the need for the
7 additional contingency, but it appears that Behre
8 Dolbear inaccurately assumed that the accuracy would
9 equate to contingency, and this would be incorrect, in
10 our opinion, and would not--and is contrary to
11 industry practice.

12 If one assumed the capital cost contingency
13 by Behre Dolbear, which we don't agree with, this
14 would increase the contingency to a total of
15 \$350 million. In our view, this would be excessive
16 given the amount of detailed work that had been
17 carried out on the estimate and, in fact, and indeed
18 because the conservative approach was taken to derive
19 (drop in audio) the costs.

20 Next slide.

21 And this is the final slide of the
22 presentation, just to note other issues and criticisms

1 in the Behre Dolbear Report, which we do not believe
2 are correct. We address these points within our SRK
3 Reports briefly. And these covers the archaeological
4 surveys, Chance Finds Protocols, Tailings Management
5 Facility Permits, and also allegations of market
6 information which is, in fact, in Dr. Burrows's
7 Report. We won't go into any details on those because
8 these are also addressed at length by other expert
9 reports that are all available on the record.

10 And that concludes the presentation, and so
11 thank you. And if you have any questions, we would be
12 happy to answer them.

13 PRESIDENT TERCIER: Thank you very much.
14 I'm sure that you will have some questions.

15 But I would first like to have confirmation
16 by Mr. Polašek that you have no further questions in
17 direct?

18 MR. POLASEK: That's correct, Mr. President.
19 Confirmed.

20 PRESIDENT TERCIER: Good. Thank you very
21 much.

22 In that case, Respondents, you have the

1 floor for cross-examination.

2 MR. GUIBERT de BRUET: Thank you, Mr.
3 President.

4 CROSS-EXAMINATION

5 MR. GUIBERT de BRUET:

6 Q. Good afternoon, Dr. Armitage and Mr. Fox.

7 (Pause.)

8 Q. Just so I understand what you have in front
9 of you, do you have a hard copy of your Expert
10 Reports?

11 A. (Dr. Armitage) We do.

12 Q. You should have a password protected USB
13 drive containing an electronic version of the record;
14 correct?

15 A. (Dr. Armitage) Correct.

16 Q. And if you haven't already done so, would
17 you please unlock the USB drive with the password
18 provided to you.

19 A. (Mr. Fox) We have done so already.

20 Q. I would ask you to open the hyperlinked
21 index located in the root folder of the drive so you
22 can bring up any documents that you wish to refer to.

1 A. (Mr. Fox) Yes, we have that in front of us.

2 Q. Okay. Thank you. You will see on the
3 screen Paragraph 24 of Page 8 of your First Report.
4 It states that: In preparing your 2012 NI 43-101
5 Technical Report, "SRK conducted a comprehensive
6 review and analysis of all aspects of the Project and
7 numerous technical studies, data and design work
8 prepared for the course of the Project's development
9 over the many years." Correct?

10 A. (Dr. Armitage) That's correct, yeah.

11 Q. SRK also states in its First Report that it
12 "analyzed and endorsed the mine production schedule";
13 correct?

14 A. (Dr. Armitage) That's correct, yeah.

15 Q. And, in SRK's Report, it "reaffirms the
16 conclusions of the 2012 NI 43-101 Technical Report
17 that the Roşia Montană Project was 'technically
18 feasible and economically viable.'" Right?

19 A. (Dr. Armitage) That's correct.

20 Q. So, SRK's Report in this Arbitration
21 incorporated by reference its 2012 Technical Report;
22 correct?

1 A. (Dr. Armitage) I'm sorry, I'm not sure I
2 understand the question.

3 Q. You refer 94 times to your Technical Report
4 in your--just your First Expert Report, so your Report
5 is incorporated by reference effectively into your
6 Reports. You relied extensively on it; right?

7 A. (Dr. Armitage) That's correct, yeah.

8 Q. Modifying factors are considerations used to
9 convert Mineral Resources to Mineral Reserves;
10 correct?

11 A. (Dr. Armitage) That's correct.

12 Q. And the modifying factors include, but are
13 not restricted to, mining, processing, metallurgical
14 infrastructure, economic, marketing, legal,
15 environmental, social, and Government factors; right?

16 A. (Dr. Armitage) That's correct.

17 Q. If a project is unlikely to secure a
18 Building Permit, it cannot be described as having
19 Mineral Reserves; correct?

20 A. (Dr. Armitage) I think the strict
21 interpretation of the guidelines is that there should
22 be a reasonable expectation in the view of the person

1 who reports the Mineral Resources and Reserves.

2 Q. So, if it's unlikely to secure a Building
3 Permit, it cannot be described as having a Mineral
4 Reserve; right?

5 A. (Dr. Armitage) If that was the case, but in
6 this case, we don't believe that was the case.

7 Q. I'm just asking you as a general matter.

8 A. (Dr. Armitage) Well, hypothetically, in that
9 situation, if the person felt that there was a little
10 chance of getting the permits that were required or
11 licenses required, yes, that would be true.

12 Q. Okay. In its two Expert Reports, SRK does
13 not provide a list of the documents that you reviewed
14 when drafting those Reports; right?

15 A. (Dr. Armitage) Which report?

16 Q. In your two Expert Reports. Excuse me.

17 A. (Dr. Armitage) I'm not sure if it's
18 completely exhaustive, but we've tried to include the
19 references that we've used.

20 Q. No, excuse me, I'm--perhaps there's some
21 confusion. I mean, a list of the documents that
22 you've actually reviewed besides the footnotes that

1 you've added.

2 A. (Dr. Armitage) At the time in 2012?

3 Q. No, no, for the drafting of your two
4 Technical Reports--excuse me, the two reports that you
5 submitted in this Arbitration.

6 A. (Dr. Armitage) As I say, I think we've tried
7 to list all the Reports that we've referenced.

8 Q. Okay. But you had reviewed the documents
9 that you referred to in your Reports; correct?

10 A. (Dr. Armitage) Yes, that's correct.

11 Q. And you reviewed at some point the documents
12 that are referred to in SRK's 2012 NI 43-101; correct?

13 A. (Dr. Armitage) Well, Mr. Fox and I might not
14 personally have reviewed them, but our team will have
15 done, yeah.

16 Q. And you were responsible for that Report.

17 A. (Dr. Armitage) They were reporting to myself
18 as the Qualified Person, yeah. I was there reliant on
19 their technical opinion, so I would not have seen all
20 of the documents that they would have seen.

21 Q. Presumably they would have raised to your
22 attention any relevant issues.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

6 Q. So, SRK's involvement with the Roşia Montană

7 Project goes back to 2006; right?

8 A. (Dr. Armitage) That's correct, yeah.

9 Q. So, SRK was advising RMGC with respect to

10 the Roşia Montană Project in 2006?

11 A. (Dr. Armitage) No, that's not correct. We

12 were engaged to provide an independent review of the

13 Project for potential lenders.

14 Q. So you were engaged in providing support and

15 advice to RMGC?

16 A. (Dr. Armitage) No, only to the extent that

17 we may have included some recommendations in the

18 Reports, but no, we were working directly for

19 potential lenders.

20 Q. Okay. In March 2009, RMGC commissioned a

21 technical report on the Project from several experts,

22 Brett Gossage, Coffey Mining; Patrick Corser, MWH

1 America, I believe. For that Technical Report, SRK
2 audited the resource estimation; right?

3 A. (Dr. Armitage) No, that's not correct.

4 Q. Okay. You will see on your screen Exhibit
5 C-127, Page 161.

6 So, the second table, ninth row from the
7 top, it says "Audits or Reviews: The current resource
8 estimation has been audited by independent consulting
9 firm SRK."

10 A. (Dr. Armitage) No, I assume--I didn't write
11 this Report obviously, but I assume that they're
12 referring to the fact that we would have reviewed that
13 resource estimate as part of the audits that we had
14 previously done.

15 Q. Okay. Do you know who at SRK was involved
16 in providing that support or advice?

17 A. (Dr. Armitage) I'm a resource geologist, and
18 I oversaw the resource review, with those 15 aspects
19 of the Project, from a technical perspective.

20 Q. Right. SRK continued to advise RMGC in
21 2010?

22 A. (Dr. Armitage) Well, as I say, we weren't,

7 Q. Okay. Dr. Armitage, in August 2011, you
8 concluded a contract on behalf of SRK with Jonathan
9 Henry of Gabriel Resources to prepare a technical
10 report; correct?

11 A. (Dr. Armitage) That is correct, yes.

12 Q. When was your first contact with Mr. Henry
13 or someone else from Gabriel or RMGC?

14 A. (Dr. Armitage) In relation to that work?

15 Q. Just in general.

16 A. (Dr. Armitage) I think you're right that we
17 submitted our proposal in August 2011, so I would
18 assume that we were either contacted that month or in
19 July. I couldn't say for sure.

20 Q. Okay. You visited the Roşia Montană site in
21 December 2011; correct?

22 A. (Dr. Armitage) Yes, that is correct, I

1 think.

2 Q. Have you visited the site on other
3 occasions?

4 A. (Dr. Armitage) I think personally, it's a
5 long time ago. I think personally the only other time
6 I visited the site was for one of the original audits
7 between 2006 and 2009, so I think that's the case. I
8 may be wrong, but I think that's the case.

9 Q. How many times have you met or spoken with
10 Mr. Jonathan Henry?

11 A. (Dr. Armitage) Prior to that time or since
12 then?

13 Q. Overall, in general.

14 A. (Dr. Armitage) I have spoken with Jonathan
15 many times since this, but this actual Project was the
16 first time that I had dealt with him or even met him.

17 Q. And at the time, how many times had you
18 spoken with or met with Mr. Dragos Tanase?

19 A. (Dr. Armitage) If we have met, it has been
20 once or twice.

21 Q. Okay. Mr. Fox, you prepared the economic
22 model underlying SRK's 2012 Report; correct?

1 A. (Mr. Fox) There was a model prepared by
2 RMGC. We reviewed that model, and we, as part of our
3 audit process, compiled our own version of the
4 economic model as a check.

5 Q. Okay.

6 A. (Mr. Fox) So, I reviewed the model prepared
7 by RMGC for purposes of the 43-101 Report.

8 Q. And you visited the site in May 2010?

9 A. (Mr. Fox) That's correct.

10 Q. For what purpose did you visit the site in
11 2010?

12 A. (Mr. Fox) I attended the site in 2010 with a
13 colleague who is looking at the geotechnical aspects
14 of the Project. At the time we were looking at some
15 of the resource aspects of the work but also looking
16 at the general layout of the site for the purposes of
17 an economic assessment and getting a handle for, you
18 know, the locality.

19 Q. Okay. And when did you first become
20 involved in providing advice to RMGC or Gabriel
21 Resources?

22 A. (Mr. Fox) Well, again, as Mike said, we

1 weren't providing advice, but we were undertaking an
2 independent review of the Project for the purposes of
3 a 43-101 Report, and my involvement with the Project,
4 reviewing the Project, probably began towards the end
5 of the stages of the first stage of work of the
6 potential financing, so probably 2008-'9.

7 Q. Okay. At the time of the conclusion of the
8 August 2011 agreement with Gabriel, SRK was already
9 doing work for Gabriel; right?

10 A. (Dr. Armitage) I'm not sure we were doing
11 any work at the time. As Nick said, we did do a
12 geotechnical review at some point, but at the time we
13 were engaged by--I'm not sure we were doing anything
14 else, no.

15 Q. And that geotechnical review was for Gabriel
16 or RMGC?

17 A. (Dr. Armitage) No, again--no, you're
18 correct. That Report was a direct review for Gabriel,
19 yeah.

20 Q. Okay. So, SRK was also involved in the
21 process of reviewing geotechnical information?

22 A. (Dr. Armitage) We undertook a review of the

1 slope assumptions that had been used toward the--in
2 the Feasibility Study, yeah.

3 Q. And SRK had already by this point in time
4 produced audited Mineral Resource and Reserve
5 statements?

6 A. (Dr. Armitage) That's correct, yes.

7 Q. And SRK finalized its Technical Report in
8 October 2012; right?

9 A. (Dr. Armitage) That's correct, yes.

10 Q. And your Qualified Person certificate, which
11 was disclosed to the public along with the 2012 SRK
12 Report, does not refer to your prior involvement with
13 RMGC or Gabriel, or the Project; right?

14 A. (Dr. Armitage) If you say so. I will assume
15 that's the case.

16 Q. Okay. And if we bring up SRK's Technical
17 Report. Excuse me. Just need the reference. Bear
18 with me one second. A technical issue.

19 On Page 10, fourth paragraph from the top,
20 it says: "SRK is not an insider, associate or
21 affiliate of Gabriel and neither SRK nor any affiliate
22 of SRK has acted as advisor to Gabriel or its

1 affiliates in connection with the Project."

2 Do you see that?

3 A. (Dr. Armitage) Yes, I do.

4 Q. Okay. Dr. Armitage, on 3 October 2013, you
5 appeared before the Joint Special Committee of the
6 Romanian Parliament that was examining the Roşia
7 Montană Project; correct?

8 A. (Dr. Armitage) That's correct, yes.

9 Q. You were asked by Gabriel to attend that
10 session along with other experts engaged by Gabriel;
11 correct?

12 A. (Dr. Armitage) Yes, that's correct.

13 Q. And you testified before the Committee that
14 you were "also involved for seven, eight years in
15 projects related to Roşia Montană"; correct?

16 A. (Dr. Armitage) I can't recall that.

17 Q. If we can bring up Exhibit C-558, Page 39.
18 Do you see the quote on the screen?

19 A. (Dr. Armitage) Yes, I do.

20 Q. So, do you confirm the statement?

21 A. (Dr. Armitage) Well, it's true in the sense
22 that as I think I said earlier the first work that we

1 did was in 2006, and this was in 2013, I believe.

2 Q. Okay. So, as far as 2006 you had some prior
3 involvement in the Roşia Montană Project; correct?

4 A. (Dr. Armitage) No, I think 2006 was the
5 first time we had done any work on it.

[REDACTED]

1 Q. Well, you and Mr. Fox were part of the team
2 set to do that work; correct?

3 A. (Mr. Fox) That would have been the case, and
4 I assume, yes, given our prior involvement.

5 Q. And you have not provided a copy of that
6 report in this Arbitration?

7 A. (Dr. Armitage) I don't think I sent--because
8 I don't think we ever produced a report.

9 Q. Okay.

10 A. (Dr. Armitage) As I recall, we submitted a
11 proposal to do some work. We may have started it, but
12 we certainly didn't finish.

13 Q. Okay. On Page 6, Footnote 9 of your First
14 Report in this Arbitration, you refer to a desktop
15 study. You refer in the second sentence to your
16 conclusions. The Claimants have not provided your
17 2014 desktop study or its conclusions; correct?

18 A. (Dr. Armitage) I think that's correct, yes.

19 Q. SRK authored Expert Reports dated
20 30 June 2017 and 2nd November 2018 for the purposes of
21 this Arbitration; right?

22 A. (Dr. Armitage) That's correct, yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 we would then review that.

2 There is a certain amount of data that you
3 ultimately have to rely on in terms of the drilling
4 information. You can't go in and drill another
5 hundred holes, so you're ultimately reliant on a
6 certain level of data, that your reliance on your
7 experience to be able to review that information and
8 determine its reliability, so yes, we would have been
9 provided with a lot of information by RMGC, certainly.

10 Q. And you relied on that information?

11 A. (Dr. Armitage) Sorry?

12 Q. And you relied on the information?

13 A. (Dr. Armitage) We relied on it to the extent
14 of them, of the areas that we can't verify ourselves,
15 but we are, as I said in that last sentence, at the
16 end of the day, we have spent a lot of time looking at
17 mining projects. We know what to ask questions of, we
18 know the areas where things can go wrong.

19 Q. Okay.

20 A. (Dr. Armitage) We rely on that ability in
21 undertaking our work to review projects that we're
22 given, but we know ultimately we aren't going to go

1 and redo all the detail underlying our professional
2 opinion.

3 MR. GUIBERT de BRUET: Mr. President, I'm
4 conscious of the time, and we have been going for a
5 while, and we're scheduled for a break. We're in the
6 Tribunal's hands, but if you'd like, this would be a
7 good time for a break.

8 PRESIDENT TERCIER: Okay. I was about to
9 interrupt you, but you have chosen this part.

10 Indeed, we will now introduce a 15 minutes'
11 break. We will start again at Swiss time five to
12 4:00.

13 MR. GUIBERT de BRUET: Mr. President, do you
14 think it's necessary to admonish the Experts--

15 PRESIDENT TERCIER: Yes, yes, yes. Sorry.
16 It is absolutely necessary.

17 Dr. Armitage and Mr. Fox, it is a rule that
18 under the time that you are under examination, you
19 have not the right to have any contact with counsel or
20 the Party on your side. Is it clear?

21 THE WITNESS: (Dr. Armitage) Yes, sir.

22 THE WITNESS: (Mr. Fox) Understood and

1 clear. Thank you.

2 PRESIDENT TERCIER: Thank you very much, Mr.
3 Guibert de Bruet.

4 So, we have now a 15 minutes' break. I do
5 not think that it is necessary for the Members of the
6 Tribunal to have a special discussion. So, if not
7 specially required, we'll use our 15 minutes' time for
8 the break.

9 Thank you very much.

10 (Brief recess.)

11 PRESIDENT TERCIER: Okay. My co-Arbitrators
12 are present. David?

13 REALTIME STENOGRAPHER: Yes, present and
14 accounted for.

15 PRESIDENT TERCIER: Good. Our experts are
16 here.

17 Mr. Polašek--

18 MR. POLASEK: Yes.

19 PRESIDENT TERCIER: Mr. Polašek, you are
20 ready?

21 MR. POLASEK: Mr. President, I think we are
22 starting maybe two minutes early, but yes, on our end,

1 we are ready, thank you.

2 PRESIDENT TERCIER: Okay. I take the time
3 this referred to very seriously as a Swiss citizen,
4 but indeed I had the impression that everybody was
5 already connected, but you're right, we are a bit
6 early. If you are ready and on Respondent's side you
7 said everybody is present. Mr. Guibert de Bruet, you
8 are ready?

9 MR. GUIBERT de BRUET: I am ready,
10 Mr. President.

11 PRESIDENT TERCIER: Okay. So, with one
12 minute advance, we start for the second part.

13 And for you, Mr. Guibert de Bruet, you
14 decide when you find it would be appropriate to have
15 the lunch or dinner break.

16 MR. GUIBERT de BRUET: I will,
17 Mr. President. Thank you.

18 PRESIDENT TERCIER: Okay. You have the
19 floor.

20 BY MR. GUIBERT de BRUET:

21 Q. So, you will see on the screen Page 78 of
22 SRK's Technical Report, and if we look at Figure 22-1,

1 this is the mine production schedule; correct?

2 A. (Dr. Armitage) That's correct.

3 Q. Yes. And we see that the yearly mining
4 production is approximately 35 million tons of ore and
5 waste after Project ramp-up; right?

6 A. (Dr. Armitage) That's correct.

7 Q. And the Project would operate 360 days a
8 year; right?

9 A. (Mr. Fox) I can't recall the number of days
10 that were assumed for the operational days.

11 Q. Well, let's take a look at it. If we go to
12 Page 47 of your Technical Report. It says: "The mine
13 is scheduled to work 360 days per year utilizing four
14 crews."

15 Do you see that?

16 A. (Mr. Fox) Absolutely, that is what it says,
17 correct.

18 Q. Yes. So, based on 360 workdays per year, in
19 the production assumptions that works out to about a
20 daily average of 97,200 tons per day, if we use 35
21 million tons; right?

22 A. (Mr. Fox) I can't do that math in my head

1 that quickly, but I'll take your word for it.

2 Q. That's what my calculator says. Lawyers are
3 not known for math.

4 So, I'd like to look at the daily production
5 process at a fairly high level. So essentially, the
6 process is to blast, you produce blast material, you
7 take the waste to the waste dump, you take the ore to
8 the crusher, and then you process the ore by
9 subjecting it to a cyanide leaching process that would
10 extract the gold, and then you send what's left to the
11 tailings dam after some further processing. At a high
12 level, is that right?

13 A. (Mr. Fox) Broadly speaking, there are a few
14 steps you missed out, but broadly speaking, you drill,
15 blast, load, haul, load being ore and waste, ore and
16 waste holding to different places or to the processing
17 plant. Once at the processing plant, the ore would be
18 stockpiled and then so they can be fed to the plant at
19 the required rate.

20 The circuit for the process plant includes
21 crushing and grinding initially, and then it goes
22 through to the leaching process of the plant where the

1 gold is extracted on the ground ore, and then as you
2 say, the tailings that come out of the back end of the
3 process plant, as it were, would be sent to the
4 tailings dam.

5 Q. Okay. So, let's focus on the blasting. The
6 mine operator drills blast holes, fills them with
7 explosives, covers up the holes and then triggers the
8 blast; correct?

9 A. (Mr. Fox) In general, that is how it works,
10 yes.

11 Q. Yes. So, the mine operator drills those
12 blast holes according to a pre-determined blast
13 pattern; correct?

14 A. (Mr. Fox) Which will be determined by a
15 mining engineer and blasting expert.

16 Q. Yes.

17 And the diameter and depth of the holes
18 affect how much explosives can be put in, which, in
19 turn, affects how much ore and waste material is
20 generated by the blast; right?

21 A. (Mr. Fox) I'm not a blasting expert myself,
22 but, in principle, yes, the amount of material will be

1 determined by the diameter of the hole.

2 Q. So, the blasting pattern used by a mining
3 project is a critical component of the production
4 schedule; right?

5 A. (Mr. Fox) It is one component to the
6 production schedule. There are many components to the
7 production schedule which are of equal importance to
8 delivering the Schedule--

9 Q. But it's a critical--

10 (Overlapping speakers.)

11 A. (Mr. Fox) Blasting is one component of it.

12 Q. And it's a critical one; correct?

13 A. (Mr. Fox) In the sense that if you don't
14 blast the ore, it is not broken up and then can't be
15 loaded and hauled into the trucks.

16 Q. Okay. And that blast pattern also has
17 implication on material, labor costs; right?

18 A. (Mr. Fox) It would influence the number of
19 drill rigs required and the number of drill rigs would
20 have a rate that they could achieve in terms of their
21 drilling rate which would then influence on the
22 required labor and consume what was required for such,

1 yes.

2 Q. So, yes. The blast pattern determines how
3 much drilling is needed; right?

4 A. (Mr. Fox) The blast pattern will be
5 developed on a grid which would determine the spacing
6 of those, the length of those, and, therefore, the
7 number of meters required, yes.

8 Q. And it also affects the quantity of
9 explosives for blasts; right?

10 A. (Mr. Fox) It would.

11 Q. Yes.

12 The mining plan and the mine production
13 schedule for the Project was developed by IMC in 2005;
14 right?

15 A. (Mr. Fox) It was developed--well, it was
16 developed and reported in the Feasibility Study in
17 2006.

18 Q. Yes?

19 A. (Mr. Fox) In the Washington Group's overall
20 study, yes.

21 Q. And cites to IMC?

22 A. (Mr. Fox) It does.

2 Q. Well, I didn't find any.

3 As part of SRK's review of the Project in
4 2012, you reviewed the Environmental Impact Assessment
5 that RMGC submitted; correct?

6 A. (Dr. Armitage) Yes, that's correct.

7 Q. So, let's go to the technological processes
8 chapter of the EIA, which is Chapter II. It's C-196
9 for the record.

10 So, if we go to Page 55 of the Report, so
11 you'll see that we're in the chapter discussing mining
12 works; right?

13 A. (Dr. Armitage) Yeah, I'm not familiar with
14 this document, but yeah.

15 Q. Okay. But you were--SRK reviewed the EIA
16 Report for purposes of its technical--

17 (Overlapping speakers.)

18 A. (Dr. Armitage) Our team members would have
19 done, yes.

20 Q. And you were responsible for that report;
21 correct?

22 A. (Dr. Armitage) Yes, I'm reliant on my

1 individual team members, but yes.

2 Q. Okay. So, on the following page, 56, you
3 see Table 2-13. Do you see that?

4 A. (Dr. Armitage) I do.

5 Q. So, these are broadly the same blast
6 parameters; right? 251-millimeter blast hole, a bench
7 of about 10 meters, spacing 7 meters. They're not
8 exactly the same but--

9 (Overlapping speakers.)

10 A. (Mr. Fox) I think broadly this time I think
11 there are some differences, but broadly that is
12 similar.

13 Q. Okay. Broadly the same.

14 So, based on these blasting parameters, in
15 your 2012 NI 43-101 Report, how many blasts per day
16 did you assume would occur during the operations phase
17 of the Project, on average, after ramp-up?

18 A. (Mr. Fox) I can't recall that--how many that
19 would be. That would have been reviewed by the mining
20 engineer, and it would involve a calculation based on
21 the pit design at the time, the blasting tons at the
22 time, and so forth, and that's not something I could

1 estimate off the top of my head.

2 Q. Do you have an idea per day or per week--
3 (Overlapping speakers.)

4 A. (Mr. Fox) I would be speculating, but I
5 would say several blasts per day.

6 Q. Okay. Several blasts per day, and that's
7 several blasts per day 360 days a year; correct?

8 A. (Mr. Fox) The mine was assumed to be
9 operating for 360 days, so yes, but you wouldn't
10 necessarily be blasting every day because there would
11 be time between undertaking the blasting and that then
12 obviously prepares an amount of ground, that then that
13 material needs to be loaded and hauled, so you might
14 blast on one day, and then the following day you will
15 be loading and hauling and so on and so forth. So, it
16 might not be a daily activity.

17 Q. Well, let's take a look. So, if we go to
18 Exhibit C-213.

19 So, this the chapter of the EIA dealing with
20 noise and vibration.

21 Have you read this document before?

22 A. (Mr. Fox) Not me personally, no.

1 Have you?

2 A. (Dr. Armitage) No.

3 Q. Presumably SRK reviewed this document when
4 drafting its Technical Report.

5 A. (Dr. Armitage) Yes, we had an environmental
6 specialist who reviewed this Report.

7 Q. And you were responsible for that Report;
8 correct?

9 A. (Dr. Armitage) I'm responsible as the QP,
10 yeah.

11 Q. Yes. So, here, if we go to Page 104, here
12 we see the chapter dealing with mitigation measures
13 put forth by RMGC for the operation phase of the
14 Project; right?

15 A. (Mr. Fox) That is the title of that section,
16 yes.

17 Q. If we look at the paragraph right after
18 heading 7.4, you'll see: "RMGC will employ an
19 ANFO-based millisecond delay blast, a design that
20 minimizes air blast and fly rock and maximizes rock
21 breakage with minimal ground motion. The blasting
22 schedule will specifically prohibit

1 overlapping/simultaneous blasts and multiple pits and
2 quarries, more than one blast per pit or quarry per
3 workday, or blasting at night, all of which will have
4 the effect of reducing nuisance impacts to the
5 external communities."

6 Do you see that?

7 A. (Dr. Armitage) I do.

8 Q. When you were drafting your Technical
9 Report, did you know that RMGC was limited to blasting
10 once per day per pit?

11 A. (Mr. Fox) That would have been reviewed by
12 our mining engineer.

13 Q. So, you personally didn't know, but
14 presumably somebody at SRK knew?

15 A. (Dr. Armitage) Yeah. As we said at the
16 beginning, you know, there's a whole team involved in
17 producing the 43-101, was a mining engineer (drop in
18 audio) involved who would have reviewed those aspects.

19 Q. All right. Were you aware that during
20 public consultations, RMGC further limited this
21 restriction to one blast per business day per pit?

22 A. (Dr. Armitage) That's not something I would

1 have been aware of.

2 Q. Okay. So, why don't we take a look at that.
3 It's R-174. This is RMGC's answers during the public
4 consultation process, and if you go to Page 6, which I
5 believe is Page 9 of the PDF, you'll see on the third
6 line they were asked the questions: "How many
7 blasting operations per week?" Right?

8 Do you see that?

9 A. (Mr. Fox) That appears to relate to comments
10 around the tailings dam and the pit.

11 Q. Correct.

12 (Overlapping speakers.)

13 Q. Yes. They're asking how many blasting
14 operations per week would occur.

15 A. (Mr. Fox) Okay.

16 Q. If we look up at Page 7, fourth paragraph,
17 you'll find RMGC's answer. They say--and this will
18 look very familiar: "RMGC will use a blasting method
19 based on ANFO-type explosives," et cetera, and then if
20 we go to the second sentence: "The blasting program
21 will ban overlapping/simultaneous blasting to happen
22 in more than one pit, will restrain blasting to one

1 per business day, per pit, and will ban blasting
2 taking place during nighttime."

3 Do you see that?

4 A. (Mr. Fox) I do.

5 Q. Okay. And this is not mentioned in SRK's
6 Technical Report; correct?

7 A. (Mr. Fox) Not that I can recall.

8 Can you?

9 A. (Dr. Armitage) No.

10 Q. And do you know whether the assessment of
11 the financial feasibility of the Project took this
12 limitation into account?

13 A. (Dr. Armitage) Well, I mean, I would assume
14 that our mining engineer took this into account, yes.

15 Q. Okay. So, you assume but you don't know.

16 A. (Dr. Armitage) I don't think it's a specific
17 question I remember asking him, no.

18 Q. Okay. So, you didn't ask the question.

19 A. (Dr. Armitage) I may have done a long time
20 ago.

21 Q. Did you ask the question or not?

22 A. (Dr. Armitage) I can't recall.

1 Q. Can't recall.

2 So, let's go back to the technological
3 processes chapter. It's Exhibit C-196. You will see
4 on the screen Page 22 of the PDF--excuse me, Page 22.

5 Table 2-1, we see the mine schedule by pit
6 area; right?

7 A. (Mr. Fox) That's correct.

8 Q. Yeah.

9 And the only Project years in which more
10 than two pits would be simultaneously mined are
11 Years 9, 10, and 11; correct?

12 A. (Mr. Fox) That table shows that there may be
13 more than two pits mined in any given year, but that
14 is on the granularity of an annual level. It does not
15 necessarily mean that you would have, say, in Year 9
16 having four pits being mined simultaneously.

17 Q. Okay. But that doesn't, at least in the
18 remaining 11 years of the Project only two pits or
19 less are being simultaneously mined; right?

20 A. (Mr. Fox) Not necessarily simultaneously.
21 As I say, we're looking at annual granularity, which
22 you can't say from that whether there would be one or

1 two being mined simultaneously.

2 Q. Well, how many--

3 A. (Mr. Fox) How many mined concurrently?

4 Q. Okay. Out of the 14 years of the Project,
5 during how many years was the Project scheduled to
6 mine more than two pits simultaneously, in your
7 recollection?

8 A. (Mr. Fox) From my recollection, there would
9 only be two pits mined simultaneously at any one time,
10 that is from my recollection.

11 Q. Okay. So, only two pits in the entire 14
12 years of the Project?

13 A. (Mr. Fox) I believe so.

14 Q. Okay. So, for the entire 14 years of the
15 Project, RMGC would be limited to a maximum of two
16 blasts per day; correct?

17 A. (Mr. Fox) If they were--if they were limited
18 to one blast per day per pit, that would be the case,
19 yes.

20 Q. Okay. And were you aware of that when you
21 wrote your NI 43-101 Report?

22 A. (Mr. Fox) This would have been us, but it

1 would be reviewed by our mining engineer as part of
2 their review of the mining schedule.

3 Q. Okay. Let's go back to your 2012 Technical
4 Report.

5 You state on Page 61 that there is: "Ample
6 evidence that environmental and social issues arising
7 from the EIA had been incorporated into the project
8 design, with significant changes to the proposed pit
9 excavations, redefining the Industrial Areas and
10 increase in the number and size of Protected Areas
11 within the Concession. There also has been a constant
12 refining of the Resettlement and Relocation options,
13 procedures and processes based on results of the
14 ongoing community/public consultations."

15 Do you see that?

16 A. (Mr. Fox) Yes.

17 A. (Dr. Armitage) Yes.

18 Q. So, you're generally aware of the TAC
19 process and the public consultation process; correct?

20 A. (Dr. Armitage) Yes, but again, the details
21 of this would have been reviewed by our environmental
22 scientists.

1 Q. Just broadly?

2 A. (Dr. Armitage) Yes.

3 Q. So, you're then aware, that as part of the
4 public consultation process, RMGC submitted a number
5 of reports to address concerns expressed by the public
6 during that process; right?

7 A. (Dr. Armitage) That doesn't surprise me, but
8 again I'm not familiar with the detail.

9 Q. Okay. I'd like to look at one of those
10 Reports; it's a study conducted by Ipromin in 2007,
11 entitled "Geo-mechanic Study for the Determination of
12 the Blasting Effects on the Protected Zone
13 Structures."

14 For the record, this is Exhibit C-341.

15 Have you seen this document before?

16 A. (Mr. Fox) Not personally, but this would
17 have formed an underlying document in support of the
18 Feasibility Study.

19 Q. Somebody from your team would have reviewed
20 this as part of The NI 43-101 Report; correct?

21 A. (Mr. Fox) I would assume this was reviewed
22 by the mining engineer.

1 Q. Yes. And you're responsible for the 43-101
2 Report; correct?

3 A. (Dr. Armitage) Well, I'm the QP for it, yes.

4 Q. Yes.

5 Let's go to Page 25 of C-341.

6 MR. POLASEK: Mr. President, I apologize for
7 the interruption. We seem to be having a technical
8 issue with the Transcript. It stopped on our end, and
9 it is not updating for anyone in our room. Again I
10 apologize. I wonder whether the Court Reporter could
11 please take a look whether the issue might be on their
12 end.

13 REALTIME STENOGRAPHER: Testing.

14 MR. POLASEK: Okay. So, the important thing
15 for us is that we are able to follow in the realtime,
16 so is it correct that it is restored? And I see it
17 is. Thank you very much. Apologies again.

18 PRESIDENT TERCIER: Okay.

19 So, please, Mr. Guibert de Bruet.

20 MR. GUIBERT de BRUET: Thank you,
21 Mr. President.

22 BY MR. GUIBERT de BRUET:

1 Q. You will see on Page 25 of C-341 the fifth
2 paragraph from the top states: "The volume of ore to
3 be broken daily will be about 98,600 tons, an average
4 explosive consumption of .21 kilograms per ton, which
5 means a daily quantity of explosive of
6 20,600-kilograms in TNT equivalent to be used within
7 at least three panels, i.e., 6,860 kilograms per
8 working face."

9 Do you see that?

10 A. (Mr. Fox) Yes.

11 Q. Okay. So, according to the Ipromin study,
12 in order to meet daily production rates, RMGC needed
13 to use at least 20,000 kilograms of TNT spread over a
14 minimum of three blasts with a maximum explosive
15 charge of 6,860 kilograms per blast; right?

16 A. (Mr. Fox) That does not specifically say
17 there will be three blasts. It said there would be
18 three panels.

19 Q. Okay. We'll see if you're correct in a
20 minute. But assuming that there is a limit of
21 6,860 kilograms per blast, RMGC would need a minimum
22 of three blasts per day, 360 days a year to meet its

1 yearly Production Target of 36 million tons; correct?

2 A. (Mr. Fox) That's what that passage says, but
3 it doesn't specifically say three blast per day.

4 Q. We will come back to that issue.

5 Page 2 of the 2007 Ipromin study states:

6 "Without the implementation of certain special
7 measures, the use of blasting technologies in areas
8 adjacent to the Roşia Montană protected zone or to the
9 heritage structure may cause damage or degradation of
10 the existing structures especially given that many of
11 the heritage structures are very old and in an
12 advanced state of wear, which increases their
13 sensitivity."

14 Do you see that?

15 A. (Mr. Fox) I do.

16 Q. You will see on the screen Page 40 of
17 Exhibit C-341, the same report. In Section 6.3 of the
18 report, you will see that, in order to ensure the
19 protection of the heritage structure, Ipromin
20 delineated certain blasting zones, under the
21 assumption of a maximum load per blasting operation of
22 7,000 kilograms.

1 Do you see that?

2 A. (Mr. Fox) I see that.

3 Q. Okay. So, there is clearly a maximum of
4 about 6,860 kilograms per blast; correct?

5 A. (Mr. Fox) That appears to be the case.

6 Q. Yes.

7 So, you will see, let's go to Page 41 of
8 Exhibit C-341.

9 So, you will see on the screen the proposed
10 implementation of certain blasting zones; right? And
11 I will focus on Zone II, which itself is broken down
12 into three subzones; right? Subzone II-A, which is
13 for distances less than 100 meters within the existing
14 structure, and it will use a 125-millimeter diameter
15 blasthole with a depth of 5 meters and limits the
16 maximum explosive load to 352 kilograms.

17 Do you see that?

18 A. (Mr. Fox) Yes, I do.

19 Q. And then in Subzone II-B, it's for distances
20 between 100 and 200 meters from a protected structure,
21 and it would use either 125 or 210-millimeter
22 blastholes, and it limits the maximum explosive load

1 per blasting to 2,820 kilograms.

2 Do you see that?

3 A. (Mr. Fox) The upper end of the range, yes.

4 Q. Yes.

5 And Subzone II-C is for distances between
6 200 and 300 meters from a protected structure and it
7 would use either a 125-millimeter diameter blasthole
8 or a 210-millimeter blasthole and it limits the
9 maximum explosive load per blasting to either
10 2,130 kilograms, for the 125-millimeter blastholes, or
11 6,860 kilograms for the 210-millimeter blastholes;
12 right?

13 A. (Mr. Fox) Yeah.

14 Q. Yeah.

15 And since these subzones limit the maximum
16 explosive load per blast, they correspondingly reduce
17 the amount of ore generated per blast as well; right?

18 A. (Mr. Fox) If you have the same number of
19 holes for each of the diameters but the number of
20 holes would be increased, if you were using a smaller
21 diameter hole.

22 Q. Okay, but you're still limited to a maximum

1 load per blast--right?--so, if your maximum load per
2 blast decreases, then the corresponding amount of ore
3 generated by that one blast decreases as well; right?
4 That 2,130-kilogram blast will not generate as much
5 material as a 6,086-kilogram blast; right?

6 A. (Mr. Fox) You would drill more holes with
7 the smaller diameter hole.

8 Q. Correct.

9 A. (Mr. Fox) To get the required tonnage
10 blasted.

11 Q. Yes. But if you're limited in
12 2,820 kilograms, it doesn't matter if you drill more
13 holes because you can't fill them with more
14 explosives, can you?

15 A. (Mr. Fox) I don't know the answer to that
16 question.

17 Q. Okay, so you don't know the answer?

18 A. (Mr. Fox) As I say, I'm not a blasting
19 engineer.

20 Q. Okay. There is no mention in your 2012
21 Technical Report of the zones devised by Ipromin to
22 safeguard Roşia Montană's protected structures;

1 correct?

2 A. (Mr. Fox) I don't believe there is any
3 mention of that in our report. Do you recall?

4 A. (Dr. Armitage) No, I don't think so.

5 Q. Okay. Let's take a look at Exhibit C-382.

6 This is an Explanatory Note on Chapter 4.3
7 that was written in October 2010.

8 Have you seen this document before?

9 A. (Mr. Fox) Not me personally.

10 Q. Okay. You attended the Hearing yesterday;
11 correct?

12 A. (Mr. Fox) Yes, we were present.

13 Q. Okay. So, Claimants' counsel referred to
14 this exhibit with the proposition that RMGC did not
15 need to acquire the surface rights in the protected
16 Historical Area; do you recall that? For the record,
17 that's Day 1, Page 140, Line 11 to Page 141 Line 7.

18 A. (Mr. Fox) I don't recall that specific
19 statement, do you?

20 A. (Dr. Armitage) I don't recall it, no.

21 Q. Okay. So you will see on the screen Page 3
22 of Exhibit C-382, so you will see that it describes

1 the Ipromin study geo-mechanic study aiming to
2 determine the effects of the blasting operations on
3 the structures in the protected zone, which we just
4 looked at; right? It also mentions an updated 2010
5 study from Ipromin, Technical Report on the blasting
6 technology to be employed in proximity of the
7 protected zones within the Roşia Montană Project, Alba
8 County.

9 Do you see that?

10 A. (Mr. Fox) Yes.

11 Q. Have you ever reviewed Ipromin's 2010
12 report?

13 A. (Mr. Fox) Not me personally. As I say, I'm
14 not a mining engineer or a blasting engineer but it
15 would have been reviewed by our mining engineer as
16 part of the review team.

17 Q. Okay. Well, why don't we go to Page 52 of
18 Exhibit C-382.

19 So, we see here again the mention of a blast
20 zoning for the mine site; right? And in the third
21 paragraph from the bottom, it states: "Starting with
22 this zoning, it is estimated the fact that the volume

1 dislocated mining mass by applying the base technology
2 shall represent approximately 85 percent of the total
3 volume and for the remaining 15 percent blasting
4 technology with explosives placed in 125-millimeter in
5 diameter boreholes or in mine adits shall be used."

6 Do you see that?

7 A. (Mr. Fox) Yes.

8 Q. So, according to Ipromin, the protection of
9 the zone to be put in place to protect the protected
10 buildings and historical monuments would affect
11 15 percent of the mine site; correct?

12 A. (Mr. Fox) I don't think--I wouldn't
13 interpret that to mean that.

14 Q. What would affect--

15 (Overlapping speakers.)

16 A. (Mr. Fox) My interpretation of that
17 statement, in isolation, would be that 100 percent of
18 the material required can be blasted, 85 percent
19 through the so-called "base technology," the remaining
20 15 percent would require the narrower hole diameter.

21 (Overlapping speakers.)

22 A. (Mr. Fox) That's my understanding of that

1 statement in that particular context in isolation.

2 But as I say, I'm not a blasting engineer.

3 Q. Sorry. For the use of mine adits; correct?

4 A. (Mr. Fox) It does state that mine adits
5 could be used, yes.

6 Q. Why don't we go to Page 260 of this
7 document.

8 So, if we zoom in a bit on the pits. You
9 will see here a map of the zones that were just
10 discussed. So, if you zoom in to, for example, just
11 the North of the Cetate pit. Wrong pit. That's Jig,
12 but that's fine. That's okay. Go back there. It
13 works as well.

14 So, you'll see it says Zona I, which is the
15 orange part. Then the pink portion is Zona II-C, and
16 then purple one is Zona II-B, and if we zoom back out
17 and go over to Orlea, which is on the northwest side,
18 the red zone is Zona II-A, which is logical; right?
19 Because we saw Zona II-A is from between zero and 100
20 meters; Zona II-B is for 100 to 200; and II-C is for
21 200 to 300; and Zona I is for beyond 300 meters;
22 right?

1 A. (Mr. Fox) Yes.

2 Q. So, a significant portion of the Projects is
3 under Zone II; right?

4 A. (Mr. Fox) Of the varying degrees of Zone II.

5 Q. Yes.

6 A. (Mr. Fox) In this image we can see that a
7 proportion of the Orlea pit is designated Zone II.

8 Q. Yes.

9 And a significant portion of the overall
10 project is under Zone II; right?

11 A. (Mr. Fox) Could you zoom out so we can see
12 the whole lot?

13 It will depend how you would
14 describe--define a significant proportion.

15 Q. And--

16 A. (Mr. Fox) And the--you would have to add up
17 the tonnages within each of those pits covered by each
18 of those zones, and then you would be able to
19 determine what proportion was covered by each zone.

20 Q. But--

21 (Overlapping speakers.)

22 A. (Mr. Fox) -you can't estimate that from that

1 visual.

2 Q. It's not a negligible proportion, at least
3 from respect to the map; right?

4 A. (Mr. Fox) The number of the--a number of the
5 areas around the pit room, which might mean that
6 they're not covered by a significant tonnage as would
7 be the case were they in the more centrally located
8 areas of the pit.

9 Q. Ipromin had estimated about 15 percent, so
10 does that number seem more likely now that you've
11 looked at the map?

12 A. (Mr. Fox) If that's the number that they
13 estimated and that would have been based on detailed
14 analysis, then I would have more confidence in that
15 number than any number I could give you.

16 Q. Okay. Now, I don't know if you can see if
17 we zoom in on the little red points up on the
18 Historical Center. But you can see the "Greco
19 Catolică," "Casa" --and I'm not going to pronounce
20 this correctly--but "parohială", but these zones are
21 drawn by reference to protected historical monuments;
22 right?

1 A. (Mr. Fox) Is that what the legend states on
2 the map?

3 Q. Go back out. Zoom in to the legend.

4 I think it's in Romanian.

5 A. (Mr. Fox) Hmm, and it's not particularly
6 clear, but yeah, it's a bit close.

7 Q. I'm sure Claimants' counsel can put this to
8 you if it's not the case.

9 The map is not, however, drawn by reference
10 to private habitations in the protected zone. If we
11 could shift to the protected zone, which is a little
12 bit further east. Protected zone, right there.
13 That's not drawn by reference to private habitations
14 as far as you can tell; right?

15 A. (Mr. Fox) I can't tell from that figure what
16 would be a private habitation or not. Can you?

17 A. (Dr. Armitage) no.

18 Q. Why don't we just do this, let's go to
19 Page 6, of Exhibit 382.

20 And you see here a little bit further down,
21 it says--towards the middle of the screen: "The
22 protected areas and buildings considered for this

1 study are set forth below."

2 Do you see that?

3 A. (Mr. Fox) If you could move it up slightly
4 from the bottom of the screen because there is
5 interference--that's better, thank you.

6 Q. Do you see that?

7 A. (Mr. Fox) Yes.

8 Q. It doesn't mention "private habitations";
9 right?

10 A. (Mr. Fox) Well, it doesn't explicitly
11 mention private habitations, but there could be
12 private habitations in some of those Protected Areas,
13 but I don't know specifically the answer to that, and
14 that would have been reviewed by our mining engineer
15 and environmental scientist.

16 Q. Why don't we take a look at the map in your
17 2012 Technical Report. Go to C-128, Page 14, and why
18 don't we zoom into the very southern portion of the
19 Jig pit, which is the pit--the top right pit. And
20 zoom in further.

21 This is from your Report, and it's a
22 little--comes a little bit blurry on my screen. I

1 hope it's clear on yours.

2 A. (Mr. Fox) It's a bit blurry--

3 Q. The little gray houses are structures;
4 right? The little gray blocks.

5 Do you see that?

6 A. (Mr. Fox) If that's what the legend says
7 they are, then that will be what they are.

8 Q. Okay. Those structures are very close to
9 the Jig pit; right?

10 A. (Mr. Fox) I can't see the scale.

11 Q. Perhaps if you could bring up the map on
12 your--

13 (Overlapping speakers.)

14 Q. --on the computer, you have it. Go to
15 C-128.

16 A. (Mr. Fox) Sorry, what page is it?

17 Q. Excuse me. It is Page 14.

18 A. (Mr. Fox) Yep.

19 Okay.

20 Q. And if you zoom in--

21 A. (Mr. Fox) Okay, that's better. Now I can
22 see that more clearly now. Thank you.

1 Q. Yes.

2 Those little gray boxes are structures;
3 right?

4 A. (Mr. Fox) Yes.

5 (Overlapping speakers.)

6 A. (Mr. Fox) If that's what the legend says, be
7 they private habitations or public buildings or
8 churches or so forth.

9 Q. Presumably private habitations would be
10 included among them; right? It doesn't distinguish?

11 A. (Mr. Fox) I'm just having a look at the
12 legend.

13 The legend just indicates those are existing
14 structures.

15 Q. Okay. Right.

16 So, if blasting restrictions devised by
17 Ipromin were extended to all those structures in the
18 protected zone, the size of those blasting zones could
19 only increase; right?

20 A. (Mr. Fox) Sorry, could you repeat the
21 question?

22 Q. So, we saw before that Ipromin's zone,

1 especially Zone II specifically, is drawn by reference
2 to the protected historical monuments; right? We
3 accepted that?

4 A. (Mr. Fox) Um-hmm.

5 Q. So, if those protected zones--excuse me,
6 that Zone II were drawn by reference to the existing
7 structures in the Protected Area, the size of those
8 zones could only increase; right?

9 A. (Mr. Fox) I'm sorry. I'm not sure I follow
10 the question. Sorry, could you maybe phrase it in a
11 different way?

12 Q. Sure.

13 The zones, Zone II, which had the special
14 blasting regime, was drawn by Ipromin with reference
15 to the protected monuments within the historical zone;
16 right? We saw that together?

17 A. (Mr. Fox) Specifically the protected
18 monuments.

19 Q. Correct, yes.

20 If, instead, it had been drawn by reference
21 to the structures in the protected zone, all
22 structures, then logically, that Zone II would be

1 larger; right?

2 A. (Mr. Fox) Well, looking at the Protected
3 Area, which I assume is to the green line, there are
4 three structures outside of that areas. So again, as
5 I'm not a blasting engineer, but I would assume that
6 that would have a negligible impact on the zonation
7 within the pit, given that the protected area seems to
8 go very close to the pit rim.

9 Q. So, if you took a distance of 300 meters
10 from that structure, it would encompass a larger
11 portion of the pit; right?

12 A. (Mr. Fox) Technically, yes, but I don't
13 think it would be material.

14 Q. Okay. Well, in any event, the zones could
15 not get possibly smaller; right?

16 A. (Mr. Fox) The protected zones?

17 Q. Yeah.

18 I think we're miscommunicating. The
19 blasting zones, excuse me. The blasting zones could
20 not get smaller?

21 A. (Mr. Fox) And the blasting zones--well, I'm
22 not a blasting engineer, and there may be technologies

1 that could be devised which could mean you have
2 smaller blasting zones, but I'm not the person to be
3 able to answer that question, to be honest with you.

4 Q. Let's talk about perhaps an issue that
5 you're more qualified to speak of, which is the use of
6 125-millimeter blastholes and mine adits; they would
7 have a cost in production implication for the Project;
8 right?

9 A. (Mr. Fox) As opposed to using a large
10 diameter hole?

11 Q. Correct.

12 A. (Mr. Fox) I wouldn't know what the cost
13 implication would be.

14 Q. Okay.

15 A. (Mr. Fox) Because there are many variables
16 that would go into the calculation--

17 (Overlapping speakers.)

18 A. (Mr. Fox) --because smaller drillholes might
19 not cost as much to drill as larger drillholes with
20 different equipment, et cetera. There are many
21 variables involved with that, so I don't know what the
22 overall impact would be.

1 Q. Okay. So, you haven't looked at that.

2 But the use of mine adits, for example, has
3 particularly poor productivity, high levels of labor
4 and material; right?

5 A. (Mr. Fox) I don't know.

6 Q. Okay.

7 A. (Mr. Fox) In comparison to drilling, I would
8 not know.

9 Q. Let's take a look at C-382, Page 55.

10 And it says, in reference to mine the adit,
11 you see the table referring to the mine adit above:
12 "The technology has poor productivity and requires
13 high levels of labor and material, explosives with
14 0.21 to 0.22 kg/t," et cetera, et cetera.

15 Do you see that?

16 A. (Mr. Fox) I can see that.

17 Q. "The only advantage is the possibility of it
18 achieving a low oscillation velocity of the particle."

19 Do you see that as well?

20 A. (Mr. Fox) I can see that statement.

21 Q. Okay. In its 2012 NI 43-101, SRK does not
22 take into account the impact of the implementation of

1 the zones on the Project's production schedule;
2 correct?

3 A. (Mr. Fox) SRK didn't derive the blasting
4 pattern or the mining schedule. That was derived by
5 IMC. SRK reviewed the information prepared by others.

6 Q. Okay. But please answer my question now.

7 A. (Mr. Fox) Could you repeat the question,
8 please?

9 Q. Sure.

10 In its 2012 NI 43-101, SRK did not take into
11 account the impact of the implementation of these
12 zones on the Project's production schedule; correct?

13 A. (Mr. Fox) If this information was not taken
14 into account as part of the IMC work that was used to
15 develop the production schedule, then that isn't
16 information that would add--specific information that
17 SRK would have reviewed. SRK reviewed the information
18 prepared by IMC.

19 Q. Are you aware that IMC's 2006 report
20 predates its 2010 report? Logically it does; right?

21 A. (Mr. Fox) Logically, yes.

22 Q. Yes.

1 So, SRK did not take into account the impact
2 of the implementation of these blasting zones on the
3 Project's financial feasibility; correct?

4 A. (Mr. Fox) SRK would have reviewed the IMC
5 work that was updated in 2010 and '11 as part of the
6 update.

7 Q. Yes. And as we saw--

8 (Overlapping speakers.)

9 A. (Mr. Fox) If that information is not taken
10 into account by the IMC work, then that has not been
11 taken into account of as part of SRK's review.

12 Q. Okay. Thank you.

13 Mr. President, I think this is a good time
14 for a break, if that's convenient for the Tribunal.

15 PRESIDENT TERCIER: It is extremely early to
16 take a lunch or it would be the lunch, so-called
17 "lunch or dinner break"?

18 MR. GUIBERT de BRUET: I'm happy to
19 continue, if that's the preference.

20 PRESIDENT TERCIER: I don't know. Where are
21 you? Have you an estimate of the time you would need
22 to comply with your presentation?

1 MR. GUIBERT de BRUET: You if excuse me one
2 second. I just need to check on my time available.
3 If you'll excuse me, Mr. President, just one second.

4 PRESIDENT TERCIER: Take your time.

5 (Pause.)

6 MR. GUIBERT de BRUET: Mr. President, in our
7 schedule, we had penciled in 4:30 p.m. as the lunch
8 hour, 4:30 p.m. to 5:30 p.m., we were just going by
9 that schedule. Do you have a different time in mind?

10 PRESIDENT TERCIER: No, that's okay with me.
11 We would have now, it's probably more close to the tea
12 break than lunch or dinner, but I personally have no
13 objection. Do my co-Arbitrators agree with this?
14 They do by silence--they do.

15 Okay. So, we have now a one-hour break. I
16 would like to remind the Experts that they have to
17 take their cup of tea alone and that it is not allowed
18 to have any contact with the counsel or the Parties of
19 Claimant.

20 I would like to have a short discussion with
21 my co-Arbitrators, if they agree, and we will start
22 again Swiss time precisely at quarter to 6:00.

1 Okay. So, we break, and see you later.

2 Thank you very much.

3 (Recess.)

4 PRESIDENT TERCIER: So, my co-Arbitrators
5 are--I see them, and they are ready.

6 David, you are also present?

7 REALTIME STENOGRAPHER: You bet. I'm here.

8 PRESIDENT TERCIER: Okay. We have experts
9 who are here.

10 On Claimants' side--Mr. Polašek, okay?

11 MR. POLASEK: Yes. Claimants are ready.

12 Thank you.

13 PRESIDENT TERCIER: And on the Respondent's
14 side, too.

15 So, before going further, I don't know,
16 Sara, if you could send the e-mail that we received
17 from the General Counsel of the Trade Law Bureau of
18 Canada. Had you come to send it?

19 SECRETARY MARZAL YETANO: Yes, I did send
20 it.

21 PRESIDENT TERCIER: Okay. And have you seen
22 it written, given that we were not able to make

1 arrangement to attend the Hearing on short notice, we
2 would be grateful if the Transcript could be shared
3 with Canada.

4 If we look at Appendix C of the BIT, there
5 are, indeed, two important Points--wait a second--s2:
6 "The non-disputing objecting Party or receiving
7 information pursuant to Paragraph 1 shall treat
8 information as if it were a disputing Contracting
9 Party," so it means from the confidentiality side.

10 And then four: "The non-disputing Contracting Party
11 shall have the right to attend any hearings held under
12 Article XII whether or not it makes submission to the
13 Tribunal."

14 So, we assume that if they have the right to
15 attend the meeting, the Hearing, they have also the
16 right to have the Transcript. This is our
17 interpretation.

18 Do you have an opinion on your side,
19 Mr. Polašek?

20 MR. POLASEK: Yes, Mr. President. To us,
21 it's not self-evident that having the right to attend
22 the Hearing is the same thing as having the right to

1 obtain written materials and the written Transcript,
2 so, so we would like to reserve the right to consider
3 and revert on this at a later point.

4 PRESIDENT TERCIER: Okay, good.

5 So, of course, the Respondent will have then
6 also the time to consider it.

7 Fine.

8 DR. HEISKANEN: Mr. President, I can already
9 confirm that we have consulted our client, and the
10 Respondent has no objection to sharing the Transcript
11 with the Government of Canada.

12 PRESIDENT TERCIER: Okay. When do you
13 think, Mr. Polašek, that you will be in a position
14 your views?

15 MR. POLASEK: Mr. President, I think we will
16 be in a position to revert at the beginning of the
17 Hearing tomorrow. Our main concern is confidentiality
18 and ensuring that the confidential portions of the
19 Hearing are protected.

20 PRESIDENT TERCIER: Okay. So, good,
21 tomorrow at the beginning of the Hearing. Fine.

22 So, now, Mr. Guibert de Bruet, you have the

1 floor for the next part of your cross-examination.

2 Please.

3 MR. GUIBERT de BRUET: Thank you,
4 Mr. President.

5 BY MR. GUIBERT de BRUET:

6 Q. Gentlemen, can you each confirm that you
7 have not spoken with anyone about the case during your
8 break?

9 A. (Mr. Fox) That's confirmed.

10 A. (Dr. Armitage) Yes, that's correct.

11 Q. Okay. Let's discuss your 2012 Technical
12 Report in more general terms. A NI 43-101 Technical
13 Report must include in summary form all material,
14 scientific, and technical information in respect of
15 the subject property as of the Effective Date of the
16 Report; right?

17 A. (Dr. Armitage) Yes, it should contain all
18 the information that we consider as salient to the
19 Project, yeah.

20 Q. Okay. It must also identify any known
21 legal, political, environmental or other risks that
22 could materially affect the potential development of

1 the Mineral Resources or Mineral Reserves; correct?

2 A. (Dr. Armitage) If we felt there was anything
3 material that would impact on that, yes, we would
4 include that.

5 Q. Okay. But it has to identify those factors;
6 correct?

7 A. (Dr. Armitage) If, in the opinion of the
8 Qualified Person, it's material, yes.

9 Q. Okay. The Report must also describe, to the
10 extent known, the permits that must be acquired to
11 conduct the work posed for the property, and if the
12 permits have been obtained; right?

13 A. (Dr. Armitage) Well, that's not strictly
14 speaking true. You wouldn't expect the 43-101 to list
15 all of the permits that were required. You would
16 expect some commentary on the permitting and where the
17 Project was in the opinion of the Company, yeah.

18 Q. Could we go to Exhibit BD-6. Page 19. It
19 should be brought up on the screen.

20 These are the rules and policies, I believe,
21 that govern the issuance of 43-101 and Item 4G, scroll
22 up a bit.

1 Would you care to revise your answer?

2 A. (Dr. Armitage) It's a materiality issue. It
3 is not expected in a 43-101 that all of the permits
4 and all of the statuses would be reported, is that
5 common to the part that says where applicable.
6 There's also comments elsewhere in this document that
7 talk about materiality and disclosure, and we have
8 produced many of these documents that have been
9 reviewed by the IFC, and in none of them have we
10 listed every permit that is required to be produced.
11 So, on that basis, I think the IFC would be
12 comfortable with the level of disclosure that we
13 included.

14 Q. Okay. The Report must also "discuss any
15 significant risks and uncertainties that could
16 reasonably be expected to affect the reliability or
17 confidence in the exploration information, Mineral
18 Resource, or Mineral Reserves estimates or projected
19 economic outcomes and any reasonably foreseeable
20 impacts of these risks and uncertainties to the
21 Project's potential economic viability or continued
22 viability; right?

1 A. (Dr. Armitage) In the opinion, if there is a
2 material in the opinion of the Qualified Person,
3 that's correct.

4 Q. Okay. Let's discuss surface rights.

5 An NI 43-101 Technical Report must describe
6 the nature and extent of the issuer's title to,
7 interest in the property, including surface rights,
8 legal access, the obligations that must be met to
9 retain the property, and the expiration date of
10 claims, licenses or other property tenure rights;
11 correct?

12 A. (Dr. Armitage) Yes, but again, it's a
13 materiality issue. As you know, we didn't undertake,
14 for example a legal review, and we included a
15 disclaimer to that effect in the report, but we do
16 comment on where the Project was in our opinion in
17 terms of surface rights in the environmental section,
18 so we give what information we believe is material to
19 the Project.

20 Q. Okay. The Report must describe "to the
21 extent known, any other significant factors and risks
22 that may affect access, title, or the right or ability

1 to perform work on the property"; right?

2 A. (Dr. Armitage) Yeah. I think that's a
3 straight quote.

4 Q. Table 20-1 on the Technical Report, which is
5 on Page 62, your Technical Report towards the
6 middle--excuse me, this is Exhibit C-128. Your
7 Technical Report refers to the "acquisition of surface
8 rights," and you say in the third column "ongoing."

9 Do you see that?

10 A. (Dr. Armitage) Yeah.

11 Q. Okay. You go on to say in that third
12 column: "Expected to take 12 months following issue
13 of the Environmental Permit but may take longer due to
14 compulsory purchase."

15 Do you see that?

16 A. (Dr. Armitage) Yeah, we do state that, yeah.

17 Q. Were you aware that RMGC's position during
18 the public consultations was that forced relocation is
19 not possible in compliance with the national legal
20 provisions?

21 A. (Dr. Armitage) Well, you know, without
22 getting boring, again, you know, this is not an area

1 that either Mr. Fox or I are expert in. We employed
2 our environmental scientists--

3 Q. I have to you stop you there, Dr. Armitage.
4 That's not my question. My question is, were you
5 aware that RMGC's position during the public
6 consultations was that forced relocation is not
7 possible in compliance with the national legal
8 provisions?

9 A. (Dr. Armitage) Personally speaking, I
10 wouldn't have been aware, no.

11 Q. Okay. So, you were not aware of that. Was
12 that brought to your attention by your team?

13 A. (Dr. Armitage) I can't recall.

14 Q. Okay. You can't recall.

15 Did you expect--did you expect, excuse me,
16 that the necessary surface rights could be obtained
17 within the 12 months, or could Gabriel and RMGC expect
18 that?

19 A. (Dr. Armitage) That was the opinion of our
20 experts in that area.

21 Q. Okay. If you go to Page 64 of your
22 Technical Report, the fourth paragraph, you say:

1 "Some 794 residential properties have already been
2 purchased by RMGC, and a further 155 households still
3 remain to be acquired for the Project to proceed."

4 Do you see that?

5 A. (Dr. Armitage) I do.

6 Q. So, SRK expected that RMGC would acquire 155
7 households within one year of the issuance of the EP?

8 A. (Dr. Armitage) That's correct, yeah.

9 Q. And that expectation was based on statements
10 by Gabriel; correct?

11 A. (Dr. Armitage) No, that would have been
12 based on the opinion of the environmental specialist
13 we had on our team.

14 Q. Okay. Did that environmental specialist
15 tell you that certain household owners were refusing
16 to sell their property to RMGC?

17 A. (Dr. Armitage) Well, you know, I have been
18 involved in many projects at this stage of
19 development; and, in many cases, if not all cases, not
20 all the surface rights would have been acquired at the
21 Feasibility Study stage.

22 So, to me, it doesn't come across as a big

1 issue.

2 Now, (drop in audio) personally reasonably
3 conceivable that the properties that were required
4 wouldn't have been acquired.

5 Q. I understand, but that wasn't my question.
6 My question was: Were you aware when drafting your
7 2012 Report that certain household owners were
8 refusing to sell their property to RMGC?

9 A. (Dr. Armitage) Well, I can't recall if I was
10 aware or not, but it would be entirely usual for
11 people to say they weren't prepared to sell, even if
12 at some point they would.

13 Q. Okay. Did someone on your team bring that
14 to your attention?

15 A. (Dr. Armitage) I can't recall. But as I
16 say, from my--you know, as a Qualified Person being
17 responsible for this Report, fact that there were 155
18 households remaining, the fact that some of those
19 people may have said they're not prepared to sell
20 would not have struck me as particularly unusual.

21 Q. Okay. Those 155 households were not all the
22 surface rights RMGC had to acquire in order for the

1 Project to proceed; correct?

2 A. (Dr. Armitage) Yes. I'm aware that there
3 were fairly significant areas that hadn't yet been
4 acquired.

5 Q. Yes. So, RMGC also had to acquire
6 approximately 196 hectares of what it refers to as
7 "institutional properties"; right?

8 A. (Dr. Armitage) I can't talk to the numbers,
9 but I'm aware that there were other surface rights
10 that had not been acquired, yes.

11 Q. Okay. Why don't we take a look at C-1434,
12 Page 20.

13 So, does this refresh your recollection?

14 A. (Dr. Armitage) I don't know. You would have
15 to remind me what this document is.

16 Q. Okay. I believe if we go the very first
17 page, this is a presentation to BMO capital.

18 Have you ever seen this document?

19 A. (Dr. Armitage) Not that I recall. I may
20 have though.

21 Q. Okay. So, can we go back to Page 20,
22 please.

1 So, Gabriel Resources was telling BMO
2 Capital that there was 196 hectares to be acquired
3 still what is referred to as "institutional
4 properties"; right?

5 A. (Dr. Armitage) Yeah, he's also showing that
6 it's already acquired a significant number, of course.

7 Q. It says: "will be obtained," I believe.

8 A. (Dr. Armitage) It says--I have to read the
9 numbers.

10 Sorry, what's the question?

11 Q. So, the question was: 50 percent or, excuse
12 me, my question originally was RMGC also had to
13 acquire 196 hectares of what it refers to as
14 "institutional properties"; right?

15 A. (Dr. Armitage) Well, that may be the case.
16 That's what it said on that slide, yes.

17 Q. Okay. In particular, 50 percent of those
18 196 hectares had to be acquired after a permitting
19 process; right?

20 A. (Dr. Armitage) That's not a question I can
21 answer.

22 Q. You're not aware of the permitting process

1 that was required to obtain--

2 (Overlapping speakers.)

3 A. (Dr. Armitage) I'm not aware of the details
4 of the requirements, no.

5 Q. Okay. Nobody from your team brought those
6 issues to your attention?

7 A. (Dr. Armitage) As I say, I think the view of
8 our team or our lady who took this work for us was
9 that she was comfortable that the process of acquiring
10 the rights was going along in a reasonable manner, and
11 she was confident that the remaining rights would be
12 obtained.

13 Q. Did you verify or have verified whether it
14 was legally possible for any of these institutional
15 properties to be transferred to RMGC under existing
16 law?

17 A. (Dr. Armitage) Well, it would be slightly
18 unfair if it was not possible to be done, but, no, as
19 I say, this is not my field, you know.

20 All I could say to you is that, you know, it
21 is typical in a mining project for the surface rights
22 to be acquired as the project proceeds through

1 Feasibility Study stage and even into construction.
2 And even in some cases I have worked on where there
3 were still areas overlying ore bodies that hadn't been
4 acquired at the time mining begins.

5 Q. I understand your response, but I don't
6 believe you answered my question. Did you verify or
7 have verified whether it was legally possible for any
8 of these institutional properties to be transferred to
9 RMGC under the existing law?

10 A. (Dr. Armitage) I don't know the answer to
11 that question.

12 Q. Okay. So, nobody from your team brought to
13 your attention whether this verification had been
14 conducted?

15 A. (Dr. Armitage) Nobody brought to my
16 attention any concern that they thought that it
17 wouldn't be possible to acquire the properties that
18 were required.

19 Q. Okay. Did you check--so that's a "no,"
20 nobody brought this to your attention.

21 A. (Dr. Armitage) Nobody brought to my
22 attention any concern the properties couldn't be

1 acquired. That's all I can tell you.

2 Q. That wasn't my question. My question was
3 whether somebody brought to your attention whether it
4 was legally possible or whether they had verified
5 whether it was legally possible for any of these
6 institutional properties to be transferred to RMGC
7 under the existing law?

8 A. (Dr. Armitage) I can't recall.

9 Q. Okay. Did you check whether RMGC had
10 already made offers to acquire some of these
11 institutional properties?

12 A. (Dr. Armitage) Again, you're asking the
13 wrong person. All I can tell you is that we had
14 someone that looked at this issue for us. They were
15 very comfortable with where the process was; they were
16 comfortable that the remaining licenses for the
17 surface rights could be obtained, so that's all I can
18 tell you.

19 From my personal point of view, as I say,
20 that doesn't strike me as an unusual situation.

21 Q. Dr. Armitage, you're responsible for the
22 contents of this Report; right?

1 A. (Dr. Armitage) I'm responsible for assuring
2 that appropriate people with appropriate
3 qualifications look at all the different aspects, not
4 suggesting that I would be able to do that myself.
5 So, the key is making sure you have the right people
6 looking at all the right areas, and I believe we did.

7 Q. Okay. So, in answer to my question, you do
8 not know whether SRK checked that RMGC had already
9 made offers--excuse me.

10 You do not know whether SRK checked that
11 RMGC had made offers to acquire some of the
12 institutional properties?

13 A. (Dr. Armitage) No, I don't know the answer
14 to that question.

15 Q. Okay. Let's turn to another issue. Let's
16 talk about archaeological supervision.

17 Did you have the chance--excuse me.

18 Did you review the Chance Finds Protocol
19 before drafting your 2012 Technical Report?

20 A. (Dr. Armitage) Well, unsurprisingly, the
21 answer to that question is going to be no because it's
22 the same lady responsible for looking at that issue as

1 was responsible for looking at the permit.

2 Q. What is the name of this lady in particular?

3 A. Sue Struthers is her name.

4 Q. Susan Struthers, okay.

5 Are you aware that--excuse me one second.

6 Are you aware that RMGC had an obligation to
7 provide archaeological surveillance of its
8 construction and operational works within certain
9 areas of the Project footprint?

10 A. (Dr. Armitage) In this area, all I can
11 really tell you is, I know that they had
12 Archaeological Discharge Certificates, I think it is,
13 for three of the pits. There was one pit where the
14 discharge--

15 Q. I have to stop you there, Dr. Armitage. I'm
16 not asking you about Archaeological Discharge
17 Certificates. I'm asking you about archaeological
18 surveillance. Do you know whether RMGC had an
19 obligation to provide archaeological surveillance for
20 its construction and operation works within certain
21 areas of the Project footprint?

22 A. (Dr. Armitage) I know that they had

1 undertaken a significant amount of work looking into
2 archaeological issues, and I know that the intent was
3 that that will carry on throughout the mine, mine
4 life.

5 Q. Just to back up one second, did you have
6 anyone in your team that was a Romanian lawyer?

7 A. (Dr. Armitage) No, we didn't cover legal
8 aspects. We're not lawyers.

9 Q. Okay. All right. Why don't we go to
10 Exhibit C-388.03. This is the Chance Finds Protocol.
11 And if you could go to Page 31, and it says:
12 "Implementation of the PPDI"--that's the initials for
13 the Chance Finds Protocol--"and associated operation
14 manuals, will involve a number of specific works."
15 Okay? "On both surface and underground sites to
16 achieve..."

17 And then if we go to the next page, the
18 fifth bullet, it says: "Archaeological surveillance
19 of the construction and operation works." Right?

20 And then if we can go to Page 49 of the same
21 document, you will see here it says: "During pit
22 operation, Chance Finds may be identified underground,

1 including Roman mine galleries and/or Roman artifacts.
2 It is, therefore, necessary to implement special
3 protocols instituting permanent, very careful
4 supervision, of mining archaeology specialists over
5 pit operation activities."

6 Do you see that?

7 A. (Dr. Armitage) I do.

8 Q. SRK did not assess the impact of this
9 archaeological surveillance on the productivity of the
10 Project; correct?

11 A. (Dr. Armitage) Well, I don't think that's
12 quite correct. I think that in undertaking the work,
13 specialists would have been looking at this issue,
14 would have been looking at the potential for finds,
15 would have understood that, you know, there is always
16 the chance of some find that might delay operations in
17 one small area. I don't think we would regard that as
18 particularly unusual or particularly concerning.

19 Q. I'm not sure I got an answer to my question:

20 Did you, or did you not assess the impact of
21 this archaeological surveillance, this very careful
22 supervision, on the productivity of the Project?

1 A. (Dr. Armitage) Well, I'm saying that we
2 understood that there was going to be ongoing review
3 of the potential for archaeological finds as the
4 mining operation proceeded, and you would hope that
5 would be typical of any mining operation where you're
6 mining in a Historical Area.

7 Q. I think there may be some confusion.
8 What is your understanding of the definition
9 of "archaeological supervision"?

10 A. (Dr. Armitage) Well, maybe if you tell me
11 what you mean, then--as I say, it's not my technical
12 area.

13 Q. Okay. So, you don't have one that comes to
14 mind?

15 A. (Dr. Armitage) No, I was assuming that you
16 were--that you were--the implication was that the
17 Company would be needing to continually be aware of
18 the potential for such Chance Finds and would--address
19 any of the--that they came across during the mining
20 operation.

21 Q. Okay. SRK doesn't--
22 (Overlapping speakers.)

1 Q. SRK doesn't mention the archaeological
2 supervision of the Project anywhere in its Technical
3 Report; correct?

4 A. (Mr. Fox) Well, if we don't, which we may
5 well not do that, it's probably because we didn't
6 regard it as a material concern.

7 Q. Okay. Micon's Technical Report similarly
8 does not assess the impact of this archaeological
9 surveillance on the Project's operations; correct?

10 A. (Dr. Armitage) Well, that may well be the
11 case. I couldn't tell you offhand.

12 Q. Okay. In your 2012 Technical Report, you
13 say that the Building Permit may be expected in
14 2013-2014. We can turn to Page 62.

15 Do you see that?

16 A. (Dr. Armitage) Yeah, and I think as you'll
17 see, there's a disconnect there because the paragraph
18 underneath refers to Construction Permits rather than
19 permit, which is the way it's written in text, so yes,
20 we're aware that the Project needed Construction
21 Permits in order to proceed, yeah.

22 Q. Okay. Given that the effective date of your

1 Report was October 2012, you were anticipating that
2 the Building Permit would be issued within one to two
3 years; correct?

4 A. (Dr. Armitage) I'm not fully up to speed
5 with the Building Permits. But we were certainly
6 envisaging that construction would commence in two
7 years hence, yes.

8 Q. Okay. So that necessarily then the Building
9 Permit would be obtained by that point?

10 A. (Dr. Armitage) Well, I guess, you know, I'm
11 pretty sure there would be different construction
12 permits for different areas, so you would certainly
13 need the permits required for where you were doing
14 your initial work, yeah.

15 Q. Okay.

16 A. (Dr. Armitage) I suspect you wouldn't need
17 all of them but that's not my field.

18 Q. Let's look at Table 20-1 on Page 62.

19 You describe here RMGC's permitting status
20 just in general, listing on this table the necessary
21 permits for construction of the Project; right?

22 A. (Dr. Armitage) Yeah. I think they're the

1 ones that we regarded were the key ones.

2 Q. Okay. In Row 4, you refer to the Industrial
3 Area or Project Area PUZ, first and second columns?

4 A. (Dr. Armitage) That's correct.

5 Q. And you say: "Updates completed."

6 Do you see that?

7 A. (Dr. Armitage) Yeah.

8 Q. So, the new PUZ Strategic Environmental
9 Assessment, or SEA, endorsement received, approval
10 expected 2013.

11 Do you see that?

12 A. (Dr. Armitage) Yes.

13 Q. So, SRK was anticipating that the Industrial
14 Area PUZ would be approved in 2013; right?

15 A. (Dr. Armitage) Yes, that's correct.

16 Q. And SRK viewed the endorsement of the SEA as
17 a prerequisite to the approval of the PUZ; right?

18 That's why you mentioned it?

19 A. (Dr. Armitage) I'm not sure I can answer
20 that question. In fact, I'm sure I can't.

21 Q. So, you're not aware whether it is or is not
22 a prerequisite for the PUZ?

1 A. (Dr. Armitage) I'm not personally, no.

2 Q. Okay. But presumably someone on your team
3 checked this?

4 A. (Dr. Armitage) Yes.

5 Q. And you're responsible for this
6 project--excuse me, for this Report?

7 A. (Dr. Armitage) I'm responsible for ensuring
8 that we have the right people in the team who
9 understand the various technical issues, and that I'm
10 relying on them to address those technical issues.

11 Q. Were you aware that NGOs had challenged the
12 SEA Endorsement in September 2011?

13 A. (Dr. Armitage) Not personally. I may have
14 been told that. I can't recall.

15 Q. Okay. So, the Report does not mention that,
16 as of the effective date of this Report in 2012, there
17 were lawsuits surrounding the SEA endorsement that
18 were pending?

19 A. (Dr. Armitage) If you say, I'm sure it is.
20 I can't recall.

21 Q. Okay. Had you been aware of those court
22 decisions, would that have affected your conclusion

1 that "approval of the PUZ was expected in 2013"?

2 A. (Dr. Armitage) It's not something that I can
3 tell you. It's not something that I would be able to
4 opine on.

5 Q. You didn't have any lawyers or Romanian
6 lawyers on your team, but you were still making these
7 assessments; correct?

8 A. (Dr. Armitage) Yes, but I guess that comes
9 down to the experience of the people involved and
10 their typical understanding of what happens in these
11 projects. I mean, you've got to understand that we
12 are looking at these projects regularly, all the
13 projects that we look at that are at this stage
14 are--have this sort of situation, permits, some have
15 been obtained, some need to be obtained. You know,
16 that's completely normal. I mean, there could be
17 hundreds of permits.

18 Q. And how much experience with the Romanian
19 Law do you have?

20 A. (Dr. Armitage) I don't have any experience
21 with Romanian Law.

22 Q. So, you say in the paragraph below that:

1 "Legal challenges brought forward by NGOs have the
2 potential to cause significant delays to the Project
3 timeline."

4 A. (Dr. Armitage) That's correct, yeah.

5 Q. Legal challenges to the SEA Endorsement for
6 the PUZ could significantly delay issuance of the
7 Building Permit; right?

8 A. (Dr. Armitage) I'm afraid you're asking the
9 wrong person.

10 Q. Okay. Did you check as to whether there was
11 precedent for how long this litigation could last?

12 A. (Dr. Armitage) As I say, you're asking the
13 wrong person.

14 Q. Okay. So, nobody from your team brought
15 this point to your attention?

16 A. (Dr. Armitage) Well, as I say, we can see
17 there that, we've expressed the fact that there are
18 NGOs there, and there could be delays as a result of
19 their actions.

20 Q. Do you have any experience with mining
21 projects in Romania?

22 A. (Dr. Armitage) I have reviewed at least one

1 other project, yes.

2 Q. Okay. So, nobody else--

3 A. (Dr. Armitage) Relevant to this.

4 Q. Did anybody on your team bring to your
5 attention the fact that NGOs had challenged the prior
6 2002 PUZ for this project?

7 A. (Dr. Armitage) Not that I recall.

8 Q. Did you know that this litigation lasted
9 almost three years?

10 A. (Dr. Armitage) As I say, it's not something
11 that I can comment on.

12 Q. Okay. Were you aware that the litigation
13 surrounding the SEA endorsement that you mention here
14 lasted four-and-a-half years from September '11 to
15 March 2016?

16 A. (Dr. Armitage) I'm not in touch with the
17 Project. I don't know the situation, no.

18 Q. Okay. If you had been aware of the
19 litigation, would that have affected your conclusion
20 that approval of the PUZ was expected in 2013?

21 A. (Dr. Armitage) That's not a question I could
22 answer. It's not in my expertise, I'm afraid.

1 Q. Okay. Your Technical Report does not say
2 that, given those prior lawsuits, it was likely that
3 there was a risk that NGOs would challenge in court
4 the SEA Endorsement until the very end; right?

5 A. (Dr. Armitage) I'm sorry, I'm not sure I
6 understand that.

7 Q. Okay. Let me rephrase that question.

8 Were you aware generally, more generally, of
9 the fact that NGOs were litigating the zoning of this
10 project at every possible instance?

11 A. (Dr. Armitage) No, I'm not aware of that.

12 Q. Okay. Were you aware of that at the time?

13 A. (Dr. Armitage) I can't recall.

14 Q. Okay. The third column also says with
15 regard to the PUZ, "17 out of 22 endorsements
16 obtained."

17 Do you see that?

18 A. (Dr. Armitage) Yes.

19 Q. The Report does not say that RMGC had yet to
20 apply for three of those endorsement, does it?

21 A. (Dr. Armitage) No, it doesn't.

22 Q. Okay. And the fifth row of your Technical

1 Report, on Page 62, SRK refers to the Cârnic
2 archaeological discharge and says: "Approved and
3 certificate obtained 17 July 2011."

4 Do you see that?

5 A. (Dr. Armitage) Yes, I do.

6 Q. The Report does not mention that in 2011,
7 the Archaeological Discharge Certificate, or ADC, is
8 being challenged by NGOs?

9 A. (Dr. Armitage) No, it doesn't.

10 Q. Okay. The Report does not mention that
11 NGOs, including Alburnus Maior, challenged the ADC for
12 Cârnic before a Romanian court on 23 September 2011?

13 A. (Dr. Armitage) But what we do do is we
14 reference the fact that there are NGOs active and that
15 there may be permitting delays or legal challenges in
16 general, so that was a reference to that activity.

17 Q. Okay, so the answer--

18 A. (Dr. Armitage) I can't--I couldn't comment
19 on.

20 Q. So the answer to my question is no, the
21 Report does not mention that; right?

22 A. (Dr. Armitage) I'm not 100 percent sure, but

1 if you say so, I believe you.

2 Q. Okay. Well, do you see any mention there?

3 A. (Dr. Armitage) Not in that--on that page,
4 no.

5 Q. Okay. Not on that page.

6 And for the record, that Annulment Request
7 is C-1719.

8 Your Report does not mention that suspension
9 of a Cârnic ADC was requested on 20 January 2012;
10 right?

11 A. (Dr. Armitage) I'm not sure, but it--

12 Q. It doesn't mention that here?

13 A. (Dr. Armitage) No.

14 Q. For the record, that Annulment Request was
15 C-1735.

16 Your Report also doesn't mention that other
17 NGOs, including Greenpeace Romania, filed another
18 challenge in April 2012 before the Bucharest Tribunal
19 against the Cârnic ADC; right?

20 A. (Dr. Armitage) I can't tell you. I suspect
21 that's the case, yes.

22 Q. Well, your Report doesn't mention that here,

1 does it?

2 A. (Dr. Armitage) No, but as I say, it does
3 mention the fact that there are NGOs that are active
4 and that there may be permitting delays or legal
5 challenges--

6 Q. Okay. But it doesn't mention--
7 (Overlapping speakers.)

8 A. (Dr. Armitage) Doesn't mention specific
9 details, no.

10 Q. Okay. And for the record, that challenge in
11 April 2012 is Exhibit R-356.

12 So, you refer in that paragraph which you
13 have been pointing to, to ongoing legal challenges.
14 As you confirmed earlier, you do not specify in that
15 paragraph which acts were being challenged at the
16 time; right?

17 A. (Dr. Armitage) I beg your pardon?

18 Q. You don't specify in this paragraph, the
19 paragraph that's below the table, you don't specify
20 which acts were being challenged--

21 (Overlapping speakers.)

22 Q. --after you issued your Report?

1 A. (Dr. Armitage) No.

2 Q. You don't specify that there were then
3 pending legal challenges filed against the ADC for
4 Cârnic; right?

5 A. (Dr. Armitage) That's true.

6 I think it would be unusual for a 43-101 to
7 go into that level of detail.

8 Q. So, the Report does not mention that, as of
9 the effective date, of that Technical Report, there
10 were lawsuits surrounding the ADC for Cârnic?

11 A. (Dr. Armitage) I think it conveys the
12 situation, though, doesn't it? Whilst RMGC's designed
13 the Project to follow all applicable laws and protect
14 against permitting delays, legal challenges brought
15 forth by NGOs or other Party currently ongoing, may be
16 introduced in the future and have the potential to
17 cause significant delays to the Project timeline.

18 Q. So, the answer to my question is no, your
19 Report does not mention that there were lawsuits
20 surrounding the ADC for Cârnic; right?

21 A. (Dr. Armitage) No, but I take your point it
22 doesn't have that level of detail. I think it does

1 compare with the situation.

2 Q. Are you aware that this litigation is still
3 ongoing?

4 A. (Dr. Armitage) I'm not aware, no.

5 Q. Okay. The Report does not explain that NGOs
6 had successfully contested a prior ADC for Cârnic in
7 court through all levels of appeal between 2004 and
8 2008?

9 A. (Dr. Armitage) No, and I'm sure it doesn't.

10 Q. Were you aware of that?

11 A. (Dr. Armitage) Personally I'm not aware of
12 it at the moment. I may have been at the time, but I
13 couldn't tell you for sure.

14 Q. Okay. If you had been aware of those
15 decisions, would that have affected your conclusion
16 that the Building Permit could be expected in 2013 to
17 2014?

18 A. (Dr. Armitage) Well, I think that, since
19 others who, as you know, looked at this information
20 and looked at the status of where we were, came to
21 that conclusion, so that was her opinion at the time
22 based on the information she had. So, I'm afraid

1 that's not a question I can answer.

2 Q. That wasn't my question. My question was:
3 Had you been aware of the decisions, would that have
4 affected your opinion as to whether the Building
5 Permit could be expected in 2013 or 2014?

6 A. (Dr. Armitage) I would not profess to make
7 an opinion on that basis.

8 Q. Okay. Had you been advised in 2012 that
9 NGOs had successfully fought tooth and nail against
10 the Cârnic ADC between 2004 and 2008, and that those
11 same NGOs filed a lawsuit immediately after the new
12 ADC was issued in 2011, and that that litigation was
13 still pending, that would have affected your view that
14 the Building Permit could be issued in 2013 or 2014;
15 right?

16 A. (Dr. Armitage) Well, I would be relying on
17 my expert to have come to an opinion based on the
18 information that they saw, which is what they did.

19 Q. And this expert was not a Romanian lawyer;
20 right?

21 A. (Dr. Armitage) No, but she has been very
22 experienced in looking at projects at this stage of

1 development which have permitting challenges.

2 Q. Do you know whether she'd ever worked on a
3 project in Romania?

4 A. (Dr. Armitage) I can't answer--I don't know
5 the answer to that question at the moment, no.

6 Q. Okay. In the last row of the table on
7 Page 62 of your Technical Report, the third column, it
8 states that: "Construction Permit Application to be
9 submitted once all studies, approvals and endorsements
10 of the UC obtained." Right?

11 Do you see that?

12 A. (Dr. Armitage) I do.

13 Q. The UC is the Urban or Urbanism Certificate;
14 right?

15 A. (Dr. Armitage) I'm not 100 percent sure, but
16 if that's what you say it is, I'm sure it is.

17 Q. Okay. The Report does not mention that
18 there were lawsuits surrounding the UC; right?

19 A. (Dr. Armitage) No, I don't believe it does.

20 Q. Are you aware that litigation over RMGC's UC
21 continued until 2016?

22 A. (Dr. Armitage) I'm not involved in the

1 Project at the moment, so no, I'm not aware.

2 Q. If you had been aware of those Court
3 Decisions and challenges, that would have affected
4 your conclusion that the Building Permit could be
5 expected in 2013 or 2014; right?

6 A. (Dr. Armitage) I don't know. I
7 would--again, I would defer to the person we had
8 responsible looking at this area.

9 Q. Okay. I think the same questions previously
10 can be transposed, but we'll leave it at that.

11 I just have one final clarification
12 question.

13 Dr. Armitage, I asked you earlier "how many
14 times have you spoken with Jonathan Henry?" And you
15 said "I have spoken many times since--this actual
16 Project was the first time that I had dealt with him."
17 Just to repeat and clarify my question: How many
18 times have you spoken over the years with Jonathan
19 Henry both before and after the Arbitration commenced?

20 A. (Dr. Armitage) Well, as I said, I'm pretty
21 sure the first time I met Jonathan Henry was when we
22 were engaged to do the work in 2006 or maybe later.

1 I'm not sure when Jonathan joined. We would have
2 obviously spoken many times during the work that we
3 were doing up to the production of our 2012 Report,
4 and again, obviously subsequently when we discussed
5 work in 2013-'14.

6 We spoke--I spoke to Jonathan when we were
7 first asked to prepare these witness reports, so that
8 would have been, what, about two or three years ago,
9 and I have not done any other work for him on a
10 professional level, but I do see Jonathan regularly at
11 social events in London, and we will always speak when
12 we meet up.

13 Q. Okay. So, when you say "many," is that 20,
14 30 times? 40 times?

15 A. (Dr. Armitage) Probably more than that, I
16 would say.

17 Q. So hundreds of times?

18 A. (Dr. Armitage) Well, maybe not hundreds of
19 times, but certainly regularly, I would have thought,
20 yeah. Small business money.

21 Q. Excuse me, one second.

22 (Pause.)

1 MR. GUIBERT de BRUET: No further questions,
2 Mr. President.

3 PRESIDENT TERCIER: Thank you very much,
4 Mr. Guibert de Bruet.

5 On Claimants' side, may I assume that
6 Mr. Polašek will conduct the redirect?

7 MR. POLASEK: Yes, that is correct,
8 Mr. President, and if I may ask, we would like to take
9 five minutes to confer and determine the scope of the
10 redirect.

11 PRESIDENT TERCIER: Okay. I personally have
12 no objection, and five minutes are extremely short,
13 and I know how precise you are. I will give you 10
14 minutes.

15 MR. POLASEK: Thank you, Mr. President. I
16 see I'm bound to it. Okay.

17 (Brief recess.)

18 PRESIDENT TERCIER: My co-Arbitrators are
19 ready? David is with us? Fine.

20 Fine, our experts are ready. Claimants'
21 side, of course, you're ready. And Respondent's side,
22 Dr. Heiskanen or Mr. Guibert de Bruet? You're ready?

1 MR. GUIBERT de BRUET: We're ready,
2 Mr. President.

3 PRESIDENT TERCIER: Good.

4 Mr. Polašek, you have the floor.

5 MR. POLASEK: Thank you, Mr. President.

6 REDIRECT EXAMINATION

7 BY MR. POLASEK:

8 Q. Dr. Armitage, you were asked questions about
9 surface rights; and, in that context, you said that
10 there are many projects that involve a situation where
11 the owners of those surface rights or of those
12 properties are not willing to sell.

13 How many of these projects did not proceed
14 to implementation because somebody did not sell?

15 A. (Dr. Armitage) None, none that I have been
16 involved in.

17 Q. And how many projects are you referring to?

18 A. (Dr. Armitage) Well, that's a difficult
19 question.

20 In terms of auditing projects like this in
21 this sort of way, I would say over 50.

22 Q. Thank you.

1 You were also asked questions going to your
2 independence; and, in that connection, you were
3 referred to Exhibit C-129, which we will show on the
4 screen. That is the certificate that accompanied your
5 NI 43-101 Report for Roşia Montană. And I direct your
6 attention to the bottom of the page, Paragraph 11. I
7 will read it. It says: "I have not received, nor do
8 I expect to receive, any interest, directly or
9 indirectly, in the Roşia Montană Project or securities
10 of Gabriel."

11 So, what sort of interest does this
12 statement refer to, in your understanding?

13 A. (Dr. Armitage) That I personally wouldn't
14 get any financial gain in the Project or in the
15 Company as a result of undertaking my work.

16 Q. You were also referred to Exhibit C-128.
17 This is the NI 43-101 Report for Roşia Montană, and I
18 direct your attention to Page 10 in that document.
19 Just above the third heading, there is a paragraph
20 which we will put on the screen, and it says: "SRK is
21 not an insider, associate or affiliate of Gabriel."

22 So, let me first ask you a question with

1 respect to this sentence where it says "SRK is not an
2 insider, associate or affiliate of Gabriel." In your
3 understanding, what does that mean?

4 A. (Dr. Armitage) Essentially trying to convey
5 that we have no--neither SRK or, for that matter, any
6 of the Project members have any direct association
7 with the Company other than being commissioned
8 specifically to undertake this Project; and that we
9 will be paid to do that Project based on the time it
10 takes to do the work required.

11 Q. And that sentence continues, and it goes on
12 to say that: "Neither SRK nor any affiliate of SRK
13 has acted as advisor to Gabriel or its affiliates in
14 connection with the Project."

15 In your understanding, what does that mean?

16 A. (Dr. Armitage) It's again saying that we are
17 committing to present our independent opinion on the
18 work that we were undertaking and that we have no
19 other relationships with the Company.

20 Q. Thank you.

21 MR. POLASEK: No further questions.

22 PRESIDENT TERCIER: Thank you very much,

1 Mr. Polašek.

2 Do my co-Arbitrators have questions to the
3 Experts? Professor Grigera Naón?

4 ARBITRATOR GRIGERA NAÓN: Not on my side,
5 Mr. President.

6 PRESIDENT TERCIER: Thank you.

7 Professor Douglas?

8 QUESTIONS FROM THE TRIBUNAL

9 ARBITRATOR DOUGLAS: Just a couple, if I
10 may, just in relation to the 43-101 Report, and I just
11 want to get a little bit more of a sense as to what
12 the emphasis really is and what's required for this
13 sort of report, which, of course, I'm not intimately
14 familiar with.

15 I just want to get a sense of to what extent
16 the opinions that are given about the permitting
17 process, whether that's really part of the core aspect
18 of the Report, or is that--I mean, you're both
19 geologists, it seems like the consultancy firm is
20 really focused on geology. You certainly touch upon
21 the permitting, but to what extent does that form part
22 of the core aspects of the Report? Is it necessary?

1 I imagine it is, but I just want to get more of a feel
2 for what emphasis needs to be placed on that in a
3 report of this nature?

4 THE WITNESS: (Dr. Armitage) It's just a
5 materiality issue. You have the requirements--these
6 are guidelines where this Report format was introduced
7 in direct response to a fraudulent case, which is
8 Bre-X, and it was to prevent misleading information
9 going out into the market which wasn't based on
10 independent views, so it was to bring another level of
11 audits into the Company's ability on the Stock
12 Exchange. So, the requirement is to review all of the
13 key material aspects that impact on the Project, and
14 it is required, if you have any concerns with those,
15 to dwell on them and explain them.

16 But I guess one of the issues is that you're
17 trying to write a report that is readable by the
18 public, by the investors, so it is not meant to be too
19 technical, too detailed. It's meant to be conveyed in
20 a way so that the average investor can understand, so
21 it's not the case as it would be in a feasibility
22 study to dwell on every technical item in a huge

1 amount of detail, and for example, list all the
2 permits, or for example, list all the land rights, all
3 the drillholes and so on. It's to prevent--present an
4 opinion in a readable manner that could be understood
5 by the average investor and convey that there
6 is--someone independent has reviewed the Project and
7 there was nothing deliberately misleading.

8 ARBITRATOR DOUGLAS: Okay. And so, just to
9 come back to the permitting aspect, then. It's in
10 your Report--we don't have to turn it up, but it's
11 Page 10 in this Report: "Producing this report, SRK
12 has relied on information provided by Gabriel." One
13 can understand how that must be the case.

14 But when you're reporting on the status in
15 relation to certain permits and things of that nature,
16 is that something that essentially Gabriel is
17 reporting to you and you're including in this Report,
18 or is there some sort of independent due diligence
19 that goes on as to exactly what stage each permit is
20 at and what complications may arise?

21 THE WITNESS: (Dr. Armitage) I guess--I
22 guess it would depend on the extent to which we were

1 concerned about the permitting and the extent to which
2 that person who we keep referring to who reviewed that
3 aspect of the Project. If they were concerned, they
4 would dig down to the level of detail they needed to
5 to get comfortable.

6 So, it would have been incorrect to say, we
7 were just reliant on the information given by the
8 Company. I think it's a judgment call by the
9 individual. And the same as it is in all the other
10 technical areas--you know, how much if, for example,
11 on the resource you reviewed the methodology for the
12 resource to get comfortable that it's been done in a
13 reasonable manner or if you have a concern and,
14 therefore, go back and recalculate it from scratch,
15 then you need to make a decision about how far in
16 depth you go. And so, I think it's the same in the
17 permitting: The more concern you have, the more
18 detail you may go into it.

19 So, yes, it's true to say, as we say there,
20 that you are reliant to some extent on information
21 given to you by the Company, but you're also--in my
22 case, I'm reliant on my team members understanding

1 their business and asking the right questions and
2 digging down to the level of detail they need to to
3 get comfortable.

4 ARBITRATOR DOUGLAS: How do they do that in
5 a situation where these regulations--and I think you
6 recognize this in your Report, but these are very
7 technical complicated procedures, presumably you need
8 to understand Romanian Law, you would have to
9 understand the Romanian language.

10 So, in order to get to the point where you
11 identify a concern, what sort of steps would be taken
12 in a project like this to really understand what was
13 going on on the ground?

14 THE WITNESS: (Dr. Armitage) I--you know in
15 all honesty, I can't really comment on to what extent
16 in terms of permitting, so I just--I wouldn't know,
17 myself, what point to go through might start and stop.
18 As I say, on the resource side there are different
19 levels you could go to in terms of acceptance of
20 information and where you would then do recalculation
21 or reanalysis or whatever, or even just reject the
22 information. So, I'm assuming similar levels in the

1 other technical areas, but I would be the wrong person
2 to talk through that exact process.

3 ARBITRATOR DOUGLAS: Okay. Well, thank you
4 very much. That's very helpful.

5 Thank you, Mr. President.

6 PRESIDENT TERCIER: Thank you very much,
7 Professor Douglas.

8 I had the same question or same sort of
9 question, so besides there were no other points to
10 raise.

11 Well, we are now at the end of your
12 examination. I would like to thank you very much,
13 both of you, Dr. Armitage and Mr. Fox. Now you have
14 the possibility to also see and speak to and
15 attend--not have exchange because we're not in the
16 same place. You're no longer under examination, and I
17 would like to thank you both very much again.

18 (Experts step down.)

19 PRESIDENT TERCIER: For our proceedings, I
20 would ask Sara if she could already give the time that
21 has been spent by each Party.

22 SECRETARY MARZAL YETANO: Yes. I have the

1 remaining time, if that's okay. The Claimants have 10
2 hours and 12 minutes and 54 seconds remaining;
3 respondent has 9 hours, 23 minutes, 56 seconds
4 remaining; and the Tribunal 3 hours, 19 minutes, and
5 26 seconds.

6 PRESIDENT TERCIER: Okay. Thank you very
7 much.

8 Now, I would like to recall you, especially
9 Claimant, Claimants should first inform us on their
10 position concerning the transmission of the Transcript
11 to Canada, to the Government of Canada; and, secondly,
12 also prepare a few pages on their position concerning
13 the Valuation Date and this impact on the valuation
14 method.

15 Okay. Otherwise, do you have a request or a
16 point that you would like to raise on your side, on
17 Claimants' side?

18 MR. POLASEK: Nothing from Claimants,
19 Mr. President. Thank you.

20 PRESIDENT TERCIER: Thank you.

21 From Respondent's side?

22 DR. HEISKANEN: Mr. President, the only

1 issue with the program going forward, we are a little
2 bit ahead, actually, of the program, as according to
3 the program that we have attached to PO 33. The
4 presentation of Behre Dolbear would be the next item.
5 Our suggestion would be that we stick to the program
6 and start tomorrow morning.

7 PRESIDENT TERCIER: Okay. That's a good
8 point. I have implicitly admitted that this would be
9 the case, so this is sort of averaged with yesterday's
10 hearing.

11 Does anyone have any objection to sticking
12 to the program and starting with the next expert
13 tomorrow morning? It doesn't seem to be the case, so
14 Dr. Heiskanen, you were right. It is what is
15 implicitly written.

16 Fine. Do my co-Arbitrators have a point
17 they would like to raise? No? Okay.

18 And, Sara, your side?

19 SECRETARY MARZAL YETANO: No point. Thank
20 you.

21 PRESIDENT TERCIER: No point.

22 Well, in that case, I wish you a very

1 pleasant afternoon and a very pleasant evening,
2 depending where you are. Thank you very much. Good
3 night.

4 DR. HEISKANEN: Thank you, bye-bye.

5 SECRETARY MARZAL YETANO: Bye. Thank you.

6 (Whereupon, at 12:45 p.m. (EDT), the Hearing
7 was adjourned until 8:00 a.m. (EDT) the following
8 day.)

CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.



DAVID A. KASDAN