

CONSOLIDATED HEARINGS BOARD

IN THE MATTER OF Sections 2 and 3 and 6 (3) of the Consolidated Hearings Act, 1981, S.O. 1981, c.20;

— and —

IN THE MATTER OF Section 12(2) of the Environmental Assessment Act, R.S.O. 1980, c.140;

— and —

IN THE MATTER OF Sections 30, 35 and 38 of the Environmental Protection Act, R.S.O. 1980, c.141, as amended;

— and —

IN THE MATTER OF Sections 24 and 61 (2) of the Ontario Water Resources Act, R.S.O. 1980, c.361, as amended;

— and —

IN THE MATTER OF Section 28 (3) of, and Regulation 164 under, the Conservation Authorities Act, R.S.O. 1980, c.85, as amended;

— and —

IN THE MATTER OF Section 40(12) of the Planning Act, S.O. 1983, c.1, as amended; in connection with site plan control of the sanitary landfill site;

— and —

IN THE MATTER OF Section 22(1) of the Planning Act, 1983 in connection with a referral to this Board by the Honourable Bernard Grandmaitre, Minister of Municipal Affairs, on a request by the Regional Municipality of Halton to amend the Official Plan for the Town of Milton to redesignate a parcel of land comprising Part Lots 3 and 4, Concession 2 N.S. in the Town of Milton from "Agriculture" and "Conservation and Hazard Lands" to permit the construction, operation and maintenance of a landfill site, Minister's File No. 24-OP-0208-A01;

— and —

IN THE MATTER OF Section 34(11) of the Planning Act, 1983 in connection with an appeal to this Board by the Regional Municipality of Halton for an order directing an amendment to By-law 61-85 of the Town of Milton to rezone the lands situated at Lot 3 and part of Lot 4, Concession 2 N.S., in the Town of Milton from "Agriculture" to permit a regional sanitary landfill site and ancillary uses;

— and —

IN THE MATTER OF Section 15(1) of the Planning Act, R.S.O. 1980 ch.379 in connection with a referral by the Honourable Claude F. Bennett, Minister of Housing on a request by Tremaine Britannia Citizen's Group for consideration of part of the Official Plan for the Halton Planning Area with respect to Sections 1 to 5 inclusive, 7, 9 and 10 of Part III D3 Solid Waste Management, Minister's File No. OPC-0026;

— and —

IN THE MATTER OF Section 64 of the Ontario Municipal Board Act, R.S.O. 1980, c.347 as amended in connection with an application by the Regional Municipality of Halton for an order approving:

a) the acquisition of land for the construction, operation and maintenance of a sanitary landfill site to contain 7.96 million cubic metres of waste in the Regional Municipality of Halton and to do so by one of two alternative methods as follows:

- (i) landfilling at the site referred to in Halton's Environmental Assessment as Site F in the City of Burlington;
- (ii) landfilling at the site commonly referred to in Halton's Environmental Assessment as Site D in the Town of Milton

at an estimated cost of \$12,775,000.00, and the borrowing of money by way of temporary advances not exceeding in the aggregate such estimated cost pending the sale of debentures, and

(b) the issuance of necessary debentures to a maximum of \$12,775,000.00 for a term not to exceed fifteen years;

— and —

IN THE MATTER OF Section 193(5) and Paragraph 84 of Section 210 of the Municipal Act, R.S.O. 1980, c.302, as amended;

— and —

IN THE MATTER OF Sections 6, 7 and 8 of the Expropriations Act, R.S.O. 1980, c.148;

— and —

IN THE MATTER OF an undertaking of the Regional Municipality of Halton to provide facilities for the purpose of receiving, dumping and disposing of waste as required by section 137 of the REGIONAL MUNICIPALITY OF HALTON ACT, R.S.O. 1980, c.436, as amended, by acquiring the land for, constructing, operating and maintaining a landfill to contain 7.96 million cubic metres of waste in the Regional Municipality of Halton.

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HELD AT: Oakville, Ontario

DATE: November 25, 1987

OFFICIAL REPORTERS

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I N D E X

WITNESS:

PETER ROBERT WALKER (Resumed)

Cross-examination by Ms. Cronk (Cont'd) 14863

Cross-examination by Mr. Garrod 14907

Cross-examination by Mr. McQuaid 14920

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Toronto, Ontario

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BEFORE: H. H. Lancaster, Q.C. - Chairman
Dr. D.J. Kingham - Member



Hearing conducted at The Oakville
Granary Commercial Centre, 105 Robinson
Street, Oakville, Ontario, on
Wednesday, November 25, 1987

VOLUME 64

APPEARANCES:

T.R. Lederer and H.D. Hodgson	for the Regional Municipality of Halton (Proponent)
J.R. Tidball	for the Ministry of the Environment
T. Vigod J.F. Castrilli	for the West Burlington Citizens Group
D. Estrin, F.E. Leitch and H. Dahme	for the Corporation of the Town of Milton
S.R. Garrod and A. Nurvo	for the Milton Area Citizens Coalition and several affected Milton area landowners
R.B. Tuer, Q.C. E.A. Cronk and F. Perrier	for National Sewer Pipe Limited
L.F. Longo	for Azova Investments Limited
M.J. McQuaid, Q.C. and C.J. Tzekas	for the City of Burlington
C. Mansfield	for the Ministry of Natural Resources
P. Renaud	for Cumis



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APPEARANCES (Cont'd):

1	C. Stevenson	for Framgard Holdings,
2	P. Hancock	Fosseri Investments
3		Limited, Seriphos
4		Investments Limited and
5		Topic Investments
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Per: C. F. Nethercut, C.V.R.



Oakville, Ontario
November 25, 1987

---Upon commencing at 9:30 a.m.

MR. LANCASTER: Thank you, please be seated. I see we are all not here.

MS. CRONK: Mr. Garrod has been delayed as he had a bit of an accident, but he is out of the ditch.

MR. LEITCH: We spoke with him on the telephone and at that time he was at Guelph Line and 401 and his wheels were on the road and he was on his way here. He asked me to address the Board with respect to one question which arises out of some information that came to him last evening that he would like to ask Mr. Walker and he wants to do that before Mr. McQuaid starts so Mr. McQuaid will be aware of it.

MR. LANCASTER: I see. He doesn't want us to wait for him particularly?

MR. LEITCH: If he doesn't get here, then the question can be put through Ms. Cronk.

MR. LANCASTER: Mr. Lederer is still upstairs. We will wait another ten minutes and see what happens.

MR. LEITCH: Before we start at that time, I would like to give some information to everyone as to the order of witnesses we will present in our



1 case and indicate to the Board the nature of the
2 evidence and what reports have gone to the parties, but
3 I can do that ...

4 MR. LANCASTER: I think everyone should
5 be here. Will you be much longer?

6 MS. CRONK: I would suspect about 45
7 minutes.

8 MR. LANCASTER: Mr. McQuaid, I guess
9 you will be taking over after that?

10 MR. MCQUAID: Yes, I will and I expect
11 to be most of the day, but it is hard to say.

12 MR. LANCASTER: I would expect you would
13 be. Ten minutes.

14 ---Recess

15 MR. LANCASTER: Please be seated. I
16 notice Mr. Garrod is not here yet, but I think we
17 should proceed with that caveat.

18 MR. LEITCH: With Ms. Cronk's permission
19 I would like to give some information relative to the
20 case the Town of Milton will call, inasmuch as we are
21 next in the order of things. I would expect that our
22 case would start some time next week and I am not sure
23 when.

24 The first witness we propose to call is
25 Mr. Zsadanyi who is the Director of Planning for the



1 Town of Milton. His evidence is not the subject of a
2 witness statement and the purpose of calling him is
3 because I made reference to his view of the effect of
4 the Milton Official plan and zoning by-law, and now I
5 think I am bound to call him within the rules we
6 operate under. He will simply address the
7 interpretation of the by-law and he will identify
8 certain reports which he has prepared over the course
9 of the past couple of years, the more relevant ones
10 being reports in relation to the application which the
11 Region made to amend the zoning by-law and the Official
12 Plan. Having done that, that would be the
13 extent of his evidence subject to cross-examination.

14 The next witness we propose to call is
15 Dr. John Richardson. Dr. Richardson professes
16 expertise in relation to the habits of certain species
17 of birds, gulls in particular, and expertise in
18 relation to strikes which may occur between aircraft
19 and birds.

20 Following Dr. Richardson ...

21 MR. LANCASTER: Not the kind Air Canada
22 is considering at the moment?

23 MR. LEITCH: No, not those kind of
24 strikes. Dr. Richardson's relation to the Halton
25 landfill matters goes back to the original Municipal



1 Board hearing, Mr. Chairman, at which he gave evidence.

2 MR. HODGSON: For a different party.

3 MR. LEITCH: He gave evidence for the
4 Region at that time. His views remain the same,
5 however.

6 MR. LANCASTER: We will read the
7 decision.

8 MR. LEDERER: We will see about that.

9 MR. LEITCH: I would then propose to
10 call Michael Hoffman. Mr. Hoffman proposes expertise
11 in agricultural matters and will be giving his evidence
12 in conformity with the report distributed to my
13 friends. I should say also that Dr. Richardson's
14 report has also been distributed.

15 There may be one short lay witness
16 called in that order of things, but our perception is
17 that that will take us to until the time we break for
18 Christmas.

19 After Christmas we would then call as a
20 panel two hydrogeologists, David Charlesworth and Dr.
21 Terry Rowe. Both Mr. Charlesworth and Dr. Rowe have
22 prepared reports on Sites D and F and both will present
23 their evidence in accordance with those reports.

24 MR. LANCASTER: Are those reports
25 available now?



1 MR. LEITCH: Those reports have been
2 distributed. Our last witness will be a planner,
3 Mr. Paul Stagl, who has been with me during the
4 evidence of Mr. Walker and he too has prepared a report
5 and his report has been distributed.

6 Mr. Chairman, Mr. Estrin will be calling
7 the evidence with respect to hydrogeology and will be
8 leading it for the Town of Milton and I will be leading
9 the evidence with respect to the planning and
10 agricultural matters and Mr. Estrin will lead the
11 evidence with respect to Dr. Richardson.

12 Mr. Estrin is going to be in England
13 over the break and he hopes, with the Board's
14 permission, our case could re-commence on the 12th of
15 January instead of the 11th of January since he arrives
16 home on the 10th. I am not quite sure that I will get
17 everything finished in relation to the first part of
18 our case and it may be there will be evidence to come
19 from some of the other witnesses if we don't complete
20 before Christmas. In that event I am ready to go.

21 DR. KINGHAM: Mr. Estrin will be here
22 for Mr. Richardson's evidence in any event before the
23 Christmas break?

24 MR. LEITCH: Yes. Subject to any
25 questions, that is all I have to say.



1 MR. McQUAID: Mr. Chairman, I wonder if
2 I could address the Board on the issue of Mr.
3 Zsadanyi's appearance and the absence of a witness
4 statement. If there is to be documentation of certain
5 reports and so on, I would have thought we would be
6 entitled to get copies of whatever reports and
7 documents ...

8 MR. LANCASTER: Are they available?

9 MR. LEITCH: I can give those to my
10 friends today. I gave them to Mr. Lederer yesterday.

11 MR. McQUAID: I would of course question
12 the calling of two planners if that is in fact what Mr.
13 Leitch is proposing to do, calling Mr. Zsadanyi and Mr.
14 Stagl, but from what he says he will just address the
15 interpretation of the Official Plan and the zoning by-
16 law. I guess it is just that aspect -- I don't know if
17 we really need repetition of witnesses in the same
18 disciplinary field and that is the one note of caution
19 we would want to avoid I would submit. If everybody
20 starts calling two of whatever type of consultant it
21 is.

22 MR. LANCASTER: I understand Mr.
23 Zsadanyi is background material.

24 MR. LEITCH: That is correct and I had
25 not intended to call Mr. Zsadanyi because Mr. Stagl had



1 been retained and prepared a report, but it wasn't
2 until Mr. Walker gave his evidence in chief that the
3 interpretation of the by-law he gave to the Board was
4 known to us because it did not appear in the report
5 anywhere and, to the contrary, it appeared he held the
6 view that it was necessary to change the Official Plan
7 and zoning by-law. So, we were somewhat taken aback
8 and I think you could detect that from my cross-
9 examination.

10 MR. LANCASTER: That evidence will be
11 very important to the Board as well.

12 Mr. Garrod, I am glad to see you are
13 here.

14 MR. GARROD: I do apologize for the
15 delay.

16 MR. LEDERER: I wonder if I just might
17 make an observation in line with the observations
18 Mr. McQuaid has made. I don't think I am prepared at
19 this point to object to what Mr. Leitch has said, but I
20 do want to point out that he has been advising us for
21 some time as to the witnesses he will call and
22 Mr. Zsadanyi is a new player in the game and it may
23 well be that that has only become necessary in Mr.
24 Leitch's view since he has heard from Mr. Walker.

25 The difficulty I have had is that he



1 tends to do this on rather short notice and we will be
2 told three or four days before Mr. Zsadanyi is going to
3 appear. Generally speaking, that would cause a
4 substantial problem for preparing cross-examination,
5 but I am content, given what Mr. Leitch has said about
6 the narrowness of the evidence Mr. Zsadanyi is going to
7 present, and it raises the possibility that if
8 Mr. Zsadanyi goes beyond those narrow guidelines, then
9 we may all be caught short in terms of time to prepare
10 for cross-examination.

11 This is something that ought not to
12 happen and it is possible that he could be called
13 later, or I presume so, but if he is going to be
14 restricted in this narrow way, I think that's fine, but
15 I do raise this cautionary note in case this comes up
16 in the future. There must be a limit to these sort of
17 short notice that has really been entailed in this
18 proposition.

19 One other thing. Mr. Hodgson reminds me
20 that Mr. Leitch referred to a lay witness and if a
21 party is going to call a witness it only seems
22 appropriate that we know who the witness is and we have
23 some idea if not through a formal witness statement
24 then a statement by counsel as to the nature of the
25 evidence so we can prepare.



1 If a party is going to call a witness it
2 clearly will contribute to one of the concerns of that
3 party and if it has some kind of technical background,
4 we should know who that witness is and the general
5 nature of the evidence to be called.

6 MR. LANCASTER: If you can do that.

7 MR. LEITCH: I will know whether or not
8 this witness will be called as part of our case
9 probably today or tomorrow and I will let everyone know
10 who it is and what the nature of the evidence is and
11 indeed if we are going to call such a person.

12 MR. LANCASTER: They may well appear on
13 their own at a later date?

14 MR. LEITCH: It is quite possible and it
15 is quite possible that some other party may call the
16 same witness, but we are discussing the question of
17 whether or not the witness becomes part of our case at
18 the present time, and as soon as that is determined, we
19 will let you know.

20 MR. LANCASTER: If you would, please.
21 Is there anything else before we recommence?

22 MS. CRONK: Thank you, sir.

23 MR. GARROD: Before Ms. Cronk starts,
24 Mr. Leitch indicated I may have some additional
25 questions. There is a matter which came up last night



1 when I was meeting with my clients which came up for
2 the first time and I would appreciate the opportunity
3 to discuss it very briefly with Mr. Lederer before I
4 put my questions. So, after Ms. Cronk is finished if
5 we could have a very short break, it might assist me?

6 MR. LANCASTER: Very well.

7 MS. CRONK: I think I can offer Mr.
8 Garrod the assurance that I may just creep up to the
9 break.

10 MR. LEDERER: When Ms. Cronk cross-
11 examines we don't creep.

12 MS. CRONK: Thank you. I will take that
13 as a compliment.

14 MR. LEDERER: Take it as such.

15 MR. LANCASTER: I noticed that too. We
16 move right along.

17 PETER ROBERT WALKER (Resumed):

18 CROSS-EXAMINATION BY MS. CRONK (Cont'd):

19 Q. Mr. Walker, do you recall that
20 yesterday you agreed and were kind enough to agree that
21 you would look at over the evening to see if you could
22 verify for us the 74 or 76 or 73 residences within the
23 study area around Site D that you had dealt with in
24 your reports as being impact targets, if you will, and
25 can you clarify for us now which is the final number



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Walker, cr ex
(Cronk)

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based on the best information available to you?

A. Yes. In the study area there were 73 at the time of the comparative analysis and since that time there have been two additional houses built, one across from -- diagonally sort of southeast of the candidate site and the one north on Highway 25 off this map, Ms. Cronk. It was up closer to the community facility near the north end of the study area. In addition, there was the one built on-site after the comparative analysis.

Q. So the final number is 76 then as you had suggested?

A. It was be 73 at the time of the comparative analysis, and that is in the study area, with a net loss on-site of one, the Miller-Figa property, and now 75 with two added to the study area and we are back up to the original total on-site with the new property being built.

DR. KINGHAM: For the record, the study area is what you defined on Map 1 of H-51?

THE WITNESS: Correct.

DR. KINGHAM: We are talking about the number of houses in that zone?

THE WITNESS: Correct.

MS. CRONK: Q. When you pointed a few



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Walker, cr ex
(Cronk)

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3 moments ago to the first addition, the property that
4 was situate diagonally to the southeast of the site,
5 you pointed to H-277 and I wonder if you could for the
6 purposes of the record give us the lettered number near
7 where that new residence is?

8 A. I will get this for you and it
9 seems to be HH circled. I don't know if that means the
10 house or not, but almost exactly opposite the old Ford
11 property, the Reed place is a new house.

12 MR. LANCASTER: You mentioned southeast,
13 and is there another one over there?

14 THE WITNESS: It was the southwest
15 corner.

16 MR. LANCASTER: There was some
17 discussion about a house to the southeast there
18 somewhere?

19 THE WITNESS: By me? There is the
20 house...

21 MR. LANCASTER: It might have been to
22 the northeast.

23 THE WITNESS: Yes, up here, just off
24 the map (indicating).

25 MS. CRONK: Q. Thank you. There was one
other follow-up matter from yesterday. You will recall
that you referred when we were discussing the



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Walker, cr ex
(Cronk)

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3 correspondence which had been received from Transport
4 Canada with respect to Site D and the bird hazard
5 regulations from the Ministry of Transport, you
6 referred to a right of the Ministry of Transport to
7 enact airport zoning by-laws, I think that was the word
8 you used, or regulations, and I said we would come back
9 to it.

10 Were you, in making that remark,
11 referring to the authority granted to the Governor-in-
12 Council under the Aeronautics Act to make airport
13 zoning regulations?

14 A. Yes.

15 Q. That right must be exercised by
16 the enactment of regulations; isn't that so?

17 A. Yes.

18 Q. Are you personally familiar with
19 the relevant provisions of the Aeronautics Act which
20 governs airport zoning?

21 A. The regulation itself?

22 Q. With the provisions of the
23 Aeronautics Act, the statute which governs airport
24 zoning?

25 A. No.

Q. I take it you are not familiar
with the various definitions of airport facilities,



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3 airport site, federal airport and terms of that kind
4 that appear in that Act?

5 A. No. Until we literally ran across
6 the one for Buttonville, I did not believe it was
7 relevant for my purposes to understand the Aeronautics
8 Act because I did not believe that in principle the
9 federal government could do anything around private
10 airports.

11 The Buttonville notification which I saw
12 led me to conclude otherwise, but upon checking it, it
13 still is not something which is going to be something
14 which is going to be enacted around the Burlington Air
15 Park and to me it would just be a piece of information
16 for my own purposes and not for this particular case.

17 Q. Have you had any discussions with
18 the Ministry of Transport concerning the circumstances
19 in which regulations of that kind are sought or with
20 respect to the manner in which they interpret the
21 authority conferred under the statute?

22 A. We had discussions with the
23 Ministry of Transport in terms of the applicability of
24 the regulations and the guidelines to the Burlington
25 Air Park because we were trying to decide at that time
whether it would be relevant or not.

The guidelines were applicable but the



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regulations were not.

Q. I am sorry, my question was a bit different.

A. Sorry.

Q. I will try and put it more clearly. We know you had discussions, or your staff or others did, with the Ministry concerning the application of the guidelines and we discussed those yesterday and we marked the correspondence and we looked at that?

A. Yes.

Q. My question was did you or your staff have any discussions with the Ministry of Transport as to the circumstances in which airport zoning regulations are sought to be enacted or as to the manner in which the Ministry interprets the authority given under the statute for that purpose?

MR. LEDERER: With great respect, there are two questions in what Ms. Cronk has asked and one is the circumstances under which they are sought, (2) how they are interpreted. The difficulty I have with the first part because it presumes something, it presumes these things are sought as opposed to the Ministry -- the Ministry of Transport or in some cases under that Act the Minister of Defence, being the



1
2 person who takes the initiative to act, and I am not
3 sure it is fair to put to this witness that
4 presumption.

5 MS. CRONK: Q. Did you have any
6 discussions with the Ministry of Transport on matters
7 related to its authority under the Act apart from the
8 guidelines?

9 A. We talked to Transport Canada on
10 November 10, 1987 with regard to the Richmond Hill
11 zoning. It was the zoning imposed and they called it
12 Richmond Hill, but it is actually Markham and Richmond
13 Hill where the Buttonville airport influence area would
14 be in terms of what was happening there.

15 I don't know whether we asked them is
16 the sort of thing -- is in answer to your question,
17 Ms. Cronk. We were asking about the zoning by-law and
18 whether any changes were going to be made and asking
19 when the Minister was likely to sign it which could be,
20 like, momentarily.

21 On November 10 it was to be two weeks
22 roughly before the Minister could sign into being that
23 regulation around Buttonville and we were asking them,
24 we were having some trouble interpreting exactly what
25 the regulation meant when it applied to the distance
being covered. There was a map there and we were



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Walker, cr ex
(Cronk)

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asking them how they came to their conclusion about
boundaries.

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Q. Those discussions were particular
to Buttonville?

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A. Yes.

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Q. In fairness to Mr. Lederer's
point, have you had any discussions with the Ministry
as to the way in which they interpret the zoning
authority granted under the statute generally?

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A. No.

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Q. Similarly, have you had any
discussions generally with Transport Canada as to its
understanding as to when such zoning regulations will
be sought or introduced generally?

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A. Well, they were generally sought
around the major airports in the province -- not in the
province -- but as far as we are concerned, in this
province. We know they were sought and obtained around
London, Windsor, Timmins, Sarnia, Kapuskasing, and
maybe 8 or 9 more others.

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Q. Based on the understanding that
you gained from those discussions then, would it be
fair to suggest that the airport zoning regulation
authority has been exercised with respect to major
airports in the province?



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A. Yes.

Q. You will recall, Mr. Walker, we were discussing yesterday the comparative analysis which you and your firm prepared as the final report dealing with Sites D and F. In your evidence, as I recall it throughout, Mr. Walker, you have underscored or at least made a point to indicate several times that the comparative analysis was based on detailed information and studies carried out following preparation of the environmental assessment. Do I have that correctly?

A. Yes, I believe so.

Q. That more detailed information and study or the results of that work, as I understand it, are contained in the various technical studies prepared by Halton's sub-consultants?

A. Yes, that is the basic source of the technical work. They went one level up from that to the summary, but those reports form the basic material.

Q. So the additional information and the additional study is reflected and found in the technical studies prepared?

A. Yes.

Q. The technical studies, as I



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understand it, were carried out by the same consultants who prepared the individual comparative analyses we looked at yesterday?

A. For the most part, yes. There were some new ones brought in.

Q. When new ones were brought in, were comparative individual analyses sought from those individuals?

A. Yes.

Q. So we have first as the formal recording of the new information and level of study, the technical reports and we have as well the individual comparative analyses that we looked at yesterday?

A. Correct.

Q. The technical studies preceded the individual comparative analyses?

A. They would have to.

Q. The results and the information contained in the technical studies were in fact referred to in the individual and comparative analyses; isn't that correct?

A. Yes.

Q. You had as well -- in reviewing the comparative analyses we see one of the new pieces



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of documentation available to you and sought for the purposes of that work were the design and operations reports with respect to both Sites D and F?

A. Yes. This was a level of information which was not at all attainable up to and including 2C, it just required too much expenditure of money and time to go to this level on all of the six sites.

Q. That was, however, done at the comparative analysis stage?

A. Yes.

Q. With respect to D and F?

A. Yes.

Q. The sub-consultants had the design and operations reports available to them in preparing their individual comparative analyses?

A. I believe that they did, yes. There were some ongoing changes and one of the tests we did was to ensure that everyone was aware of what the others were proposing.

Q. Indeed, one of the purposes, I suggest, of having those individual comparative analyses prepared was to ensure that each sub-consultant in their area of specialty considered the matter taking into account what the proposal now was



Nethercut & Co. Ltd.

Toronto, Ontario

14874

Walker, cr ex
(Cronk)

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3 for the design and operation of the site; isn't that
4 so?

5 A. Yes, where there was -- you know,
6 where the individual consultant needed to know what was
7 going on, they knew, I believe.

8 Q. To the extent it was relevant to
9 their specialty, they were to comment upon and give you
10 their comparative analysis, taking into account what
11 the design and operations proposals were?

12 A. Yes.

13 Q. Finally you told us that at the
14 comparative analysis stage you also re-visited, if I
15 can put it that way, and by you I mean the study team
16 as co-ordinated by you, the evaluation criteria that
17 had been used throughout the environmental assessment
18 up to Stage 2C and you looked at them to see if they
19 continued to be appropriate or if they required
20 amendment?

21 A. Yes, and the new people were
22 informed of what had been gone on before.

23 Q. To the extent there was any
24 amendment or variation, be it slight or material to
25 those evaluation criteria, that or those changes were
as well taken into account in the preparation of the
individual comparative analysis; isn't that so?



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A. I believe they were.

Q. For example, you told us yesterday that a new category to the public health and safety category was added and that was Land Use Compatibility - Vermin?

A. Yes.

Q. That was an amendment to the evaluation criteria made at the comparative analysis stage?

A. It was an addition to it by a specific factor and the facts had been one of the 2C factors under Land Use Compatibility. It had been in there before and it was hived off and put into a separate factor under public health and safety.

Q. That change was taken into account by the sub-consultants because we saw that a consultant specifically was asked to deal with that issue?

A. That is correct, yes.

Q. By way of another illustration we have seen in your report that in the hydrogeology/hydrology area emphasis was placed at the comparative stage on the effect of fully engineered sites?

A. That is correct.

Q. So Trow Hydrology Consultants in



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3 preparing its individual comparative analyses did so
4 placing emphasis on engineered sites as opposed to the
5 approach which had been used in Stage 2C?

6 A. That is correct and the Land Use
7 Compatibility - Vermin, it was Miss Hellas who had
8 been an earlier consultant and in those two examples we
9 had two people who were familiar with what had gone on
10 before.

11 Q. Do I take from this discussion
12 that all of the new information, that is the
13 information contained in the technical reports, the
14 impact and content of the design and operations reports
15 and the revised or altered evaluation criteria were all
16 taken into account by the individual sub-consultants as
17 relevant to their particular specialties in preparing
18 those individual comparative analysis and that was the
19 purpose of the exercise?

20 A. I believe they were.

21 Q. After the individual comparative
22 analyses were prepared they were provided to you and to
23 your staff and you reviewed those and prepared the
24 final pairing analysis for Site D and Site F?

25 A. We reviewed them in terms of what
they presented. We had conversations with them where
necessary to understand where necessary what they were



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talking about if it wasn't clear, and on the basis of what they proposed we made our interpretation, yes.

Q. When you say "we made our interpretation", that interpretation was the pairing analysis?

A. Yes.

Q. That was done by you and your staff?

A. Yes.

Q. Could I ask you to go to page 38 of H-14?:

A. Ms. Cronk, I think there may have been one instance, and I don't know this for sure, but, as I understand it, Dr. Koczukur may have given evidence before the Board, and I don't think this significantly altered what he said earlier, but on the basis of his -- and I am going from my note here, but as I understand it he was not fully aware of the extent of the berm on D and therefore when he gave evidence before the Board he made some alterations and I don't know, I didn't see it until a later report.

Q. Leaving aside what happened in the oral evidence before the Board, if we could concentrate on what was in place and the information base being used in the comparative analysis?



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A. The answer is valid and we believed at the time that all consultants knew what the proposal was from the design and operations report.

Q. That was the purpose, to look at their own area of reporting and expertise in light of the additional information and changes to the design proposal that were available?

A. Correct.

Q. With those individual comparative analyses in hand you and your staff did the pairing analysis which we find at page 38 of H-14?

A. Yes, it begins there.

Q. Could we briefly look at that and starting first with the category of Public Health and Safety?

A. Yes.

Q. In that category Site F remained the preferred site, is that correct?

A. Correct.

Q. Hydrology Consultants we saw yesterday from Appendix A attached to this report considered Site F to be better from the public health and safety viewpoint?

A. Yes.

Q. You indicate in your discussion of



1
2 this category or emphasize that it was as well better
3 under the Land Use Compatibility - Vermin category?

4 A. That is correct.

5 Q. In fact if we go to the summary of
6 rankings, Mr. Walker, which appears over at page C6,
7 Chart 6, I suggest that if we look at the four sub-
8 factors in this category of public health and safety,
9 Site F is preferred to Site D in three out of the four
10 and was ranked equally with Site D in the fourth
11 category; isn't that so?

12 A. I think you will find there is a
13 typo here under traffic safety and it looks like it is
14 equal. If you go to the chart itself dealing with
15 traffic safety I think you will see -- no, maybe not.
16 No. It is all right in this one. Wrong report.

17 Q. When we looked at the
18 transportation report yesterday dealing with that item,
19 we saw the consultant said there could be no
20 distinction drawn between the two sites and do you
21 recall that?

22 A. Yes.

23 Q. I suggest when you go through
24 these four sub-factors we see Site F was preferred in
25 three out of the four and was ranked equally with Site
D in the fourth, the fourth being the traffic safety,



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traffic service and operations factors?

A. Yes.

Q. If we could go to the next category, natural environment which you deal with in your pairings analysis, you indicate at page 38 that Site D was marginally preferable to Site F, but note, and I quote:

"..the nature and extent of this slight difference is difficult to define."

A. Yes.

Q. That is the comparison you included in this report?

A. Yes.

Q. If you look at the summary of rankings at C6, we see in the biophysical category, Site F is runner-up but in the agricultural category it is the lead?

A, Yes.

Q. We agreed yesterday I thought that the effects of those two ratings essentially was to neutralize one another so the two sites came out on an equal basis in the overall category of natural environment as defined by the consultants?

A. That is correct.

Q. If we look then at the third



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3 category of social environment, overall Site F was the
4 preferred site?

5 A. That is correct and it is in this
6 one that there is a typographical error under litter.
7 It should be 2 under D and 1 under F and that is
8 verified not only by the report but also the chart
9 which is C3(b).

10 Q. Two under D and one under F?

11 A. Yes.

12 Q. Just looking -- when you say the
13 chart, you mean the summary of rankings?

14 A. I am looking at the summary of
15 rankings and I am looking at Table 3C(b), Chart 3, page
16 C3(b), and if you will note under rankings of dust,
17 odour and litter, it shows up as 2 and 1 and that is
18 consistent as an overall ranking with what the litter
19 consultant gave in his appendix.

20 I had stumbled onto this yesterday when
21 we were reading the report and I was checking the
22 summary of rankings and I said it was equal and then
23 you took me back to the report and in the report it
24 says 2 to 1 D to F and that triggered me to this typo.

25 Q. That has the effect, does it not,
that in the category of social environment there are 7
factors listed and Site F was preferred in 6 out of the



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A. That is correct.

Q. Community facilities...

A As a statement that is correct.

The degree of difference on some of these was relatively slim, but in fact the interpretation is that D is the most favoured of the two.

Q. Which is?

A. D is -- F is the most preferred and D is the second preferred of the bunch.

Q. I will come to the degree of difference in a moment, but am I correct that of the seven factors, F in fact is preferred as disclosed by the summary of rankings, sixth out of 7?

A. Yes.

Q. It is only in the community facilities sub-factor category where Site D is given a preference?

A. That's right.

Q. As you point out when you look at the discussion of this category which you included in your final comparative analysis at the bottom of page 38, you talk about the various factors in that category?

A. Yes.



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Q. You indicate overall that Site F was regarded as the preferred site. I suggest that what you appear to be doing in your discussion is distinguishing between the relative importance of some of these sub-factors and, in effect, although not directly, but in effect suggesting that some are more important than others?

A. Yes.

Q. Is that fair?

A. Yes.

Q. Of those you considered ...

A. "More important"?

Q. More significant?

A. I am not saying they are more important, but in here we are noting that some of them were low but within the low category F was preferred by using the background information and the consultants themselves were able -- they knew best the information they had, so although each was rated as low, within the low -- the framework of them both being low, the consultant was able to make a preferential choice between sites.

Q. Given the nature of the sub-factors though, Mr. Walker, ... I'm sorry.

DR. KINGHAM: Go ahead. I thought you



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3 had finished but I had a question about which the 7
4 are?

5 MS. CRONK: Q. Let's clear that up. In
6 the social environment category if we look at the
7 summary of rankings on page C6...

8 A. Under third priority.

9 Q. ... third priority, social
10 environment, and there are 7 sub-factors listed as
11 collectively comprising the factors in the social
12 environment category?

13 A. That is correct.

14 DR. KINGHAM: I see page C6, but I am
15 trying to relate that to what I find in the chart that
16 is supposed to relate to it, C3(a), C3(b) and C3(c)
17 where I find six factors and that is where I am trying
18 to find your seven originally as they should be the
19 same, population impacts, community facilities,
20 dust/odour...

21 THE WITNESS: Dust and odour are
22 combined.

23 DR. KINGHAM: On C3(b) you have the
24 three combined with a single ranking and on C6 you have
25 them separated so there are seven, but there are only
six in the earlier chart. Thank you, that solves the
mystery.



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MS. CRONK: Q. Could we come back to the question of how within the overall category the final conclusion was reached, and I was suggesting that in essence what you appeared to be saying in the pairing analysis was that some of those factors were more important than others and you quarrelled, I think a bit with that but, may I put it to you this way; the sub-consultants who prepared the individual comparative analyses certainly recognized that some of those sub-factors were more significant in terms of adverse impacts than were others?

A. The sub-consultants recognized...

Q. ... that some of those sub-factors in the social environment category were more significant in terms of adverse impact than were others. To help you, could we go to the social environment appendix, Appendix E at E3, and this is, for example, Ms. Schiff or Dr. Schiff. Do you have E3?

A. I have it.

Q. I direct your attention to the full two paragraphs at the bottom of E3:

"Site F is preferred over Site D with respect to Population Impacts, but Site D is preferred over Site F with respect



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3 to impacts on community-serving
4 facilities. Since the effects on
5 population are more significant and of
6 greater duration than the impact on
7 users of community facilities, it is my
8 opinion that Site F is preferred over
9 Site D as the location of a landfill for
10 Halton Region."

11 And my point is that the sub-consultants, for example,
12 the illustration I gave you was Dr. Schiff, but in
13 looking at the sub-factors in the category regarded
14 some as being more significant than others?

15 A. She felt community facilities
16 factor was less important than the population element.
17 I got misled and I apologize for appearing to be slow,
18 but I got misled with you said sub-consultants because
19 aside from that particular statement, which isn't
20 necessary looking at the overall ranking anyway, and I
21 make that distinction, although she did make it and I
22 think she made it correctly, but the other consultants
23 I think would have thought that dust was important, as
24 important as litter and as important as noise et
25 cetera. Each would have individually thought that the
sub-factor was important.

Q. I quite understand.



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A. One to the other.

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Q. If we look at the bottom of page

38, your concluding sentence, I suggest you are

acknowledging as well that the degree of preference for
Site F was indeed very strong in the social environment
category and you have drawn attention to the extent of
the population impacts on Site D?

A. Yes.

Q. Given the three categories we have
looked at thus far, public health and safety, natural
environment and social environment, there is a clear
and substantial preference for Site F in the social
environment category and on that we have no quarrel?

A. I don't want to be seen to be
quarrelling and that is the second time you have used
that term.

Q. I don't mean it pejoratively. Do
you agree?

A. Yes.

Q. When we look at the cultural
environment category over at page 39, you indicate that
Site F is again to be clearly preferred?

A. Yes.

Q. When we look at the costs category
there is no preference between the two sites as



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2 indicated by the technical studies?

3 A. Right.

4 Q. The technical studies being those
5 prepared at that time by Mr. Watson?

6 A. Yes.

7 Q. In summary, Mr. Walker, if we look
8 to the results of the pairing analysis, the final one
9 done between Sites D and F, I suggest that what we are
10 left with is this; there is a recognized preference for
11 Site F in the public health and safety category, the
12 social environment category, the cultural environment
13 category and there is neutrality in the other two. Is
14 that fair?

15 A. Yes.

16 Q. In the face of those results -- I
17 should ask you first -- those results are essentially
18 the same as those reflected in all the individual
19 comparative analyses we looked at yesterday?

20 A. Yes.

21 Q. After six years of study in
22 preparing Halton's environmental assessment from 1982
23 when it began through to the very end, the individual
24 comparative analyses and the final pairing analyses
25 which you prepared showed that Site F was to be
preferred where any preference could be drawn between



1
2 the sites?

3 A. The answer to the question is yes
4 but the context is wrong because I don't think it was
5 six years at this point in time. It was four and a
6 half.

7 Q. Four and a half.

8 A. At this point in time.

9 Q. Four and a half years. Will you
10 give me that?

11 A. Sure.

12 Q. In every category where a
13 preference could be drawn between the two sites, it was
14 clearly F?

15 A. Yes.

16 Q. Mr. Walker, in your direct
17 evidence you referred, I think, in your capacity as a
18 land use planner, if I can be bold enough to suggest it
19 was that voice that was speaking, as to the type of
20 land use that a landfill is and as I recall your
21 evidence at one point you described it as being an
22 obnoxious land use. Do you recall that?

23 A. I think it is certainly perceived
24 as being obnoxious as a land use.

25 Q. In fairness, you said it was an
obnoxious land use to some and some perceived it that



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3 way?

4 A. Yes.

5 Q. On other occasions in your
6 evidence you indicated in effect that everybody needed
7 it and nobody wanted it and that's the kind of land use
8 we are talking about?

9 A. That was the conclusion we came to
10 on the first part and the feeling was that nobody
11 wanted it. I think that is a generalization as some
12 people quite clearly understood that it had to be and I
13 don't think everyone said "We don't want it", but it
14 was the general impression that those people
15 increasingly throughout the program or throughout the
16 process when it looked like they were in line to be
17 alternate sites, the general feeling was that they
18 didn't want it.

19 Q. Is it then fair to suggest that as
20 a planner the way this particular type of land use
21 should be regarded is as one that is perceived to be
22 unwanted but which is needed?

23 A. Yes.

24 Q. As you have described it, it is a
25 public use which serves a public objective?

A. Yes.

Q. And meets a public need?



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A. Yes.

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Q. Is it also fair to suggest, and I am talking generically about sanitary landfills, that the objective of an experienced planner, given the nature of the land use that you are dealing with, is to ensure that a landfill is situate in an area where it will do the least damage to the existing land use environment?

A. Yes. The answer is yes. It has to be the least within a given context. As an example, at the waste needs and analysis stage, we had one alternative that said export it out of Halton and the others were Halton-based, Halton-centered methodologies and then systems of one sort of another. As long as you are proceeding on the basis that Halton will look after its own solid wastes in this way, then you are going for the least impact within Halton. It may be if you had a larger geographic area to look at you could find sites which would be least impact in absolute terms, but it is all relative, it is within Halton.

Q. Thank you, and I take your point, but clearly the least impact for Halton would be to send it to Manitoba if you could arrange that, but given that you can't export it a great distance away, is it fair and accurate to suggest that a planner's



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objective is to situate it or put it where it will do
the least damage?

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A. Yes.

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Q. For that purpose what you are
really looking to do as a land use planner is to make
sure that there is a fit and the landfill is not a
misfit in the surrounding land uses?

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A. That is correct.

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Q. Could I ask you to look again at
the aerial photograph of Site F and could you take down
Exhibit H-277.

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A. M-103.

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Q. In your land use report back at
Phase 2, Stage 2C, you concluded the adjacent land uses
in the vicinity of Site F were compatible with a
landfill, is that correct?

19

A. Yes.

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Q. Then, in fact as we have seen when
we look at the surrounding land uses around Site F, you
have agreed with me that they in fact provide either
natural or man-made buffer zones, if you will, from the
built up or populated areas at greater distances from
the site.

You will remember we went through the
exercise of going around the site, is that correct?



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A. Essentially, yes.

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Q. In your land use assessment
report...

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A. If I could make a comment, I am
speaking from a land use standpoint at that point in
time and I am not talking hydrogeologically or
geologically at this point in time, as I don't have the
qualifications to do that.

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Q. All of my questions are premised
in your capacity as an experienced land use planner.
Could I ask you to go to H-51, your land use assessment
and Table 7?

A. Can I put the comparative analysis
away or are we going back to it?

Q. We are going back to it, but at
the moment H-51 and Table 7 is facing page 7-6?

A. Yes.

Q. We know at Site F in existing land
use terms there is a landfill on either side of Site F,
the Burlington landfill on the one side and the
proposed Bayview Park on the other?

A. Yes.

Q. When you look at Site D you list
in this table under Stage 2C, at that point in time,
the elements of adverse impact in the event of



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landfilling and for Site D you refer to impact on a
stable rural area, and do you see that?

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A. Yes.

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Q. That is the same sort of comment
you made with respect to Site E, impact on a stable
rural area?

7

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A. Yes.

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Q. Do I take it from that that one of
the elements of adverse impact for Site D is the fact
that it is located in a built up established
agricultural farming community?

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A. That was the impression I
received.

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Q. I beg your pardon?

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A. That was the impression I
received. Remember the actual agricultural analysis at
the same time we were doing this land use analysis, the
agricultural analysis was being done by Dr. Mackintosh
and from a land use standpoint this seemed to be a
stable rural area to me.

22

23

Q. Was that impression confirmed or
not confirmed by Dr. Mackintosh's report?

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A. I believe it was, yes.

Q. Indeed the degree of prejudice, if
you will, or degree of adverse impact that would be



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caused at Site D because of that factor, you ranked it as being significant?

A. Yes.

Q. Then if you could go to your evaluation and summary report, the next report in the series, H-13, Table 5, two pages before page 20?

A. Mine is falling apart here. The book is falling apart, not me. Yes.

Q. This is the next report following on the land use analysis, and this is the first pairing analysis of Site F to Site D?

A. Yes.

Q. In the discussion of the advantages of Site F as compared to the disadvantages of Site D, you again stress that at Site F there will be minimum disruption of an established community. Do you see that under population impact, social environment category for Site F?

A. Yes.

Q. I suggest to you that to a planner the concept of an established rural community, which is the language used in the first report, and the concept of minimum disruption of an established community, which is the language used in the evaluation and summary report, suggests that a planning concern



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3 specifically is to look at what is in place, what has
4 been there for some time, and what a new land use
5 proposal is going to do or what effect it will have on
6 the existing land uses. Isn't that in effect what
7 those comments are addressed to?

8 A. Yes. You are wrong in referring to
9 Table 7 which is talking about a community, but we were
10 talking about impact on a stable rural area and this is
11 minimum disruption to an established community.

12 Q. Are they not conceptually the
13 same?

14 A. The area is or had a number of
15 houses in it, residential units in it as well as the
16 farm residences, and it would be considered as a
17 community. I just wanted to draw the distinction
18 because you seem to be using the same term for both
19 reports.

20 Q. But the point being in the case of
21 Site D it is a concern and in the case of Site F we
22 know it is not?

23 A. In my opinion, it is not, yes.

24 Q. In fact in planning terms the very
25 opposite is true for Site D because there will be
disruption to an established farming agricultural
community, isn't that so?



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A. The impact of having a landfill in that area would be more severe than at F. Is that what you are asking?

Q. There will be disruption at Site D to an existing established agricultural community at Site D, isn't that so?

A. There will be more disruption than at Site F.

Q. Indeed that is the point you are making in Table 5, it is minimal at Site F; whereas it is significant at Site D?

A. It is much more because there are more people nearby for one thing, yes.

Q. When you are talking about it in terms of impact on a stable rural area, you describe the adverse impact as being significant?

A. Yes.

Q. In fact I suppose we could look at it from a historical perspective as well and that is in the case of Site F there is a history in that area of landfilling, of quarrying and of similar public uses, isn't that so?

A. "Similar public uses?"

Q. You had landfilling and government facilities and Hydro Electric corridors, Highway 403.



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There is a history, I suggest, in the vicinity of Site F of a variety of different types of public uses?

A. Yes. I guess they are public uses.

Q. Isn't that so?

A. Yes.

Q. Whereas at Site D that is not the case?

A. No. There has been very little interruption to the rural way of life around Site D or on Site D.

Q. Today. At the risk, and if I might be permitted a colloquialism, Mr. Walker, if you introduce a landfill at Site D, given all of what we have looked at and what is there, it is somewhat akin to introducing a skunk at the garden party. You have established land uses, none of which are of a public use nature, and now you are putting in quite a different form of land use from a planning point of view that you know will be disruptive. Isn't that the case?

A. I am back at the skunk at the garden party. Perceived skunk for sure. But absolutely skunkiness I am not so sure and perhaps in this case perception is a part ...



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Q. In planning terms there is a risk of it being a misfit. Isn't that the case? Now I don't mean that facetiously, and in fact when you look at what is there and what has been there historically isn't that in fact a planning risk at Site D?

A. What do you mean by "misfit"? If you are not being facetious, what do you mean by "misfit" when you put the question to me?

Q. I suggest you are introducing by the introduction of a landfill at Site D a type of use that has never been there before and you know inevitably it will be disruptive on an established existing community and neither of those facts are true at Site F?

A. That is correct.

Q. At Site F there will be no fundamental disruption to the community infrastructure as it currently exists if you introduce a landfill?

A. I believe there won't be that disruption.

Q. The opposite is true at Site D?

A. It certainly is much different at Site D and I don't know if it is opposite...

Q. It will occur at Site D?

A. There will be disruption in my



1
2 opinion, yes.

3 Q. That is disruption to what I am
4 describing as the community infrastructure, what is
5 there and it will take place at Site D?

6 A. There are rural residential uses
7 close to and on site D that will have impact to varying
8 degrees from right on-site to adjacent to the site and
9 beyond, and to the extent there will be impact and
10 there will be impact to the extent people perceive
11 there will impact, there will be additional impact.

12 Q. That is a planning issue?

13 A. In my opinion, it is.

14 Q. At Site F in the event of
15 landfilling there will be no material alteration of
16 historical land uses, will it?

17 A. No, there will not be.

18 Q. In that sense, not to guild the
19 lily as it were, but putting a landfill at Site F is
20 more akin to introducing a new skunk to a room full of
21 old skunks. They are already there; isn't that so?

22 A. Am I to take this seriously?

23 Q. Quite seriously. There are
24 historical land uses at Site F and a new landfill will
25 fit right in with them whereas at Site D it is a
disrupting new feature to the historical land uses in



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2 the area?

3 A. To use your analogy, there are a
4 couple of other skunks in the room plus a few other
5 dogs and cats and a few other non-garden party types of
6 features. It is not a room full of skunks to the
7 extent that the skunk refers to the -- is perceived as
8 either a dump or a sanitary landfill.

9 Q. The point is there is a historical
10 pattern of land uses at Site F which is quite, quite
11 different from the historical pattern of land uses at
12 Site D?

13 A. Yes.

14 Q. And landfilling at Site F is more
15 harmonious with that historical pattern than it is at
16 Site D?

17 A. Yes.

18 Q. Finally with respect to Site F, in
19 generic terms landfilling at Site F will not result in
20 any jarring of the planning landscape, if I can put it
21 that way?

22 A. In my opinion, no.

23 Q. Whereas at Site D there is a
24 defined risk that that will occur?

25 A. Yes.

Q. Finally at Site F ...



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A. At least over a period of time.

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Q. Certainly over the period of time of operation of the landfill and for so long as there is any continuing active use of that site?

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A. There will be an elevation there which is not there now upon completion.

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Q. And that elevation as it will be is totally uncharacteristic of what is in place today?

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A. Yes.

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Q. In the end, Mr. Walker, as a planner, and I put it to you in your capacity as a land use planner, can there be any doubt that from a planning point of view that Site F is ideal for this landfill and there are serious downside risks at Site D?

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A. I think Site F is better for landfill than D for many of the things you have indicated.

21

Q. From a planning point of view?

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A. "Ideal" -- I don't think as a planner I have come across ideal circumstances very often in the 20 years I have been practising, but it is much better in a relative sense, F is a better site from a land use planning standpoint than is D.

Q. Let me put it to you quite baldly



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3 as a planner. There has been some suggestion in the
4 evidence through the various parties that these sites
5 are really quite similar and if you get into it in each
6 category there is not a whole lot of difference. What
7 I am putting to you is that in planning terms when you
8 look at F and you look at D, these sites are black and
9 white and Site F is clearly and strongly the better
10 site; isn't that so?

11 A. In terms of the elements that a
12 land use planner would look at without having the
13 extreme detail of information that statement, I think,
14 would be correct. To the extent there is additional
15 information which the planner -- because it is there as
16 part of the process, you must rely upon it, I think the
17 nature of that information draws the sites closer
18 together than the land use planner without that
19 information might otherwise conclude, and that is the
20 opinion I gave on the basis of that information and I
21 believe it was a planning opinion.

22 Q. We have your opinion then on the
23 planning issue and I say to you as well that the
24 comparative analysis which we have just looked at and
25 which took into account all of that other information
and all those other specialties in fact reached the
same conclusion, Site F was preferred in every category



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2 where a preference could be made between the two sites?

3 A. I think I have already given you a
4 yes answer to that.

5 MS. CRONK: Thank you very much. Those
6 are my questions, Mr. Chairman.

7 MR. LANCASTER: Mr. Garrod wished to
8 have a short break and we are nearing the usual break
9 time in any event, but before we do, the Board would
10 like to ask Mr. Lederer or Mr. Walker, but the
11 Burlington Air Park has been mentioned much yesterday
12 and today and is there in the evidence a plan of that
13 site and the location and set-up of it?

14 THE WITNESS: I will find it and mark it
15 on for you.

16 MR. LANCASTER: I thought we saw
17 something somewhere.

18 THE WITNESS: The topographic map would
19 have it and at the very least I can mark it on that.

20 MR. LANCASTER: Does it have the layout
21 of the airport as that is even more important. We know
22 the rough location.

23 MR. LEDERER: The direction of the
24 runway?

25 MR. LANCASTER: That sort of thing.

THE WITNESS: I have some information I



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can bring to bear on that and at the break I can do that.

MR. LANCASTER: If we are going to consider that we must consider the direction of the runways as well.

MR. LEITCH: It is in the report which was distributed and which the Board doesn't have dealing with matters of birds and aircraft which we will be submitting.

THE WITNESS: It is a north-south orientation.

MR. LANCASTER: I think that is indicated on the plan, but it doesn't show -- it might.

MR. LEDERER: We will search for one and if there is one then perhaps we could simply make a copy of that single page and could refer to that until the report is formally presented.

MR. LANCASTER: Thank you. Fifteen minutes.

---Recess

MR. LANCASTER: Be seated. Is everything resolved?

MR. LEDERER: If I may, sir, and before Mr. Garrod responds, but if I could respond to your question on the layout of the airport. If you go to H-



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3 11 and to Map 6, H-11 is the Stage 2B study, selection
4 of candidate sites, and if you would look at the area
5 in which you find what is now Site D, D-4(g) in the
6 bottom right-hand quadrant, toward the bottom right-
7 hand corner, and if you move directly towards the west
8 you will see two-thirds of the way towards the western
9 side or the left-hand side of the page the Burlington
10 Air Park. If you see the directions and there is an
11 outline of an airplane and you will see next to it a
12 sort of elongated box which is in fact the north-south
13 configuration of the runway.

14 If you then take the page of
15 Mr. Leitch's report to which he referred earlier,
16 and I don't suggest this be exhibit as you will get the
17 full report later, but you can see a similar box with a
18 straight line running through the middle of it, just by
19 way of giving you the orientation, and that is the
20 runway you see depicted on Map 6. You can see the full
21 layout of the airport and put on the page from
22 Mr. Leitch's report and then get its orientation from
23 Map 6.

24 DR. KINGHAM: If we were to put the
25 original Site E, which was Milton's earlier Site F on
this, we would put that at the juncture of Britannia
Road and Boyne...



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MR. LEDERER: Tremaine.

DR. KINGHAM: On the northwest corner.

MR. LEDERER: Mr. Walker will correct me if I am wrong, but the old Site F does not parallel exactly the present Site D.

THE WITNESS: The Board has my map which shows the differences.

MR. LEDERER: Pardon?

THE WITNESS: The Board has the map which was the only one I had which outlines old F versus E.

MR. LANCASTER: Thank you, Mr. Lederer.

MS. CRONK: Excuse me, but is this an exhibit?

MR. LANCASTER: No, but apparently it will be within some of Mr. Leitch's filings.

FURTHER CROSS-EXAMINATION BY MR. GARROD:

MR. GARROD: Thank you for this opportunity as I had some discussions with one of my clients last night and some information came to my attention for the first time. It is a somewhat delicate matter because when my client is called to give evidence I may be requesting the Board sit in camera to hear evidence my client considers to be confidential and matters that the client has submitted



1 on a confidential basis to the Region at a previous
2 time during the course of this study and which led to
3 some letters generated by the Region's consultants back
4 to my client.

5 Perhaps with that background, and not
6 wanting to go into it in very much detail at this
7 stage, I could simply ask Mr. Walker to confirm a
8 couple of facts and I will leave it at that for the
9 time being.

10 MR. LEDERER: Not until this moment did
11 Mr. Garrod say anything about evidence in camera.
12 Therefore, I have not had an opportunity to consider
13 the law with respect to such an issue, but it
14 immediately raises a concern for me.

15 Now, what presumably can happen is we
16 will get part of this point, and I have some idea of
17 what it is but the Board will not, but part of this
18 point through Mr. Walker in public, but then the second
19 part of the point, which if Mr. Garrod is successful
20 and has part of the evidence called in camera and I may
21 have an objection to that, but in camera and is it
22 appropriate to have an issue divided in that way? Can
23 that prejudice a party? The Board can't lose sight of
24 the fact that this is a public hearing and if you have
25 an issue which is only partially public, how does that



1 get read by the other people who only have knowledge of
2 that portion of the issue.

3 As I say, I have no law to cite on it
4 and I didn't know it was going to come up and it may
5 not be a problem, but it seems I can't let this go
6 without raising with the Board this cautionary note
7 because it may ultimately determine whether or not I am
8 in a position to agree that any evidence be in camera.

9 I don't want to do that in a way which
10 may in some fashion create a difficulty, a personal
11 difficulty for one of Mr. Garrod's clients, but
12 obviously as a representative of government I do
13 nothing to assist my client's public profile by that
14 kind of hard attitude and I may be placed in that
15 position by allowing this to go ahead in this fashion,
16 having heard what Mr. Garrod is going to propose
17 subsequently.

18 MR. GARROD: I am not proposing at this
19 stage we go in camera. I only indicated I may want to
20 at some later stage, but I am sure if that becomes
21 necessary we can argue the issue at that time.

22 MR. LANCASTER: I was going to say it
23 would have to be determined and whatever comes out of
24 that may have to be made public in some way. I don't
25 know. As Dr. Kingham says, it is not a pre-condition



1 to whatever happens next.

2 MR. GARROD: I didn't think so.

3 MR. LEDERER: With great respect, it is
4 not good enough from my perspective to say let's wait
5 and see. My position may be pre-ordained by what is
6 happening here, and if there is any justice in what I
7 say, and I am thinking about this on my feet, that
8 must be dealt with now because it will be too late for
9 me later. The issue is raised now by suggesting we are
10 going to split this evidence and we may have part in
11 camera and we may not. If the Board wants to make a
12 ruling then I have made my objection known and it has
13 been formally dealt with, but I can't allow it to ride
14 without more knowledge of what will happen and frankly
15 perhaps some deeper consideration of the issue.

16 MR. GARROD: It is my submission that
17 you don't have to deal with that now. I am asking
18 Mr. Walker some questions which I do not consider to be
19 confidential and if I wish to pursue the matter further
20 at a later point then I may wish to ask you to hold
21 hearings in camera. My client may decide to waive
22 whatever confidentiality he claims over this subject
23 matter and perhaps we could deal with it in public or
24 we may decide not to call evidence of that nature.

25 All of those matters can be dealt with



1 later and the matters today don't hinge on that in any
2 respect, in my submission.

3 MR. LANCASTER: It is difficult for the
4 Board to rule on something it is not aware of at the
5 moment other than Mr. Lederer's concern. All I can say
6 is that the Board will certainly keep Mr. Lederer's
7 concern in mind and it may not allow it in camera if
8 that will affect the Region's position or Mr. Lederer's
9 position with the Region.

10 MR. GARROD: I take that risk, sir.

11 MR. LANCASTER: I don't know what else I
12 can say at the moment, but we are aware of your
13 concern, Mr. Lederer.

14 MR. LEDERER: Thank you, sir.

15 MR. GARROD: Q. I just wanted to bring
16 you back if I might to your questions and answers with
17 Mr. Lederer regarding the properties around Site D that
18 you would recommend to the Region be expropriated and
19 the properties around Site D that you would recommend
20 be purchased should Site D be the site that this Board
21 decides to approve.

22 Do you recall during the course of the
23 landfill site study any recommendations regarding the
24 fact that consideration should be given to
25 expropriating any other lands other than the ones you



1 have referred to in your review of that evidence? Were
2 there any other recommendations made from your office
3 regarding any other peoples' property?

4 A. Recommendations made to whom?

5 Q. To the Region.

6 A. You have shown me a series of
7 three letters which refer to -- I can be specific, but
8 I am trying to be conscious of the sensitivity of Mr.
9 Garrod's client, but there was one family in the
10 vicinity of Site D, and I can't remember exactly where
11 in the vicinity, but who had medical problems.

12 MR. LANCASTER: I wonder if you should
13 be specific at this point. You were asked a general
14 question.

15 THE WITNESS: Mr. Garrod having
16 refreshed my memory by showing me three letters, and I
17 don't recall the specifics of it, but I do recall the
18 generalities of one particular family's problems and I
19 don't know how to get at it. Mr. Garrod is asking the
20 question and perhaps he could tell me the sort of
21 answer he wants me to give and I can put the facts to
22 it.

23 MR. GARROD: Q. Can we deal with it on
24 this basis. I will ask you specific questions and you
25 answer those questions and perhaps that might resolve



1 any potential problem.

2 A. Yes.

3 Q. Did your office write a letter to
4 the Region making recommendations about whether or not
5 other properties should be considered for
6 expropriation?

7 A. There was a letter written by the
8 senior planner from my office enclosing a letter from
9 Dr. Schiff and the annotation was that it seemed to be
10 appropriate in the circumstances and the letter, as I
11 recall, was addressed to Mr. Mohammed and it was not
12 therefore a recommendation to Council but a matter
13 which was being kept at the staff level and I don't
14 know what happened after that letter went forward.

15 Q. Mr. Mohammed is the director of
16 planning and development for the Region?

17 A. Yes.

18 Q. To be specific, that was a
19 recommendation that the property on First Line facing
20 the landfill owned by Mr. and Mrs. Pompa, that serious
21 consideration should be given to expropriating that?

22 A. The letter was written by
23 Dr. Schiff in response to -- I don't know exactly, but
24 I believe ...

25 MR. LEDERER: I am sorry, but I must



1 rise and really on this same point. This begs the
2 question of what was the reason or why was the request
3 made for expropriation because the answer to that
4 question becomes is that something which takes us under
5 the ambit of the Expropriations Act as to is the taking
6 sound, fair and reasonably necessary? I am presuming
7 that this is what Mr. Garrod wants in camera. I am not
8 sure I can allow this without putting that question to
9 Mr. Walker and he has already said he wants to be
10 sensitive to Mr. Garrod's concern.

11 The problem is really raised by this,
12 you can't do it half way and expect us -- we have a
13 responsibility to protect our client and you can't
14 expect us to let it go in a wishy-washy way, it is
15 either in or out and it is either open for discussion
16 or it isn't. Mr. Garrod must make that decision now
17 and maybe this evidence should be in camera, I don't
18 know.

19 MR. LANCASTER: That is what I meant when
20 I said don't be too specific and your question would be
21 did the witness' office make any recommendation for the
22 expropriation of any property and without being
23 specific.

24 MR. GARROD: And I asked him if that
25 property was the one owned by Mr. and Mrs. Pompa.



1 MR. LANCASTER: We haven't got that
2 answer, did his office make the recommendation to the
3 Region to expropriate other properties.

4 MR. GARROD: I thought he said yes, the
5 recommendation had been made to Mr. Mohammed, the
6 director of planning.

7 MR. LANCASTER: He said a letter was
8 sent.

9 MR. LEDERER: He has not answered that
10 question, and that certainly isn't the facts as I have
11 heard them.

12 MR. GARROD: I thought the witness had
13 said a letter went from his senior planner to
14 Mr. Mohammed.

15 MR. LANCASTER: I am sure several
16 letters did, but it doesn't touch the point.

17 MR. GARROD: Q. Let's do that one
18 again. Did your office make a recommendation to
19 Mr. Mohammed at the Region of Halton that serious
20 consideration should be given to expropriating the
21 Pompa property on First Line because of their
22 particular circumstances?

23 A. I think Dr. Schiff's letter made
24 the recommendation that serious consideration be given
25 to expropriation and my office forwarded the letter and



1 said the response seems appropriate in the
2 circumstances, but I don't recall what the
3 circumstances were precisely. As I say, it was a
4 matter that was being kept at the staff level and I
5 don't know whether that recommendation of Dr. Schiff's
6 ever went forward or not and it certainly didn't arise
7 again in our discussions.

8 This was a matter which was -- it
9 involved or would have been involved I presume in terms
10 of the type of compensation which would be paid to
11 various people and it had arisen quietly at the staff
12 level and triggered by, I think, a letter from the
13 resident's doctor.

14 Q. Dr. Schiff, and correct me if I
15 have the sequence wrong, but Dr. Schiff wrote to you at
16 your offices?

17 A. That is correct.

18 Q. And said that in her view the
19 Region should give serious consideration to
20 expropriating that property under their particular
21 circumstances?

22 A. Yes.

23 Q. And your office took that letter
24 and forwarded it to Mr. Mohammed with a recommendation
25 that "We feel this response is appropriate under the



1 circumstances"?

2 A. Yes, but I think it is important
3 to understand that she was asked to make the response
4 and we thought the response was appropriate and whether
5 that goes to whether we recommended expropriation or
6 not, I have much more experience in expropriation than
7 Dr. Schiff and I was not asked to comment beyond that
8 point, to my knowledge at least.

9 Q. So Mr. Mohammed got your letter
10 and forwarded it to my client?

11 A. What? Sorry.

12 Q. Mr. Mohammed received your letter
13 and Dr. Schiff's letter and forwarded it to my client?

14 A. A third letter?

15 Q. Yes.

16 A. I am sorry, if he did, I didn't
17 recall that. I was reading the other two, but there
18 was a letter from the Region here.

19 Q. Do I take it ...

20 A. You must understand that
21 Mr. Mohammed may have forwarded the letter, but that
22 has no status whatsoever beyond that point because he
23 did that and I don't remember knowing that he did that.
24 I may, and I would gladly do what has to be done if
25 necessary to check, but the very point is that he did



1 it and he was handling it and/or Mr. Perlin's office
2 was handling the matter, but I don't know what happened
3 beyond that point.

4 Q. So these recommendations went to
5 Mr. Mohammed?

6 A. I don't recall what happened
7 beyond that point.

8 Q. You know nothing about what
9 happened beyond that point?

10 A. I don't recall anything beyond
11 that point. As I say, I will do what the Board feels
12 is necessary to try and determine it.

13 Q. I take it from the evidence you
14 gave to Mr. Lederer that it is not presently neither
15 the Region's intention nor your recommendation that the
16 Pompa property should be expropriated?

17 A. I wasn't making recommendations to
18 the Region as to what should be expropriated. I don't
19 believe this matter has come up again, but if it has it
20 has come up within the confines of the Region which I
21 am not aware of.

22 Q. When you were being asked
23 questions by Mr. Lederer he asked you which properties
24 on and around Site D are you recommending should be
25 expropriated and which ones should be purchased?



1 A. And he went to specific
2 properties.

3 Q. Yes.

4 A. He went to specific properties and
5 it wasn't a global question, as I recall.

6 Q. You outlined the various
7 properties you were recommending be expropriated and
8 the ones you were recommending be purchased?

9 A. Yes.

10 Q. You did not indicate the Pompa
11 property, correct?

12	A.	No.
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13 Q. Therefore is it your present
14 evidence that the Pompa property should not be
15 expropriated or purchased?

16 A. Sir, if I was going to give
17 evidence on that I would have to know more about the
18 circumstances behind the matter brought forward in
19 those letters and also subsequent to that.

20 Q. All I am asking is what is your
21 present recommendation to the Region? Are you
22 recommending that the property should be expropriated
23 or purchased or neither, or are you saying you don't
24 have enough information to know?

25 A. The latter. I don't have enough



1 information to know.

2 MR. GARROD: Thank you, those are all my
3 questions.

4 MR. LANCASTER: Thank you. Just one
5 moment, Mr. McQuaid. Thank you.

6 CROSS-EXAMINATION BY MR. McQUAID:

7 Q. Mr. Walker, I would like to
8 continue to discuss with you, as I guess Ms. Cronk has,
9 H-14 which is the comparative analysis. I would also
10 like to put it in a sort of historical context as well
11 in relation to your earlier land use reports and
12 evaluation and you would probably be more familiar with
13 these dates than I will be so, please, give us whatever
14 assistance you can.

15 You had discussions with Ms. Cronk about
16 the land use and planning assessment report, H-51, and
17 also the evaluation and summary report, H-13, both of
18 which are part of Phase 2, Stage 2C; right?

19 A. Yes.

20 Q. The land use and planning
21 assessment report, H-51, is called Final Technical
22 Report No. 12, dated June 1985 and the evaluation and
23 summary report is June 1985 as well?

24 A. Yes, sir.

25 Q. So we have it clear, as of



1 approximately that date, June of 1985, the two exhibits
2 I have just referred you to were, first of all as
3 noted, your land use and planning report and the second
4 one, the evaluation and summary report, was pulling
5 together that land use report of yours together with
6 all of the other reports, is that what I understand?

7 A. That is correct.

8 Q. Then if we go to H-8B, your
9 witness statement, and could you pull that out, please,
10 and I refer you to pages 11 and 12 -- I guess we go
11 back to the heading on page 10, and you see at page 10
12 Phase 2, Stage 2C: Selection of Preferred Site?

13 A. Yes, sir.

14 Q. I am sorry, there are two reports
15 and it is the second report.

16 A. The second because the first
17 didn't have that many pages.

18 Q. The second report which is really
19 the co-ordination role report, page 10 of that second
20 report. You will see, as I understand it, you are
21 really summarizing there the Phase 2, Stage 2C:
22 Selection of Preferred Site and that would give a sort
23 of summary of the two reports I just referred you to,
24 or give you the background on which those reports were
25 being prepared?



1 A. Yes.

2 MR. LEDERER: For the purposes of the
3 record, Mr. McQuaid refers to these things as reports
4 but they are summaries of reports or witness statements
5 prepared for this Board and the notion of reports seems
6 to connote some additional work and I don't know what,
7 but they are not reports in the sense that these other
8 documents are.

9 MR. McQUAID: I have never seen as many
10 interruptions from counsel. I have not interrupted any
11 of the counsel when I have been sitting here and I
12 don't really see why Mr. Lederer has to start off
13 another cross-examination by getting up and fooling
14 around with little points.

15 I would ask you to give a direction, if
16 you would, Mr. Chairman, to Mr. Lederer to just give me
17 the courtesy of letting me ask the questions.

18 MR. LEDERER: I have a duty to protect
19 my client and make sure their position is properly
20 taken before this Board. If Mr. McQuaid doesn't want me
21 to interrupt he can use the words which are appropriate
22 and he knows what they are.

23 MR. LANCASTER: I can't really restrict
24 counsel on what they feel they have to do, but I think
25 the point has been made.



1 THE WITNESS: The answer would be
2 essentially yes. I say "essentially" because I can't
3 recall exactly what you said, but I believe this was
4 intended to summarize Phase 2, Stage 2C and I think it
5 is a good outline of what happened in that stage from
6 the co-ordinating standpoint.

7 MR. McQUAID: Q. All I wanted to do and
8 just so the record is clear and you are clear and the
9 Board is clear, those exhibits, H-51 and H-13 which are
10 referred to as technical, in the first case the final
11 technical report No. 12 as H-51 and the second one is
12 final report, evaluation and summary report, and I said
13 weren't those reports referable to this portion of your
14 witness statement?

15 A. Well, H-13 is, but H-51 would go
16 to page 8 of the other witness statement, yes.

17 Q. Then, the key report then really
18 is the evaluation and summary report in this part of
19 your witness statement. Is that what I understand?

20 A. What do you mean by "key"? They
21 all have relevance, but the overall co-ordinative
22 report, if you will, and sort of the role of bringing
23 together all of the material is found on page 10 and
24 following which you referred to.

25 Q. I would refer you to page 11, the



1 first full paragraph:

2 "Walker, Wright, Young Associates
3 Limited coordinated the activities
4 required to complete Stage 2C, including
5 some of the liaison with outside
6 agencies, organization and presentations
7 at public meetings ... provision of
8 mapping and land use data, chairing
9 consultant site selection meetings, and
10 compilation and writing the Stage 2C
11 'Evaluation and Summary Report' (June
12 1985)..."

13 It all came together in that report?

14 A. Yes.

15 Q. Following that work in June of
16 1985 we see at page 11 that there was preparation of
17 the environmental assessment summary report which you
18 commented on and which I won't take you to, but I will
19 take you over to page 12 where we pick up, as I
20 understand it, the summary in your witness statement
21 which is referable to H-14, your comparative analysis?

22 A. Yes, sir.

23 Q. What I wanted to understand for my
24 purposes and for the Board, is what period of time are
25 these technical studies that give rise to some of the



1 analysis of those technical studies. I am on a go
2 situation following the July date in terms of
3 proceeding with the planning approvals, the outline of
4 the planning approvals which needed to be done.

5 Q. By planning approvals are you
6 saying specifically what documents needed to be amended
7 and whether the planning and Parkway Belt and Official
8 Plans and so on, or is that what you mean by planning
9 approvals?

10 A. Yes, the documents which would be
11 needed to bring to this Board in order to get
12 approvals, and the term "needed" is used advisedly here
13 because we had done an outline at 2C as to what might
14 be necessary and we were proceeding to follow up on
15 that and some of the initial work was to meet with the
16 Planning Directors of each of the two municipalities
17 where the two sites were involved.

18 Q. Continuing on page 13, the last
19 sentence from the first full paragraph:

20 "A work program for the preparation of a
21 Comparative Analysis by this firm was
22 approved by Regional Council on
23 November 6, 1986."

24 A. That is the date, yes.

25 Q. Do I understand that following the



1 Stage 2, Phase 2C studies that the technical studies
2 were undertaken by the various other consultants and
3 then everything is starting to come back together in
4 November of 1986?

5 A. That is correct.

6 Q. Is that when you get the reports?

7 A. Yes. There was some involvement
8 on my part throughout in the intervening period and
9 there was a committee formed by staff, the approvals
10 management committee, and I don't think the label means
11 much in terms of what actually was happening but there
12 there were meetings with various of the consulting
13 groups doing the technical work and it was thought by
14 the Region that I should be there and I was invited to
15 go, so I wouldn't say I was totally divorced over that
16 intervening period, but I did not have the control of
17 it.

18 Q. Had you had control in the earlier
19 stage? Had you actually been directing the other
20 people before that?

21 A. I had the responsibility for them
22 in the sense that I was -- my firm was the one who
23 signed the contract with the Region and I think I
24 explained that.

25 Q. You may have, but again there is



1 so much paper and so much history we have to focus on
2 that sometimes we have to retrace a bit?

3 A. We had gone into the project,
4 Mr. McQuaid, as a consortium, if you will, of, I think,
5 four firms, and that shows up...

6 Q. You don't need to go into that
7 much detail.

8 A. The Region for administrative
9 purposes presumably wanted one signature on the
10 contract and that signature was responsible for
11 controlling in terms of funnelling invoices and
12 directions through us to all the others and from the
13 Region through us to all the others.

14 So I was the project director from that
15 standpoint.

16 Q. This is in the earlier phases?

17 A. Up to the end of 2C.

18 Q. Up to the end of 2C?

19 A. Yes.

20 Q. All right. So, we will go back
21 and I will take you back to page 12, and this
22 comparative analysis portion is now addressing H-14 and
23 it says that you completed the comparative analysis in
24 January 1987 and so we have the period of time when you
25 were preparing the document and it was November 6, 1986



1 to January, 1987?

2 A. Yes.

3 Q. Although you had some meetings
4 with the approvals management committee I guess over
5 portions of some of these reports shortly before
6 November, or a couple of months before?

7 A. No. It was an infrequent basis,
8 Mr. McQuaid, and on request of the Region I attended
9 meetings. The work -- there would have been some
10 provision made budget-wise in July for my attendance at
11 that type of meeting on request.

12 Q. Then you go on at page 12 of the
13 second report to indicate, referring to the comparative
14 analysis:

15 "It comprises a comparison of Site 'D'
16 and Site 'F' using a much more detailed
17 level of information than had been
18 available when the Stage 2C site
19 comparison was conducted in 1985."

20 A. Yes.

21 Q. Correct?

22 "The more detailed information is
23 contained in 'Technical Studies' and
24 supplementary material prepared by some
25 of Halton's landfill consultants to



1 data. What period of time are they being prepared
2 over?

3 A. They would have been prepared, Mr.
4 McQuaid, some time after July of 1985, depending upon
5 when work programs were approved for the various
6 consultants by the Region, up to the point -- sorry,
7 wrong document. I am trying to give you some precision
8 in here. Excuse me just for a second. Up to some
9 months before January, 1987 and I believe we had our
10 okay to proceed in early November of 1986.

11 Q. If I refer you over to the next
12 page, page 13, the first full paragraph on that page
13 says:

14 "Regional Council had anticipated a need
15 to conduct a new comparative analysis
16 when the Technical Studies were first
17 commissioned in July 1985."

18 So that would confirm that it is right after the report
19 which we have just talked about, the evaluation and
20 summary report that these other technical studies were
21 commissioned. Is that what I understand?

22 A. They were commissioned -- the
23 meeting of Council when all the 2C material went to
24 Council in July of 1985, that was the beginning, if you
25 will, of that technical report phase. I am not trying



1 to avoid the question here, but I don't know at what
2 point in time the various consultants after that date
3 were actually engaged to go ahead and do things and
4 whether -- the whole CAO report in July of 1985 had a
5 whole raft of proposals for various items of work, and
6 if we could come to resolutions for contract with these
7 people, presumably it started day one after that report
8 was approved by Council, but I don't know that.

9 Q. You go on to say on page 13:

10 "Walker, Wright, Young Associates
11 Limited was not involved in the
12 preparation of the Technical Studies."

13 A. Correct.

14 Q. That was handled directly from the
15 chief administrative office.

16 A. The co-ordination of that level of
17 detail was handled, I believe, by the Public Works
18 Department, Mr. Moore, he was the chief co-ordinator of
19 that work. Those technical studies were expected to be
20 more of an engineering event or technical in the sense
21 of being controllable by that department.

22 Q. Would I understand that basically
23 your role or you were on standby or on hold, as it
24 were, until these technical studies were completed?

25 A. I am on standby for a comparative



1 support an application for approval of
2 either of the two alternative sites..."

3 And then you go on to summarize or indicate:

4 "Members of the study team that had
5 participated in the Environmental
6 Assessment, but had not conducted the
7 subsequent Environmental Protection Act
8 work, were asked to review their
9 original conclusions based on the
10 Technical Studies and updated
11 information, for the purpose of the
12 Comparative Analysis."

13 A. Yes.

14 Q. Is it your evidence there was
15 quite a bit more technical evidence in all the areas
16 than there had been at the 2C stage. Is that what I
17 understand from that?

18 A. Yes, sir.

19 Q. Then, going to the second
20 paragraph on page 13 I want to concentrate...

21 A. The second full paragraph?

22 Q. Yes, the second full paragraph
23 beginning with "The first task...". This is what you
24 were doing or what you were required to do in order to
25 prepare H-14?



1 A. Yes.

2 Q. "The first task undertaken for
3 this analysis was a critical review of
4 the Technical Studies and supplementary
5 material from the standpoint of clarity
6 of information, consistency of facts,
7 and continuity with the work that had
8 been undertaken for the Environmental
9 Assessment. Discussions were held with
10 the consultants who had prepared the
11 Technical Studies or had participated in
12 Stage 2C, to ensure that this material
13 was being correctly interpreted, and to
14 confirm the need for changes to
15 evaluation factors and identified impact
16 levels where required. "

17 You go on to say:

18 "Obviously, we were not assessing the
19 validity of techniques used, or other
20 technical matters."

21 You were trying, as I understand it, to understand
22 everything and to pull it together to give it some
23 consistency. Is that what you were doing?

24 A. Yes, but may I just explain. Yes,
25 we were trying to do that to make sure that consistency



1 from one standpoint -- party A understood what party B
2 was doing and vice versa so it was to ensure,
3 especially where it was critical in the design and
4 operations where that type of material would be of
5 relevance to a number of them, and I wanted to make
6 sure they were cognizant of what had gone on, but
7 consistency was reviewed in another sense, not to
8 ensure consistency, but to determine what sort of
9 consistency there was from 2C to this stage.

10 We weren't pre-programming, if you will,
11 that they had to be consistent, but we wanted to know
12 where there were changes in the material, the type of
13 technique that had been used and the factors used in 2C
14 versus the new one.

15 So, to answer your question, I have just
16 split consistency a bit here.

17 Q. I refer you to the reference in
18 the clause where the portion of the discussions were:

19 "...to ensure that this material was
20 being correctly interpreted.."

21 A. That's by us.

22 Q. Correct.

23 A. Yes.

24 Q. You wanted to be sure you
25 understood all the summary documents you were getting?



1 A. I wasn't clarifying that, but it
2 was your use of the word "consistency".

3 Q. All right. Then, if we pick up I
4 guess on page 14 of this document, if I read it
5 correctly, I think it is pretty well a precis of pages
6 39 and 40 of H-14 and I will ask you to look at both of
7 those at the same time.

8 A. 39 and 40?

9 Q. 39 and 40 of H-14.

10 A. I am looking at the full
11 paragraphs in H-14 and that is supposed to be
12 represented by 39 and 40?

13 Q. I am saying to you that page 14,
14 it is an attempt to summarize what we see here at the
15 conclusion of your text in H-14?

16 A. Yes, basically.

17 Q. Let's concentrate then on the main
18 document, pages -- H-14 and just so I understand it
19 correctly, this portion, pages 36 through 40, is really
20 coming down having discussed the other factors prior to
21 page 36, you are coming down to your conclusions as we
22 see them at page 40. We see back at page 36 that you
23 had repeated some site selection procedures as set out
24 in the Stage 2C document?

25 A. Yes.



1 Q. At page 37 you were addressing
2 what changes had been made since the Stage 2C reports
3 that were concluded in June of 1985, is that correct,
4 and you are really just addressing --

5 A. No, I don't think we were
6 addressing the changes. We were laying out the changes
7 to what had happened in 2C, the changes for proceedings
8 into the comparative analysis.

9 Q. The standards?

10 A. Yes. It is a change from what had
11 been quoted on page 36 and this was our text, not just
12 a listing of changes.

13 Q. Then, going over to page 38 you
14 actually begin to address the comparisons within the
15 categories we see on the charts immediately behind page
16 40; right?

17 A. Yes.

18 Q. You begin under the public health
19 and safety by saying:

20 "As a result of the investigation and
21 analyses subsequent to Stage 2C, Site
22 'F' is the preferred site within the
23 'Hydrology and Hydrogeology' factor,
24 although the differential between the
25 two sites is relatively small. There is



1 no preference indicated under the
2 'Traffic Safety' factor; however, the
3 preference for Site 'F' under the 'Land
4 Use Conflict: Vermin' factor would tend
5 to reinforce the preference for Site
6 'F'."

7 Then I wanted to look at these standards or categories
8 at the pages behind page 40 and, at the outset could I
9 ask you if you haven't done it, Mr. Walker, just to
10 number the pages sequentially right through to Chart 6?

11 A. The pages for the charts?

12 Q. Yes, please.

13 A. What's the first one?

14 Q. C1(a) is 41 and C1(b) will be 42.

15 A. Just give me a moment.

16 Q. Just go right through and you
17 should end up when you get to Chart 6 at page 56. If
18 there is nothing on a page I didn't number it.

19 A. I was right at that page.

20 MR. LANCASTER: That is the no name
21 brand.

22 THE WITNESS: The summary of ranking is
23 56.

24 MR. McQUAID: Right.

25 Q. Going back to 38, if we want to



1 see the charts that address public health and safety,
2 the detail of those charts, we actually look, as I
3 understand it correctly, pages 43, 44, 45, 46 and 47?

4 A. Yes, sir.

5 Q. You don't use 41 and 42?

6 A. I was going to explain that 41 and
7 42 are the ones which were brought forward from the 2C,
8 just for information purposes.

9 Q. Just so we are absolutely clear on
10 that, and you had some discussions on it with Dr.
11 Kingham, but we see when we look -- look at page 41.
12 The two right-hand columns entitled "Technical
13 Studies", the work was done from the technical studies
14 to update those from the environmental assessment stage
15 2C and that is why we see them down the two right-hand
16 columns on pages 41 and 42, but as it is clear, or as
17 it should be clear from the text, and hopefully as we
18 see from the first asterisk on page 41, they were not
19 used in the comparative analysis?

20 A. Yes, these came about as a result
21 of a request of ours to Mr. Sobanski to provide them
22 for comparability between the two studies and not
23 comparability between the sites.

24 Q. All right. In order to discuss or
25 understand then, the paragraph we read on page 38, it



1 is really, and you have just confirmed it for me, but
2 in looking at pages 43 to 47 that we should have
3 specific reference in order to go back to that
4 paragraph on page 38?

5 A. Well, as a starting point, yes,
6 but the information which is part of this chart, Chart
7 1 and continuing, page 43 and continuing, was derived
8 from us further on on the appendices and they
9 themselves were based on the technical reports.

10 Q. All right. So that we have got the
11 full picture, let's go past page 56 and I have a page
12 where it says appendices and I put page 57 on there and
13 could you do the same and Appendix A --
14 Hydrologic/Hydrogeologic Comparative Analysis is page
15 58 and then there is a letter from Trow and that would
16 be page 59, and again I would ask you to number that
17 wherever there is writing and don't number the one page
18 on the back of the page and if you do that you will
19 come to Table 3 at 74.

20 A. Should I number them?

21 Q. I think you should if you would
22 please.

23 DR. KINGHAM: Did you say Table 3 is
24 74?

25 MR. McQUAID: That is what I got.



1 DR. KINGHAM: There are two Table 3's
2 and there is also a Table 3 at the top of page 72.

3 MR. McQUAID: I have a 71 and you go to
4 the next page.

5 DR. KINGHAM: There is a Table 3 on
6 page 71 as well and that answers the problem. You mean
7 the page 74 Table 3.

8 MR. McQUAID: I am going to ask Mr.
9 Walker to explain that, but that is one reason I wanted
10 to number it because it is confusing.

11 Q. The last page that has the Trow
12 logo is page 74, Table 3, and that is potential impact
13 of landfill contingency implementation on water
14 resources?

15 A. Yes. I am there.

16 Q. Now, just so we understand what
17 you were doing, go back to page 43, Mr. Walker, and the
18 first factor under hydrology/hydrogeology, and if you
19 look down above groundwater users is potential impacts
20 of engineered site development?

21 A. Yes.

22 Q. If I were to take you over to page
23 69, I see at page 69 a comment groundwater users -
24 quality and if I look under the technical studies Site
25 D column, am I correct I see, I think it is the same



1 comments?

2 A. By and large. There are some minor
3 word changes.

4 Q. That is what I was going to ask
5 you. Did you just take it verbatim from Trow or as a
6 result of the discussions you had with either the study
7 team or the Trow people, or did you add a little
8 editorial comment from block to block as appropriate?

9 A. Well, I may have, to use your
10 term, added some editorial comments, but it was
11 something that was agreed to by Trow.

12 Q. I understand that. You didn't
13 take it slavishly from that page and there would have
14 been some discussion but, in the main, the comments are
15 generally the same?

16 A. Generally, yes.

17 Q. Similarly, if we were to continue
18 over to page 70 we would see the Site F technical study
19 comment, the first study under groundwater users -
20 quality, and it follows then as we go down the
21 technical study charts for the various factors that the
22 basis for the comments we see in these blocks are from
23 the Trow report in this area, yes?

24 A. Yes. They look like they are
25 pretty much taken from the report, the summary which



1 Mr. Sobanski prepared.

2 Q. All right. So, that the Board and
3 I am sure that I understand it; if I understand it
4 correctly, at this point for public health and safety,
5 hydrology/hydrogeology factor, it was decided that you
6 would examine the potential impacts of the engineered
7 site development, pages 43 and 44, and you would also
8 examine the factor at pages 45 and 46 entitled
9 potential impacts of landfill contingency
10 implementation on water resources?

11 A. Yes, sir.

12 Q. You can refer me if you like to
13 where you discuss this specifically, but do I have it
14 correctly that basically the first pages, 43 and 44,
15 were looking at the site as it would be engineered?

16 A. Yes, sir.

17 Q. And the second pages, 45 and 46,
18 are looking at the site as engineered but if you had to
19 implement some contingency plans after that engineering
20 was put in place?

21 A. Yes. As I understand the
22 distinction, if monitoring picks up a problem that is
23 emerging then contingency plans would be put into
24 effect and it was considered initially by
25 Mr. Sobanski and agreed to by us that it would be



1 important to see if there were any difference, in other
2 words, any additional impacts as a result of the
3 latter.

4 Q. In each case of these pages, these
5 two factors, engineered or contingencies, and I will
6 short-form it, but you understand that 43 and 44 I will
7 refer to as the engineered component and the other the
8 contingency component, pages 45 and 46, but in each of
9 those cases you were looking as we see going down first
10 of all on page 43, you look at groundwater users, the
11 quality and the quantity component?

12 A. Yes.

13 Q. And surface water users, quality
14 and quantity?

15 A. That is a new one which was added.

16 Q. A new one which was added. Then,
17 that was looked at on page 43 for the engineered and at
18 page 45 for the contingency component?

19 A. Yes.

20 Q. Then on page 44 you looked at
21 groundwater resources, quality and quantity, for the
22 engineered at page 44 and for the contingency at page
23 46 and, in addition, surface water resources, quality
24 and quantity?

25 A. That is correct.



1 Q. Correct?

2 A. It is.

3 Q. The difference between groundwater
4 users and groundwater resources was -- the users I can
5 understand but the resources is what wasn't used but
6 what was in the ground still as a resource?

7 A. It is actual natural resource
8 itself and the impact on the natural resource.

9 Q. Now, you brought to our attention
10 that on page 43, and again we see it on page 45 I guess
11 -- yes, it is 45?

12 A. What are you talking about?

13 Q. That's not right. I want to be
14 sure I understand this. Surface water users, page 43,
15 was not applied in Stage 2C and that's a new one as the
16 asterisk indicates?

17 A. That is correct, sir.

18 Q. My question I guess was was that
19 the only one added in the engineered or had surface
20 water resources been looked at -- I guess the whole
21 factor of contingency had not been used in 2C so it
22 would not have been added and the whole thing was
23 added, 45 and 46?

24 A. Yes.

25 Q. And the new one was surface water



1 and what you were saying a moment ago, it was surface
2 water users which was added because you went to the
3 next one and said surface water resources, but that had
4 been in 2C.

5 A. That had been in 2C.

6 Q. That had been in 2C.

7 A. Yes.

8 MR. McQUAID: That is what I was not
9 clear on. I am going to go into a discussion of some
10 of these pages, Mr. Chairman, and I don't know if you
11 want to take a little later lunch break because of our
12 start this morning or whether you would like to break.
13 I am in your hands.

14 MR. LANCASTER: I think we might as well
15 break now. It seems to be an ideal time.

16 MR. McQUAID: Thank you, sir.

17 MR. LANCASTER: Until 1:45.

18

19

20 ---Luncheon Adjournment at 12:30 p.m.

21

22

23

24

25



1

2

---Upon resuming at 1:45 p.m.

3

MR. LANCASTER: Please be seated. Mr.

4

McQuaid?

5

DR. KINGHAM: Is Mr. Garrod going to

6

join us?

7

MR. MCQUAID: Apparently he is.

8

MS. GOLDING: Ms. Cronk was required to

9

be in Toronto this afternoon and Mr. Garrod will be

10

here in a moment.

11

MR. MCQUAID: I gather we can go ahead

12

without Mr. Garrod. He will be down shortly.

13

MR. LANCASTER: I would think so.

14

MR. MCQUAID: Q. We were at page 43 and

15

we were discussing the format of the entries on those

16

pages 43 to 47. I would like to divert just for a

17

moment to discuss with you and we are talking the

18

public health and safety category, the first priority

19

category?

20

A. Yes.

21

Q. To discuss with you how key

22

particularly this first category was in influencing

23

your opinion in the selection process.

24

Now, I know, and I don't know whether I

25



1 can put it to you in a quantitative sense or not, but
2 here we are talking public health and safety and we can
3 look at the other four categories which are, in order,
4 the natural environment, the social environment, the
5 cultural environment and costs, engineering?

6 A. Yes.

7 Q. We can get some appreciation of
8 how significant public health and safety is because you
9 might have strong indications in the other four
10 categories for some site on a land use basis or costs
11 or cultural?

12 A. I might or the results might?

13 Q. The results might.

14 A. Yes.

15 Q. The first category of public
16 health and safety, if it was not satisfied it really
17 wouldn't matter in some respects how isolated or how
18 deserted or the absence of cultural features or how
19 inexpensive the site might be, would it? Do you follow
20 me?

21 A. I think I do.

22 Q. In the thinking process shouldn't
23 this first primary factor represent, and I put it to
24 you, at least 50 per cent almost in the decision-making
25 process?



1 A. There could be a combination of
2 circumstances where other things, other factors, or
3 other categories would combine to outweigh public
4 health and safety, but we certainly would consider it
5 to be the most important.

6 Q. I guess I am thinking in my mind
7 in terms of the thinking process. If you had the other
8 four categories and they got to or added up to quite a
9 significant number, but if on public health and safety
10 the site you might be looking at, based on those other
11 four categories, if it was not a good site from a
12 public health and safety standpoint, it is hard to
13 envision you would throw out public health and safety
14 as strong as those other four categories might be. Do
15 you understand?

16 A. I certainly can't back away from
17 we identified it as the top priority category.

18 Q. Was there discussion about what
19 weighting you would give it among the five categories
20 along the lines of what I am talking about? Does it
21 represent either quantitatively or qualitatively --
22 what it would represent either qualitatively or
23 quantitatively in the final decision making?

24 A. It would have been qualitative,
25 Mr. McQuaid. I am thinking of pages 37 and 36 you



1 referred me to, quoting on 36 and 37, that is for the
2 comparative analysis, and if you look at common
3 standard No. 2...

4 Q. On page 37?

5 A. You could take either one, it
6 doesn't matter, they both effectively -- they are the
7 same thing -- but on 36 that was from 2C, halfway down:
8 "...with the exception that in the First
9 Priority grouping Hydrology/Hydrogeology
10 is considered to be more important to
11 public health and safety, in landfilling
12 operations,..."

13 And even within the top priority it puts an additional
14 weight on hydrology/hydrogeology.

15 Q. I guess my question was a bit more
16 general in terms of trying to establish what weighting
17 or significance this first category, public health and
18 safety should have among all of the other categories?

19 A. It had the top priority. In terms
20 of weighting, we didn't give it a weighting.

21 Q. There was no attempt to give it
22 any weighting?

23 A. No, we were quite clear that
24 public health and safety was the most important and in
25 terms of trade-offs, had there been a need to trade off



1 there would have had to have been a substantial over-
2 balance of favourable conditions, favourable results
3 from other factors to outweigh a negative public
4 health and safety. Does that answer your question?

5 Q. You are saying that you thought of
6 it, as you say, as the most important and it wasn't
7 given any great weighting among the four categories and
8 in summary that is what it comes down to?

9 A. No, just the top rating.

10 Q. All right. Now, I want to go to
11 page 43 and discuss the factors that we see in the
12 technical studies. At pages 43 and 44, first of all.
13 I would like to concentrate if we could on the
14 groundwater users -- on the quality entry under each of
15 the categories?

16 A. Yes.

17 Q. Just stopping for a moment, I
18 would like to discuss with you in a sense the quality
19 aspect of groundwater user, surface water user,
20 thinking of the categories, groundwater resources -
21 quality and surface water resources - quality. I don't
22 think there would be any argument with you about the
23 fact that that is a public health and safety aspect?

24 A. Potentially, yes.

25 Q. "Potentially." When we come to



1 quantity, and think now in terms of quantity of
2 groundwater use or surface water quantity. Can you
3 follow me?

4 A. I think so far, yes.

5 Q. Would you agree with me that even
6 if there was, as it turns out, I think that it
7 indicates there really was no substantial effect on
8 quantity either on groundwater use or surface water
9 use; right?

10 A. Yes.

11 Q. The issue really didn't come up as
12 to whether it was going to have a health effect or not,
13 but would you agree that when we come to quantity of
14 groundwater use or quantity of surface water use, it is
15 stretching it a bit to say that that is a public health
16 or safety feature?

17 A. No. I don't think it would be
18 stretching it. I can only respond from my own
19 experience, if you will, but from my own perspective as
20 a planner professionally. I think that the quantity is
21 important in the same vein that quality is in the sense
22 that it goes to impact on people and there is a
23 potential in there that if the volume is not
24 sufficient, i.e., the quantity is not sufficient, then
25 it could have an adverse effect upon the people who use



1 it or on the animals who use it.

2 Q. Isn't that the quality rather than
3 the quantity? In other words, what I am getting at is
4 this; that the quantity aspect when it comes to public
5 health and safety can be addressed by a cost solution?

6 A. Public health can be equated to
7 having additional drawdown on your water supply. If
8 you haven't got enough water then I think you could
9 fairly ascribe a public health potential problem to
10 that, and we were talking about potentials, you know,
11 in this particular section.

12 Q. Bear with me. Quality is the
13 quality of the water you will drink and if you drink
14 water that is not of good quality it will affect your
15 health?

16 A. That's close to a foregone
17 conclusion.

18 Q. If you don't drink water at all
19 and if the quantity is so little that you are
20 effectively dying of thirst then it might have a public
21 health issue, but we are not at that point really, are
22 we?

23 A. Hopefully nobody in Ontario would
24 ever get to that point.

25 Q. That is my point, because there



1 are alternatives in Ontario and there are other
2 solutions to the absence of quantity of water?

3 A. In some circumstances.

4 Q. By bringing water in, cisterns and
5 costs and so on?

6 A. Or by tank trucks and things like
7 that, but depending upon the circumstances, lack of
8 water I think could be considered to be a public health
9 concern.

10 Q. In an extreme case?

11 A. Yes, sir, and also you are looking
12 at a potential public safety standpoint to the extent
13 that the source of water on which you are reliant is
14 not available, for instance, for safety measures, such
15 as fire.

16 Q. Neither of those extremes, lack of
17 water for drinking, either for persons or livestock,
18 that is the quantity, nor for the safety measures you
19 have indicated needed to be addressed at this
20 particular location, did they?

21 A. I think they were addressed.

22 Q. They didn't need to be. Don't
23 these entries indicate that the quantity -- let me ask
24 you, do you know what effect, for example, at Site D on
25 quantity locating a landfill at Site D would have?



1 A. The conclusion reached was that
2 there would be potentially a small interference or
3 reduction in the amount, whether it is groundwater or
4 surface water, due to the engineering.

5 Q. Think of the wells; quantity of
6 groundwater use?

7 A. That is groundwater.

8 Q. We heard evidence from Mr.
9 Sobanski that it would be the equivalent of about one
10 well, one domestic well, if you had the engineering in
11 place and it would be the equivalent of having one
12 other well in that area; 1.7 gallons per minute I
13 think?

14 A. I didn't hear his evidence but I
15 will accept what you say.

16 Q. Did you have any appreciation
17 before I put that figure to you of what amount it was
18 compared to domestic use of other wells in the area?

19 A. I can't recall from the
20 conversations I had with him if it ever came up in that
21 particular form.

22 Q. I guess my point is if you are
23 only going to have an effect in terms of groundwater
24 use in quantity of about -- the use of one domestic
25 well per day, you don't really have to give a lot of



1 concern to the issue of public health and safety about
2 having one additional well in this area of Site D, do
3 you?

4 A. But the one additional well, it
5 would depend on whether that is shared between all
6 users and/or what everybody suffers slightly with the
7 reduction.

8 Q. I think maybe you haven't
9 understood my point. I think the information we had,
10 and I want you to assume that this is the case, but by
11 putting the engineering facility of D in place it will
12 have the effect of drawing water from around the area
13 inwards to the landfill cells, the waste cells, of
14 about one well and it is as if someone put a house well
15 in in that area?

16 A. Yes.

17 Q. Okay? Now, my point is that other
18 than having no well, that is as low as impact as you
19 can possibly get; isn't it?

20 A. It would appear from what you say
21 that it has a low impact but I don't know whether the
22 effect of the loss of one well -- I shouldn't say "the
23 loss", but of putting down a well, one new well, is
24 spread across everybody or if it has effects on certain
25 people...



1 Q. I want you to assume it is spread
2 across everyone?

3 A. If everyone had good wells,
4 presumably that would be a relatively small impact.

5 Q. The smallest would be no drawdown
6 and the next smallest would be one well and the next up
7 would be two wells and it would have the effect of two
8 wells going?

9 A. It is not that I don't believe
10 you, but I have trouble from my own standpoint of
11 knowing relatively the impact of putting down one new
12 well. All I know is that Mr. Sobanski from his
13 standpoint at the comparative analysis standpoint
14 assigned a low-moderate impact to that which would not
15 be insignificant. It wouldn't be a huge impact, but it
16 would not be significant in his mind or he would have
17 put something lower than that, Mr. McQuaid, and I am
18 reliant on his expertise to distinguish between a nil
19 impact on F versus a low-moderate on D for that
20 particular factor.

21 Q. In your discussions, as I read to
22 you the meanings we had to determine whether -- I have
23 forgotten the wording exactly, but it was ensuring the
24 material was being interpreted correctly, and do I take
25 it that on this item there was no discussion about, for



1 example, why was the impact even moderate if in fact
2 the impact is the equivalent of one well spread across
3 the entire area.

4 I would have thought that would be as
5 low as you could get. It wouldn't be moderate. Do you
6 understand my thinking?

7 A. I understand your thinking.

8 Q. Moderate is one well -- you have
9 nil, then low and then moderate, but I gather you
10 didn't get into that sort of detailed discussion?

11 A. I don't recall on this particular
12 matter whether we got into this particular aspect,
13 Mr. McQuaid, but my guess would be that the lowest you
14 could go is nil and that was the perception in the
15 rating that he gave to the F site.

16 Low to moderate would indicate to me
17 that if in absolute terms it is the equivalent of one
18 well, in his opinion he thought it rated low to
19 moderate and I can't go behind that, if you will, at
20 this point in time to say the equivalent of one well is
21 virtually no impact at all. I am reliant on him from
22 that standpoint.

23 Q. We have low, moderate and high,
24 the three categories?

25 A. And nil.



1 Q. So nil, low, moderate and high?

2 A. Yes.

3 Q. And variations in between?

4 A. That was a variation between low
5 and moderate.

6 Q. I am saying as a matter of logic
7 can you have a low that would be much lower than one
8 well?

9 A. You could have the equivalent ...

10 Q. Can you say half a well? Mr.
11 Garrod is prompting from the left.

12 A. Mr. Garrod may be prompting
13 somebody but he is not prompting me because I am being
14 careful to look at you.

15 Q. But you can hear too?

16 A. I won't answer the question if you
17 think I am being prompted.

18 Q. I am saying you could have less
19 than one well and I will concede that?

20 A. Can you tell me what you mean by
21 one well? What is the volume? A drilled well or dug
22 well?

23 Q. 1.7 gallons per minute.

24 A. That's a relatively -- that's for
25 household purposes not too bad in my opinion and that's



1 my own personal experience because I have two of them.

2 Q. That would be the effect across
3 the entire area as it was explained by Mr. Sobanski?

4 A. In my experience if 1.7 is seen to
5 be the equivalent of a well, and if that's an average
6 flow for houses in the area, then any substantial
7 increase or decrease in that, any decrease in 1.7 on a
8 domestic well would be relatively important. It may
9 not be critical, but it would be important to know.

10 Q. I think I indicated to you that I
11 wanted you to assume that was not having the effect of
12 1.7 on one other person's well, but the total effect
13 across the area?

14 A. But I am making the assumption it
15 is spread across, but spread across what?

16 Q. Site D?

17 A. But I don't know the volumes
18 coming out the various wells. If some were dug they
19 would have a substantially lower volume than a drilled
20 well and the same drawdown on that well compared to a
21 drilled well would have more impact.

22 As I say, I am reliant on him and if he
23 figures it has a low-moderate impact there is a small
24 interference so he has some descriptive statements in
25 there, a small interference, and he thinks it is low-



1 moderate and I wouldn't have the expertise to challenge
2 that. I might have asked him at the time how that
3 relates, but clearly no impact is nil.

4 Q. I put it to you and I don't know
5 if you need to have expertise for the next question,
6 but let us assume that it is one well across the entire
7 area, the acreage we are talking of Site D or the wells
8 around that area?

9 A. Okay.

10 Q. To get back to my main question
11 about whether that has a serious affect in terms of
12 public health and safety on the people around that
13 area?

14 A. There was no indication it had a
15 serious effect. That would have been a high. It has a
16 low to moderate effect which is some effect on public
17 health and safety and, as I said, I believe its
18 inclusion in the public health and safety category is
19 appropriate.

20 Q. You are saying it is appropriate.
21 My first point is we know the quantity, whether it be
22 surface or groundwater user based on the assumption I
23 gave you of the one well equivalent, and it really is
24 not something you have to be concerned about from a
25 public health and safety point of view; is it?



1 A. The quantity of surface water
2 wouldn't be measured in terms of a well, would it?

3 Q. That is my question. Isn't that
4 what it has to be?

5 A. No.

6 MR. LEDERER: At some point it seems Mr.
7 Walker does get pushed too far beyond his own
8 experience and the question of where you make that
9 measurement may be that point. It is one thing to talk
10 about low, et cetera, and what Mr. Sobanski has done,
11 but asking how you can measure an impact is taking the
12 matter too far and that should have been put to
13 Mr. Sobanski.

14 MR. McQUAID: With respect, that is a
15 question put by Mr. Walker and he said would the impact
16 be measured in terms of one well and I said we had been
17 talking or have been talking in that.

18 Q. Give me what standard you
19 understood that quantity was going to be measured at as
20 a public health and safety factor?

21 A. A surface water user is the
22 distinction versus groundwater.

23 Q. You changed categories?

24 A. No, sir. You took me to surface
25 water as well as groundwater.



1 Q. I had both, I agree, but if you
2 were asking about surface water, I thought you were
3 asking about groundwater?

4 A. I wasn't asking questions.

5 Q. You did ask me and you said how
6 would you do it in terms of wells. If you are talking
7 about surface water we passed in the night and there is
8 nothing wrong with that.

9 Let me stick with groundwater user for a
10 moment though just so we have it clear. If the
11 quantity that is taken out of the area is the
12 equivalent of approximately one domestic well for the
13 entire area, then you would agree with me and it is
14 just a matter of common sense, and set aside
15 hydrogeology for the moment, that it would not appear
16 to be a significant public health and safety impact?

17 A. I don't think I have given an
18 indication that I can agree with you on that in the
19 sense that the wells may be dug, which is usually a
20 very shallow well, or they may be drilled, which can
21 be to varying levels of depths, and to the extent that
22 the equivalent removal of water is the equivalent of
23 the drilling of one well which yields 1.7 gallons a
24 minute, I can't tell you whether that has significant
25 effect or not because I don't know the facts of how



1 many dug wells, I don't know what the drilled wells are
2 like and all of that Mr. Sobanski would have known, and
3 so I must assume, that although he may have given the
4 standard you are talking about, and I have no reason to
5 disbelieve you that he did do that, he still came to
6 the conclusion that it was a low-moderate impact versus
7 a nil impact on F.

8 Q. I hear you want to stick with
9 Mr. Sobanski, but I guess I am saying that you studied
10 this area well and you know there are a lot of other
11 houses and potential lots in the area, aren't there?

12 A. I don't know there are a lot of
13 potential lots.

14 Q. Would you like to turn up Exhibit
15 H-51?

16 A. Which are you referring to?

17 Q. Candidate Site D, page 5-1(b)?

18 A. Yes.

19 Q. Now, that is the candidate site
20 area and it goes -- the two lots or two parcels to the
21 north. We know in the area there is not a house on
22 every parcel of land in this candidate site area, is
23 there?

24 A. There are houses on a lot of the
25 areas but on the four lots I mentioned earlier there is



1 only the one, the Tomosky house.

2 Q. Could they be built on?

3 A. I believe they can.

4 Q. So we know there are at least
5 three lots potentially in the area there?

6 A. Yes.

7 Q. Do you understand what I am
8 saying. There are other parcels of land not yet built
9 on which if somebody came and put a house on they might
10 drill a well?

11 A. They would have to drill a well.

12 Q. Based on what you have said that
13 might have a very low to moderate impact on the entire
14 area?

15 A. Depending on how they went about
16 doing it and what aquifer they were in and how big the
17 well was and how big the pumps were which were attached
18 to it and there could be varying degrees.

19 Q. Is water so critical in this area
20 you think that if one house went in here on one of
21 these other parcels in the area that it would have a
22 significant impact in terms of quantity on everyone
23 else in the area?

24 A. I don't think it would have a
25 significant impact, but periodically you can get a



1 glitch in the geology and in fact you would have one.
2 Nobody sets out to do that, certainly.

3 Q. I guess my point is to get back to
4 the basic discussion we were having. In your
5 discussions with the group did you understand that in
6 terms of quantity water was so precarious that one of
7 these houses or one of these lots having a house put on
8 it would have a significant impact on everyone else in
9 the area. I would have thought not?

10 A. I would think not as well
11 and we didn't discuss houses on individual lots.

12 Q. We could take the time and go
13 around the vacant parcels, many of which could be built
14 on, and each of which may have a well on or have a well
15 put on?

16 A. As I say, they pretty well have to
17 if they want to live there.

18 Q. You would not characterize that
19 sort of development as an effect on public health and
20 safety, would you, if that were to happen?

21 A. Hopefully it wouldn't be an effect
22 on public health and safety, no.

23 Q. Would you agree with me on this,
24 on this area of groundwater quantity, that if Site D
25 were assembled for the landfill, that indeed there may



1 very well be wells, existing wells that are drilled now
2 that would not be used in the future?

3 A. It is possible. I don't know
4 whether the old Ford property, now Reed, has a well
5 drilled or dug on it.

6 Q. I guess I am saying in this area
7 of quantity, if it is really to be treated as a
8 significant public health and safety point, perhaps
9 that should have been done because you may have had a
10 beneficial impact in terms of quantity of groundwater
11 users if in fact you had 1, 2 or 3 wells as a result of
12 the consolidation surrender back to the general
13 resource. Isn't that so?

14 A. It is possible you would have, as
15 you put it, a surrendering of wells. I would have to
16 assume that Mr. Sobanski would be aware of that when he
17 made his conclusions. Was the question asked of him in
18 that way to get the benefit of his answer?

19 Q. No, because at that point I
20 thought you had done more of the involvement here than
21 Mr. Sobanski?

22 A. I thought you had my witness
23 statement and it was clear what I had done.

24 Q. As you can understand there has
25 been a lot of passing of the baton between the study



1 team and the study group?

2 A. I will try not to pass the baton.

3 Q. I am just saying it happens where
4 you have a lot of consultants, and you indicated you
5 had two hats on because you were co-ordinating as well
6 as being the land use planner. In any event, we can
7 only take what you understood and what discussion you
8 had with him. Would you not agree that if in fact, and
9 I put it to you, if there were five wells that were
10 gone, or surrendered as a result of this, this category
11 might very well change?

12 A. It might not change because, as I
13 said, I must assume that Mr. Sobanski who was part of
14 the engineering group actually doing the design and
15 operations would understand the surrendering and this
16 was therefore a net figure or one that takes into
17 account the "surrendering" of the existing wells.

18 Q. That is an assumption. I don't
19 want to be argumentative, but I guess I am really
20 saying that if in fact it was understood that Site D or
21 using Site D would have the equivalent of taking one
22 well, the equivalent taking of water from the resource
23 of one well, and if in fact nobody thought about the
24 fact that some wells might be surrendered and that in
25 fact were done, you could have a change from a low-



1 moderate to a beneficial; could you not?

2 A. Under the assumptions you have put
3 you could have a change from low-moderate and whether
4 it would go as far as beneficial -- it would have to go
5 through one and a half or two levels to get to
6 beneficial and it would have to get through low, which
7 is part of what is here, and then nil into beneficial.

8 On the other hand, you would also have
9 to have the information on what type of well was being
10 "surrendered".

11 Q. All right. Let's turn to quantity
12 of surface water users. There I would take it we would
13 be agreeable that the effect would not be a well but
14 more likely what area is being taken out of the total
15 drainage area of the surface water runoff, is that
16 correct?

17 A. I think what I would consider from
18 a measure standpoint would be a reduction in the volume
19 flowing into the drainage features of the area.

20 Q. Which in turn is a factor of what
21 area is taken out of the drainage area?

22 A. Yes, I guess so. It could also be
23 -- it would normally be the area to the extent it is
24 applicable and it would also be the change of surficial
25 features, the contours on the one hand, the hard versus



1 soft surfaces which are being taken out and/or being
2 put on to the area, and so we have an areal extent and
3 then we have the changes putting hard surfaces in or
4 taking hard surfaces away and replacing them with soft
5 surfaces. We would also have some topographic
6 differences because this is relatively flat land and
7 the effect in the ultimate terms of the landfill would
8 be some topographical changes. All of this, in my
9 opinion, would be considered by Mr. Sobanski in coming
10 to this conclusion.

11 Q. Right. I think you said, or
12 Mr. Sobanski, and this really amounts to a small local
13 effect due to some additional precipitation on the
14 landfill?

15 A. Capture; you are capturing some of
16 the precipitation.

17 Q. You are taking an area which is
18 now flowing into the watercourses out and putting it in
19 its own system and so you are taking it out of what was
20 previously available to that watercourse. Is that what
21 you understand?

22 A. Yes. You are taking it out and
23 you are also changing the way -- if you are taking it
24 out completely, then that's it.

25 Q. Mr. Sobanski has put a nil to low



1 impact on it?

2 A. That is correct.

3 Q. That is almost as low as you can
4 get because nil is the lowest?

5 A. Yes. I think it comes from the
6 standpoint of his description of a small local area
7 being affected.

8 Q. You wouldn't have any appreciation
9 of what size the watershed is that we are talking
10 about?

11 A. It would be ...

12 Q. Hundreds of acres or thousands of
13 acres?

14 A. It would be in the order of
15 hundreds of acres.

16 Q. We know what is being taken out,
17 but I mean over the overall watershed that is actually
18 servicing...

19 A. This is not the headwaters area,
20 for instance, this is part of the downstream watershed,
21 and so it is a small piece coming out of a much larger
22 watershed.

23 Q. Again, just to go back to the main
24 point I guess I was putting to you, in this particular
25 situation, because it is a small area out of a much



1 larger watershed, the issue of quantity insofar as
2 surface water users really didn't have to be given a
3 lot of consideration because it was a nil to low
4 impact?

5 A. It was given consideration and
6 rated nil to low impact and you have just described the
7 reasons.

8 Q. Having said that, I guess I am
9 coming back to the question, the larger question I put
10 to you earlier, if in fact you are talking about a
11 large watershed and you are taking out of it a very
12 small percentage of the watershed, would you agree with
13 me that you really do not have to be overly concerned
14 about this public health and safety category?

15 A. I think to the extent you are
16 taking anything out of the watershed you should have
17 some concern and the "some concern" is reflected by the
18 rating given to it, in my opinion.

19 Q. "Some concern", I agree, but I
20 guess my point really is is quantity of surface water
21 and the effect on it, particularly if it is nil to low,
22 something you take into account under a public health
23 and safety category or is it something you would take
24 into account either under agricultural or costs or land
25 use as opposed to public health and safety. Do you



1 understand what I am saying?

2 A. I understand what you are saying.
3 The criteria or the factor is appropriately in public
4 health and safety and if there is some certain set of
5 circumstances and it is assumed to be less relevant in
6 that factor, I think that is immaterial and it might be
7 repeated in another factor, but it should be continued
8 in the public health and safety for consistency
9 standpoint and be rated in a fair way which, I believe,
10 it was.

11 Q. Isn't the real point though of the
12 category to really be assessing the factors which will
13 really bear truly on public health and safety?

14 A. But you see ...

15 Q. Can you answer that and then you
16 can qualify it.

17 A. I am answering it, I think.

18 Q. Can you start with a yes or no?

19 A. Can you give me the question
20 please?

21 Q. Isn't the purpose of the public
22 health and safety category to address the items that
23 really will affect truly public health and safety?

24 A. The answer is yes and I believe
25 the principle of addressing this is valid within that



1 category. If I can then go on to give you an example,
2 the same sort of element, but to go to another level of
3 concern, most conservation authorities that you in your
4 municipal practice and I in my planning practice would
5 deal with, Mr. McQuaid, would have a great deal of
6 regard from the standpoint of public health and safety
7 for every part of the valleys over which they have the
8 mandate of control from the standpoint of public health
9 and safety.

10 In many cases people can try to show,
11 and in many cases validly could show, that taking a
12 piece of that valley would have no substantial or
13 significant affect on the maintenance of the public
14 health and safety factors the conservation authority
15 deals with. They still take the position that all of
16 the valleys are of concern to them from a public health
17 and safety standpoint and I think the principle is
18 clear there and I believe that the principle should be
19 seen to be clear here as well.

20 Q. The conservation authority's
21 mandate you said is addressed to public health and
22 safety and I am trying to get at what your definition
23 is. I thought one of the things the conservation
24 authority was worried about was flooding and that might
25 have some public health and safety aspects to it I



1 concede?

2 A. That's right, but that's a matter
3 of volume, surface water volume, and it's the same
4 element you are dealing with and the principle is still
5 clear and again the example I gave you is that somebody
6 could say this particular piece of land has no material
7 affect on surface water quantity, how it flows and
8 where it is stored, and the principle is still
9 maintained. It may be true or it may not be true, but
10 our mandate is over public health and safety and the
11 valleys and where the surface water goes.

12 Q. Are you saying the quantity here
13 being addressed on surface water was concern with
14 flooding?

15 A. No, I am not. You put it into
16 flooding and I didn't. I act for one of the biggest
17 conservation authorities and they go to more than
18 flooding when they are looking at surface water and the
19 mandate over which they have control, the valleys.

20 Q. You referred to the conservation
21 authority and I was trying to understand what it was
22 you understood was being addressed under quantity,
23 surface water users, public health and safety, and I
24 thought you were concerned first of all about the
25 effect on people?



1 A. That is correct.

2 Q. Is that true?

3 A. Yes, the public.

4 Q. I am trying to understand why the
5 quantity of surface water of Site D or Site F would
6 have a serious public health and safety effect on
7 people?

8 A. In this case it doesn't have a
9 serious effect. It has a nil to low impact, but the
10 principle of surface water quantity is that potentially
11 the reduction of the surface water can have effects on
12 other aspects like livestock or like the continuance of
13 natural flora and fauna. It is always a potential thing
14 and the principle is for public health and safety,
15 which is related to those aspects, it is important to
16 study it. If it happens to come out low, sure, you can
17 say that yes it is partway down the watershed and in
18 absolute terms it has very little effect, but we have
19 done that and it doesn't negate the principle of
20 looking at it from a public health and safety
21 standpoint.

22 Q. It turned out it was nil-low in
23 the case of D and nil in the case of F, surface water
24 quantity?

25 A. Yes.



1 Q. It was looked at and was not a
2 significant factor in public health and safety in this
3 particular case.

4 A. Not significant, but it should be
5 in principle looked at.

6 Q. I said it was looked at, but it is
7 not significant as it turns out having regard for the
8 physical area.

9 A. As it turns out, yes.

10 Q. Similarly when we go over to page
11 44, and let's skip over to surface water resources, and
12 again to quantity, there is reference there to the
13 resource itself and you will see there is a small local
14 effect due to the capture of additional precipitation
15 and there will be a small increase in peak flows in the
16 Bronte Creek tributary on the west side of the site and
17 it is given a low impact?

18 A. Yes.

19 Q. Again it was addressed over at
20 Site F and we heard evidence about the diversion of
21 Falcon Creek and some reduction in peak flows and no
22 doubt we will hear more about that as this hearing goes
23 on. I guess my real point is that when we look at the
24 groundwater and the surface water, would you agree with
25 me that in the context of the physical set-ups as they



1 existed here, that the more significant public health
2 and safety aspects are those that affect the quality
3 rather than the quantity?

4 A. That's how it turns out perhaps,
5 but it doesn't negate the study of them and the effect
6 of them.

7 Q. I didn't say it did.

8 A. That's the end result. You can't
9 know the end result before you do the work.

10 Q. I appreciate that. Now, we looked
11 over at page 69 before the break and that was where you
12 get the comments, the actual comments that we see on
13 the charts, Mr. Walker. Am I right that if we wanted
14 to look to the summaries which are in brackets, we
15 would look over at page -- I guess back at page 68 in
16 the case of the engineered site development.

17 A. Could you help me -- oh, okay.

18 Q. You see we have been looking at
19 where the comments came from?

20 A. It is the bracketed comment -- I
21 know now where you are, yes.

22 Q. At page 68 we see actually the
23 entries we have been discussing for Site D and for Site
24 F back at pages 43 and 44 and actually you have really
25 just repeated those in brackets back on those pages?



1 A. Yes, sir.

2 Q. Is that correct. Now, what I did,
3 and this is just to concentrate on quality, but I am
4 showing you the same page, page 68, and just focusing
5 on quality for the moment. I wonder if this could be
6 marked as the next exhibit and you will see it is
7 revised.

8 MR. LANCASTER: That will be Exhibit B-
9 342.

10 THE WITNESS: Is that B?

11 MR. LEDERER: As a practical matter
12 could we be told who did this? Is this something
13 Mr. McQuaid has done for the purposes of cross-
14 examination or some consultant?

15 MR. McQUAID: I have done it so we can
16 concentrate on the quality entries and then look back
17 at pages 43 and 44.

18 THE WITNESS: Could I make a
19 suggestion? It might help for future reference if the
20 Trow logo was struck from it, because this clearly
21 isn't Trow's piece of paper.

22 MR. McQUAID: We have noted "Revised"
23 on it.

24 ---EXHIBIT NO. B-342: Table 2 from H-24 (Revised)

25 MR. McQUAID: This is their comment



1 and their context but I hear what you are saying. This
2 is B-342?

3 MR. LANCASTER: B-342.

4 MR. McQUAID: If we look at pages 43
5 and 44 we will see groundwater users - quality on page
6 43?

7 A. Yes.

8 Q. It was nil and nil in the case of
9 Site F?

10 A. Groundwater quality -- groundwater
11 users - quality was nil and nil in terms of Site F or
12 do you mean D and F, D and F?

13 Q. D is nil and F is nil?

14 A. Yes.

15 Q. If we go over to the next page,
16 page 44, groundwater users -- groundwater resources?

17 A. Yes.

18 Q. Site D is nil and there is a
19 reference to low in the case of Site F?

20 A. Yes.

21 Q. Now, with respect to these
22 entries, particularly the one under groundwater
23 resource - quality, you will see Mr. Sobanski, and I
24 refer you to page 44, but he has:

25 "Limited leachate migration into the



1 groundwater system. Will not
2 significantly affect groundwater quality
3 because existing (groundwater) quality
4 is very poor."

5 and then he has low impact?

6 A. Yes.

7 Q. Would you agree if there was to be
8 some consistency that you might well put low back under
9 Site F, groundwater users - quality. If the resource
10 is noted as low, then the groundwater users resource
11 could equal be low as well.

12 MR. GARROD: Mr. Chairman, in my
13 submission these questions are entirely improper. This
14 is Mr. Sobanski's work and Mr. Sobanski's rankings and
15 this witness carried them forward and put them in the
16 summary charts and he did not decide how these rankings
17 would be made and he has indicated he doesn't have the
18 expertise to independently evaluate these. I cross-
19 examined Mr. Sobanski about some of these rankings and
20 particularly the ranking under Site F given for low
21 under the groundwater resource - quality and I tried to
22 put it to Mr. Sobanski it should be nil on the basis
23 that it was his evidence that there was not a viable
24 groundwater resource, and Mr. Sobanski gave me his
25 opinion and so on.



1 In my submission, if Mr. McQuaid has
2 questions of this sort which are exactly that kind of
3 question, he should have put them to Mr. Sobanski at
4 that time and should not be doing it with this witness
5 because this witness cannot know all of the things that
6 went into Mr. Sobanski's rankings and does not know all
7 of the cross-examination that took place with
8 Mr. Sobanski for many, many days. This is entirely
9 improper, in my submission, and I don't think it should
10 continue.

11 MR. MCQUAID: This witness passed on
12 this material as you will see, in my submission, from
13 his report. They met and talked about whether there
14 was consistency and what the interpretations were, and,
15 in any event, he is being put forward as the co-
16 ordinator and the witness who pulled this all together.
17 I think I am entitled -- if his answer is as simple as
18 saying I don't know why Mr. Sobanski didn't put the
19 same in both categories, then that's fine, but if he
20 did pass on it as I would submit his witness statement
21 seems to be, then it seems to me I am entitled to take
22 him as far as he can go in any event.

23 MR. LANCASTER: Yes, but I don't seem to
24 follow you. Perhaps I am falling behind, but the
25 entries on here don't seem to coincide with what is on



1 these tables.

2 MR. McQUAID: Which is what? I hope
3 they do.

4 MR. LANCASTER: I see, I was looking
5 back at the other pages.

6 MR. McQUAID: There is another page
7 which is similar. That is one reason I did it so you
8 can look back at the blocks that are there without
9 looking back and forth at the pages.

10 MR. LANCASTER: I agree that you may ask
11 the questions, but if you don't know, Mr. Walker, just
12 say so. Say so if you can't draw those conclusions.

13 DR. KINGHAM: The issue really is how
14 much information you had at the time you did your
15 summary work.

16 MR. McQUAID: That is exactly the
17 point.

18 THE WITNESS: I appreciate your
19 comment.

20 MR. LEDERER: I don't want to disappoint
21 Mr. McQuaid, but I have something small about this,
22 although it was not my objection. I am not so sure
23 that it is what information Mr. Walker had but what
24 work he did. The line is obviously drawn between what
25 was Mr. Sobanski did and what work



1 Mr. Walker did. To the extent it is a reflection on
2 Mr. Walker's work, he should be able to, and I am sure
3 he will answer those question, but the difficulty as I
4 understood Mr. Garrod's point is that he feels in some
5 respects Mr. McQuaid has crossed the line into whatever
6 Mr. Sobanski did and it possibly may be the only person
7 who could tell us that is Mr. Walker.

8 So long as the Chairman realizes that
9 the witness has been advised that the limit is his
10 work, I don't know if Mr. McQuaid really should be
11 stopped.

12 THE WITNESS: I would say that it
13 shouldn't be nil, Mr. McQuaid, for the simple reason
14 that Mr. Sobanski noted under F, to use the words, that
15 there was:

16 "Limited leachate migration into the
17 groundwater system. Will not
18 significantly affect groundwater quality
19 because existing groundwater quality is
20 very poor."

21 If you compare that statement with the
22 one on page 46 for the same element, groundwater
23 resource quality it says:

24 "Purge wells will capture migrating
25 contaminants for treatment. (nil



1 Q. Let me turn our attention to
2 surface water users and surface water resource?

3 A. Yes.

4 Q. You will see the quality entry for
5 surface water users on page 43 for Site F is nil and
6 there are no surface water users?

7 A. Yes.

8 Q. And the surface water resource
9 quality on page 44 is low?

10 A. Yes.

11 Q. Again I would put to you why
12 wouldn't they be the same?

13 A. The distinction starts with the
14 distinction made earlier. One is talking about users
15 and the other is talking about the resource itself, and
16 the surface water -- under surface water users, is it
17 quality or quantity or both?

18 Q. Quality. Look at B-342 which
19 helps you look at the quality aspects.

20 A. I am sorry?

21 Q. That is why I put the quality
22 aspect on B-342.

23 A. Yes, but it is important to go to
24 the words and not just the nils and lows et cetera. I
25 think it is quite clear what is happening. There is a



1 statement that there are no surface water users, i.e.,
2 no effects, and therefor it is nil versus there is
3 little potential for leachate to migrate into the
4 surface water theefore it is low but it isn't nil and
5 the explanation -- now this is in terms of quality, the
6 surface water at F is really at the headwaters of the
7 drainage features in the area and therefore any
8 potential at all would rate some impact versus a nil
9 impact.

10 Q. You don't see any inconsistency
11 there?

12 A. Just let me check one other thing,
13 please. Yes, okay. I have nothing else.

14 Q. Looking at this B-342, and just
15 looking at the engineered site and thinking in terms of
16 these groundwater users, surface water users - resource
17 and resource respectively, Site D and Site F, if you go
18 down that B-342 you have a nil, a nil, a low and a nil,
19 a nil, a low and a low, a low. Now looking at those
20 summary figures in brackets, it is effectively a tie or
21 a wash at that point, isn't it?

22 A. Well, the groundwater users and
23 resources favour D and the surface water users and
24 resources favour F. So you might consider that that is
25 a wash, yes.



1 Q. What I wanted to ask you is when
2 you came to do the ratings that we see over at the
3 bottom of page 44, did you do the rankings, your firm?

4 A. No, Mr. Sobanski did those, as I
5 recall.

6 Q. I guess my problem was I didn't
7 see it was done -- at least not on a sheet, a one and a
8 two, and I wondered how that system was arrived at or
9 who did that?

10 A. Mr. Sobanski did that.

11 DR. KINGHAM: Mr. Sobanski did...

12 THE WITNESS: ...the ranking.

13 MR. McQUAID: Q. Does that mean that
14 each of the consultants who worked on a various area
15 did the two's and one's at the bottom?

16 A. Not necessarily.

17 Q. How was that relayed to you so
18 that I am sure that I understand it? We are talking
19 about public health and safety which includes both the
20 traffic factor ...

21 A. If you go to his letter on page 62
22 you will find he has ranked them right there.

23 Q. I am trying to get at where did
24 the numbers 1 and 2 come from?

25 A. We only had two sites and I think



1 I explained that in my evidence in chief. Whereas the
2 columns might show -- I must find one. The hydrology
3 was pretty much the same here, but if you go to page 50
4 you will see the ranking under natural environment,
5 biophysical factors, the ranking midway down said 2 and
6 6 for D and F respectively, and it now says 1 and 2. I
7 had six sites at the 2C stage and I only have two now,
8 so the numbers 2 and 1 are just relative to the fact
9 that it was the first and second site.

10 Q. I understand what you are saying
11 and I always understood you did that, you did the
12 ranking?

13 A. In some respects we did, but it
14 all depends on whether there was interpretation
15 necessary in a tie, for instance, and we might have
16 gone behind the rankings given to us and through
17 discussions and/or interpretations and made a change
18 and there are some examples in the report.

19 Q. I want to concentrate on public
20 health and safety?

21 A. I am sure you do.

22 Q. So I know how we get to the 1 and
23 2 when you have this sort of -- you have the nils and
24 nils and L's and so on. You must obviously put them
25 into some sort of summary form and that's the purpose



1 impact)"

2 So, I think the distinction he was making there was
3 that it would be limited and therefore it would be low.
4 Under the contingency when they trap it all, it is nil
5 and I think that's why -- to answer your question and I
6 don't think I could make it nil the way you suggested.

7 MR. McQUAID: Q. You see the one we
8 are looking at is not the one when the purge well
9 contingency goes in, but rather the existing situation
10 in terms of quality where the comment is made back at
11 page 45...

12 A. 44?

13 Q. 44, back at page 44 that there is
14 nil impact, but there is low on the resource.

15 A. It says nil for D and low for F.
16 Am I lost? I thought that that is what you were
17 referring to.

18 Q. I am comparing now the nil for F
19 on user and the low for resource on F?

20 A. Right. There are no users
21 downgradient and so from the standpoint of impact on
22 users, it is nil. In his opinion that are no users.
23 When you look at the resource, then from the way I
24 understand it, he turns his hat to the impact on the
25 resource and there is some limited impact and so he



1 assigns low.

2 I think that that is consistent, a
3 consistent way to treat it, and the only other direct
4 comparable is under the contingency on page 46 and when
5 he is getting it all, it is nil. I think in a relative
6 sense the ratings were appropriate.

7 Q. Let me ask you if you understand,
8 or if we can understand correctly then, did you
9 understand that you were addressing the users
10 downgradient if in fact they were on wells when you
11 look at quality?

12 A. This is with regard to the
13 resource itself and the resource itself is very poor
14 and there would be some leachate migration into that
15 resource and that I think is what is being assessed
16 versus the users who are downgradient.

17 Q. There aren't any.

18 A. That is correct and there is a nil
19 impact on that, but obviously the resource is a
20 resource, as bad a it is, and there is some limited
21 addition to that bad resource on page 44 versus there
22 being, in his opinion, no addition to that otherwise
23 poor resource, a bad resource on page 46.

24 Q. You see no inconsistency?

25 A. No, sir.



1 of the brackets because you can't just think of those
2 words all the time above the brackets. As I understood
3 it the purpose of the brackets was to bring it down to
4 nil, low, moderate and high?

5 A. In a descriptive and a relative
6 sense, yes, the words are there for that purpose.
7 Where it was necessary to make a distinction and where
8 it was not clear from the use of the words, for
9 instance, where one would be low and one would be low-
10 moderate or one would be low and one moderate-high,
11 where there is a clear distinction in our opinion at
12 that level, but if they are both low, low, then it
13 would both be necessary to go behind that rating and
14 see if there was anything that would distinguish
15 between the two.

16 Q. I realize that, but I have in my
17 mind that you were doing these pages on public health
18 and safety, the technical studies, and putting these
19 entries in because you were trying to rank them by
20 looking at these individual criteria, these small
21 individual criteria, and matching them off and
22 determining now, with the additional technical
23 information you had how they might rank?

24 A. Where it was necessary to do so,
25 yes. First of all, these are set out for information



1 purposes and they are individual categories and they
2 are not necessarily small as you said, small individual
3 categories. The essence of what is in there is not
4 necessarily small and we tried to set out the
5 information provided to us by the consultant.

6 If it was clear from the results of that
7 set, the setting out of the information that the
8 ranking put one versus the other and that made sense to
9 us in our interpretation, then we carried forward the
10 ranking provided by the consultant and if there was a
11 tie we would go behind the data to see if there was
12 anything to distinguish them and some times there
13 wasn't. For instance, on the traffic there wasn't any
14 difference.

15 Q. That was easy. That's easy
16 because there was no difference between the two?

17 A. I was trying to explain.

18 Q. Go ahead.

19 A. I can stop.

20 Q. No, go ahead..

21 A. My explanation is complete enough
22 for the purposes of answering your question, I suppose.

23 Q. Let me take you back to page 68. I
24 want to understand it. I do want to understand what
25 you did, what you and your firm specifically did, and



1 that's the point of really going into this. If we go
2 to page 68 and would you look at that with me?

3 A. Yes.

4 Q. We have at page 68 Table 2 a
5 summary and do you see the word "summary" at the upper
6 left?

7 A. Yes.

8 Q. "Potential Impacts of Engineered
9 Site Development - Summary?"

10 A. Yes.

11 Q. You have on the next page over,
12 pages 69 and 70, the actual comments, the expanded
13 comments, right, both of which appear back in the chart
14 we have been looking at?

15 A. Yes.

16 Q. I can understand -- at least as I
17 read it and understood it before, the comments were
18 made on Table 2 and then there was a summary back at
19 page 68 and then somebody had to take those summaries
20 and think them through and decide which now between
21 Site D and Site F was 1 and which was 2. It isn't
22 sufficient to go to Mr. Sobanski's letter or to his
23 summary at page 62 because now you are talking about
24 potential impacts of engineered site development and
25 somebody must look at this sub-factor, if I can put it



1 that way, or this event, and determine which is 2 and 1
2 with these various impacts summarized?

3 A. Yes, sir.

4 Q. I want to know who did that?

5 A. In this case Mr. Sobanski did
6 that.

7 Q. But we don't see a 1 or a 2 at the
8 bottom here?

9 A. You don't have to. I don't have
10 more than two, so if he says he prefers F over D then F
11 becomes 1 and D becomes 2.

12 Q. Did you actually prepare the chart
13 which is pages 43 and 44?

14 A. Yes.

15 Q. Did you put the numbers 1 and 2 in
16 at the bottom?

17 A. Yes, sir.

18 Q. Did you go through the analysis of
19 the nils and low to moderate such as we see on page 68
20 to determine which was 1 or 2 or did you know from what
21 you had been told that F was 1 and D was 2?

22 A. In this particular case this
23 information flows from Mr. Sobanski's appendix, it is
24 his authorship, and at the end of that on the basis of
25 his knowledge of this information, he said he preferred



1 F over D. Therefore there was a stated preference and
2 based on this information which we were given and we
3 didn't have to do much more except to make sure -- go
4 through these categories and make sure that what was
5 set out in fact was what he meant to say.

6 Q. You did not apply some judgment
7 going through groundwater users and saying there is a
8 nil here and a nil here and balancing these off and
9 saying at the end that based on the nils, the lows and
10 the low to moderates, F is 1 and D is 2?

11 A. I didn't have to in this
12 particular case.

13 Q. You just knew from what
14 Mr. Sobanski had told you that you should put 1 on page
15 44 under F and 2 under D. Is that what I am to
16 understand? You see what I am thinking, there is no
17 analysis of going through these factors on your part
18 and that's the point I am trying to get at?

19 A. No, there was no need to.

20 Q. "There was no need to." So, I
21 have it right, you inserted the numbers 1 and 2 and it
22 wasn't Mr. Sobanski?

23 A. Well, yes. Literally we typed in
24 1 and 2; is that what you are asking?

25 Q. That is what I want to understand?



1 A. Yes, the numbers have no relevance
2 in terms of the scale except to show the relationship
3 of one with the other.

4 Q. I hear what you are saying.
5 Similarly, when we go over to pages 45 and 46, would I
6 understand from what you have told me that while we see
7 all this information from, in this case, I guess, the
8 next appendices in Mr. Sobanski's letter, Table 3, and
9 if we look at page 71 ...

10 A. Yes, sir.

11 Q. The first Table 3 I think is the
12 one. You will see the comments which are in brackets
13 on pages 45 and 46?

14 A. Yes, sir.

15 Q. If you go to pages 72 and 73 you
16 see the comments above the bracketed items?

17 A. That is correct.

18 Q. But again no analysis was done by
19 you of these items and instead, based on what you
20 understood from Mr. Sobanski you put 1 and 2 in at the
21 bottom of the technical studies, over on the bottom of
22 page 46?

23 A. That is correct.

24 MR. LANCASTER: Mr. McQuaid, would you
25 like a few moments?



1 MR. McQUAID: Yes, thank you very much.

2 MR. LANCASTER: We will take a few
3 minutes.

4 ---Recess

5 MR. LANCASTER: Please be seated.

6 MR. McQUAID: I am handing this out
7 and I have given it to Mr. Walker. This is again
8 focusing on I think it is page 71 and I can double-
9 check that.

10 THE WITNESS: Yes, it is.

11 MR. McQUAID: This is focusing on the
12 quality aspect on page 71, and looking at it also on
13 the contingency basis. Could I ask that be marked and
14 that would be B-343?

15 MR. LANCASTER: B-343.

16 ---EXHIBIT NO. B-343: Table 3 from H-14 (Revised)

17 MR. McQUAID: Q. In order to sort of
18 compare this accurately, if we look back at pages 45
19 and 46, Mr. Walker, could you confirm for me that again
20 looking at the quality, focusing on the quality, we
21 have correctly -- we have the correct figures or
22 entries that appear in brackets on pages 45 and 46?

23 A. I have already checked that, yes.

24 Q. I direct your attention again to
25 the fact that if we look at surface water users -



1 quality, and surface water users - quality, under Site
2 D we see the same entry, moderate, and the moderate
3 with the arrow to low means, as I understand it,
4 moderate impact then becoming low?

5 A. Yes.

6 Q. While at Site F we have nil under
7 surface water users - quality, and that is the comment
8 that appears at page 45, there are no downstream users?

9 A. Yes.

10 Q. But surface water resources -
11 quality, the comment addresses what would happen if the
12 leachate collection system failed and it comments on
13 the location in the headwater and it indicates the
14 impact would be initially high and decreasing to low?

15 A. Yes.

16 Q. While we are discussing surface
17 water users, and this could either be under the
18 contingency implementation or the engineered site, but
19 could I ask you, did you look or review yourself
20 downstream what possible uses might be occurring of a
21 surface water nature?

22 A. Did I?

23 Q. Did you examine it yourself, your
24 firm?

25 A. From the standpoint of surface



1 water, no.

2 Q. Would you as a planner agree that
3 if there was surface water downstream running through
4 parks, golf courses, landscaped backyards and so on,
5 that that would be considered as a form of use?

6 A. "A form of use?" A use adjacent
7 to the surface water would be a land use, but I don't
8 know whether the water itself would be considered as a
9 use. It is part of the resource, if you will, that the
10 use is related to.

11 Q. To put it to you more directly,
12 what did you understand as the definition of what a
13 surface water user is when the comment is made in these
14 blocks such as on page 43, "There are no surface water
15 users"?

16 A. That is in terms of people drawing
17 directly on the water or utilizing the water directly
18 that is on the surface.

19 Q. People using it for what purposes?

20 A. Well, utilizing it for feeding
21 their stock if you were in a rural area and/or ponds,
22 things like this where you would have direct contact
23 with people.

24 Q. So, stock or -- you would have to
25 swim in it in order for it to be a use, or bathe in it?



1 A. It wouldn't be a use, you would be
2 a user in that case.

3 Q. Bearing in mind we are looking at
4 quality, wouldn't you be concerned if in a park
5 setting, for example, people in the park might have use
6 of it in the sense of children running down to the
7 stream or something of that nature?

8 A. Yes, yes, I would.

9 Q. In any event you have taken the
10 assessment presumably done by Trow as to what the
11 surface water user situation is downstream of Site F?

12 A. That is correct.

13 Q. If we look at B-343 and we
14 concentrate first of all on the groundwater users -
15 quality and the groundwater resource - quality, we see
16 those are four nils. They are all nils?

17 A. Yes. Groundwater quality,
18 groundwater users...

19 Q. Groundwater users - quality and
20 groundwater resource - quality?

21 A. Yes.

22 Q. Those are nils. The only factors
23 which differentiate D and F under this table are
24 surface water users - quality and surface water
25 resources - quality?



1 A. Yes.

2 Q. The surface water would give any
3 indication of differential in this particular
4 situation?

5 A. That is correct.

6 Q. Now, I can concede that I have
7 taken quantity out of the analysis ...

8 A. I see that.

9 Q. ... when we are dealing with this
10 item. But again if we go back to page 46 and we see
11 the entry down at the bottom 1 and 2, that was again
12 arrived at, if I understand it, without a sort of
13 analysis of looking at these individual entries
14 specifically, it was rather just based on what you
15 understood Mr. Sobanski's preference was under this
16 particular sub-category or factor.

17 A. It represents what he felt to be
18 the ranking of the two, yes.

19 Q. No independent analysis was done
20 by you?

21 A. Not in terms of analysis, no. As
22 I mentioned to you at the break, I would hate that
23 people thought we didn't think about it, but we didn't
24 do independent analysis, that was his responsibility.

25 Q. All right. Now, a general



1 question so we understand your evidence, Mr. Walker, as
2 well in this hearing as you stand in the witness box
3 this afternoon. Could you give us some -- can you
4 confirm for me, you were not instructed, as I
5 understand it, to attend at the hearing and to listen
6 to all of the evidence?

7 A. No, sir.

8 Q. You were not therefore -- you are
9 not purporting to come forward and say that you are
10 completely up to date in terms of having reviewed all
11 of the reports, whether they be hydrogeologic or
12 whatever reports that have occurred?

13 A. That have been presented at the
14 hearing, Mr. McQuaid?

15 Q. Yes.

16 A. No, I am not doing that. The one
17 thing I have done is tried to understand by talking to
18 the solicitors if anyone had departed from the
19 conclusions they had reached in the reports that fed
20 into the comparative analysis.

21 Q. You have just been given a summary
22 of information from the solicitors?

23 A. That is correct.

24 Q. You have attended one or two
25 afternoons at the hearing?



1 A. I have been here -- yes, I was
2 here at the outset infrequently, but over the first
3 week or two I was here, maybe four days, because this
4 H-O -- I was here when the concern came up and I was
5 here when it was put in, and then I have had somebody
6 here on occasion, like when Miss Hellas gave evidence,
7 somebody was here, and for part of Dr. Schiff's
8 evidence I had somebody here and I have read her
9 evidence.

10 Q. If I was to put to you for
11 example, your understanding and take page 43 and page
12 44?

13 A. Yes, sir.

14 Q. That concentrates on the
15 engineered site development?

16 A. Yes.

17 Q. If I was to put to you that that
18 would be analogous to a scenario or a series of three
19 scenarios which Mr. Feenstra put to us on Exhibit H-
20 263, and I will show you that document, it was called -
21 - perhaps you could put it up?

22 A. Sure.

23 Q. Have you seen this before, by the
24 way?

25 A. No.



1 Q. You will see looking at the
2 scenarios, primary engineered features in operation?

3 A. Yes.

4 Q. The second is failure of
5 engineered features - no contingency measures, and No.
6 3 is failure of engineered features - effective
7 contingencies in place?

8 A. Yes.

9 Q. I would ask you, and I don't know
10 if you are familiar enough with the terminology, but
11 would I be correct that pages 43 and 44 which is the
12 engineered site development, would appear to be roughly
13 comparable to that first scenario?

14 A. I would say generically, yes, sir.

15 Q. Pages 45 and 46 which deal with
16 contingency implementation would appear, I would put to
17 you, they would be analogous to scenario No. 3. You
18 will see it is addressing contingencies in place?

19 A. It wouldn't be quite. There would
20 be some -- 45 and 46 would contain some of that,
21 Mr. McQuaid, in the sense that it is identified -- that
22 is where the moderate to low and high to low come from.
23 If something happened, it would be picked up by the
24 monitors and the contingency would then be put in place
25 and that is where the sliding from moderate to high



1 into a low impact takes place. So, I guess to be as
2 precise as I can, it would be part of that going to
3 that on pages 45 and 46.

4 Q. I was going to try and convince
5 you that No. 2, failure of engineering features with no
6 contingencies, would be roughly analogous to the first
7 category that you did and which was sort of the sites
8 without any real consideration of the engineering,
9 pages 41 and 42?

10 A. I don't think that would be
11 exactly comparable or analogous, to use your word,
12 because those pages did not contain the fully
13 engineered entity of the landfill which would then
14 fail. It is more analogous to -- if the engineering is
15 in place and it fails, it gets into No. 2, but quickly
16 moves to No. 3. I don't think there is anything on
17 there that is the equivalent to pages -- you said 41,
18 and 42.

19 Q. All right. However, having sort of
20 put that together, this exhibit, and I am showing you
21 H-263, I guess you would agree that we are now at the
22 position where we are looking in much more detail again
23 than you were back in January of 1987, or the technical
24 Trow people and others were looking at it back in
25 January of 1987, because of the fact we were going into



1 the hearing and we have examination and cross-
2 examination and additional details we are looking at?

3 A. I don't know whether I can say
4 that I would expect much difference. I think as for
5 instance you were cross-examining somebody, you might
6 get them to look at things a different way, and whether
7 that is considered to be another level of detail, I
8 don't know if I could confirm that or not. My natural
9 inclination would be to say that it is not very much of
10 a different level than we had in January. It might be
11 a different orientation, depending on where they were
12 taken in cross-examination or different orientation
13 depending upon where they were taken in direct if there
14 was something that had come up in the interim.

15 Q. I am thinking in terms of the time
16 commitment and expense to our clients that everyone has
17 been making here?

18 A. I don't know if I can settle your
19 conscious or not.

20 Q. In terms -- I guess we -- don't
21 just don't look at me.

22 A. I can look in a mirror too.

23 Q. In terms -- I guess I am really
24 saying this to you; you would have had pretty minimal
25 opportunity, I would think, to sit around with



1 Mr. Sobanski and to discuss the detail that went into
2 these technical study summaries we are looking at. As a
3 matter of fact, I should ask you. Did you meet with
4 him to discuss them at all or did you take them from
5 the letter form that we have been discussing?

6 MR. LEDERER: That was pretty close.

7 THE WITNESS: It came close to Lederer,
8 yes. I did meet with Mr. Sobanski and it was as a
9 result of my meeting, as I indicated a little earlier,
10 that the comparable information for the existing
11 situation came out and in my terminology, the existing
12 situation being the situation that was being
13 investigated in 2C. It also as a result ...

14 MR. McQUAID: Q. You met with him back
15 at 2C?

16 A. I met with him before the
17 comparative analysis was done. Let me step back and
18 clarify that for the record. The type of information
19 that was brought together by the hydrology/hydrogeology
20 people for 2C essentially did not deal with the fully
21 engineered site, as I said, and the information that
22 was coming forward as a result of the technical studies
23 following 2C was essentially dealing with a fully
24 engineered site and it was on my request that the
25 information was extracted and put into a form so we



1 could compare the first two tables, 41, 42, called
2 existing constraints to site development.

3 In addition, it was at my request, or at
4 least mutual agreement, shall we say, that the
5 distinction between the engineered site and the
6 contingency level was brought forward. So I did it
7 with Mr. Sobanski at the comparative analysis stage.

8 Q. Was that for a day, a half a day?

9 A. Probably for four to five hours
10 and we would not have gone into a really detailed
11 discussion of his report, Mr. McQuaid, if that answers
12 your question.

13 Q. Now, looking at this first
14 category of public health and safety, you have
15 described how we get really over to page 46 and
16 concentrating on the hydrology/hydrogeology factors,
17 and at page 47 you have summarized for us the new added
18 sub-factors, or additional factors under public health
19 and safety, the first being traffic?

20 A. Yes.

21 Q. The second being land use
22 conflict: vermin?

23 A. That is correct. It is traffic
24 safety for the record, to make it clear. Traffic
25 factor in that technical studies at the comparative



1 analysis level only dealt with traffic safety.

2 Q. I suppose I should have asked you
3 this at the beginning. Who decided on, first of all,
4 the terminology of public health and safety category?

5 A. Wow!

6 Q. Who defined it. How did that
7 work, which is what I am really saying?

8 A. We were the co-ordinators. So I
9 guess I don't pass the baton improperly, I must take
10 responsibility for it, but this was back at the 2A
11 level, as I recall, and therefore it would have been
12 something perhaps proposed by us and I will take
13 responsibility for it if that is what is necessary.

14 Q. Dealing specifically with page 47,
15 who decided on the title; it is certainly a grabber,
16 "Land Use Conflict: Vermin".

17 MR. GARROD: It sounds like a movie.

18 THE WITNESS: It does. It could lead
19 you to all sorts of different conclusions. I would say
20 that since I had to look up in my dictionary what
21 vermin was, it was probably Miss Hellas. She is the
22 one who is familiar with the terminology of "vermin".

23 MR. McQUAID: Q. Don't tell me I should
24 have asked her this. Are sea gulls considered vermin?

25 A. By definition in this report they



1 are.

2 Q. In this report, but in the
3 dictionary?

4 A. No.

5 MR. LANCASTER: That was her evidence
6 wasn't it?

7 THE WITNESS: I think we stated it in
8 the report.

9 MR. McQUAID: Q We are talking sea
10 gulls in this context in terms of public health and
11 safety?

12 A. We can colour it any colour you
13 want. White might be proper.

14 Q. I wanted to discuss that with you
15 because of course there was some considerable
16 discussion certainly about it yesterday, but I wanted
17 to go back through the material with you and ask about
18 the issue with respect to your consideration and the
19 team's consideration of this potential interference.

20 The conclusion at page 47 is that there
21 is a low impact at Site D and the comment being:

22 "Birds may interfere with operation of
23 Burlington Air Park: potential for
24 hazards minimal if recommended
25 mitigation



1 is followed."

2 A. Yes.

3 Q. That is a summary, and I didn't
4 check it, but that's a summary of the position
5 Miss Hellas reported to you in the appendix?

6 A. Yes.

7 Q. Appendix C?

8 A. I believe it is a fair summary of
9 that.

10 Q. I see actually at C17 -- C16, the
11 actual words we see in that block at page 47?

12 A. Yes.

13 Q. I wanted to go back into the
14 exhibits. I guess while we are at C16, do you still
15 have that there?

16 A. Yes.

17 Q. At the bottom of the page, Site D,
18 you will see the various conclusions?

19 A. Yes.

20 Q. There is one there particularly at
21 the bottom of page 16 that relates to your area:

22 "- Land use conflicts should not develop
23 with regard to the presence of the
24 Burlington Airpark."

25 A. She was referring to the land use



1 conflict - vermin or, i.e., the sea gulls in this
2 particular case.

3 Q. You say that that should be read
4 specifically with regard to sea gulls?

5 A. Yes, and she would not be
6 otherwise reporting on land use conflicts.

7 Q. I wanted you to confirm -- you
8 adopt that evidence also?

9 A. Do I adopt what evidence?

10 Q. That evidence there won't be any
11 land use conflicts, vermin that should develop?

12 A. She is doing it on the basis of
13 the analysis she had gone through. You can't take that
14 statement in isolation from the report. She had
15 recommended a series of controls on the site and a
16 series of potential controls on the airport itself, as
17 I recall.

18 Q. I guess maybe I should expand a
19 little. Did you review that and do you adopt it as a
20 land use planner?

21 A. I think --

22 Q. Or does she have total
23 responsibility for it and you have none?

24 A. I had responsibility for this
25 aspect up to this point in time and she now took the



1 responsibility for it, but I discussed this with her
2 and I believe that to the extent that she is correct,
3 the modifications ...

4 Q. Go ahead.

5 A. To the extent that she is correct
6 that the ameliorative measures or mitigative measures
7 can be put in place on both the airport and the site,
8 that she would be correct.

9 Q. I wanted you to confirm for the
10 Board, I noted as far back as H-11 ...

11 A. Could you help me with the name?

12 Q. April '84, the Phase 2, Stage 2B?

13 A. Yes. The consolidation report.

14 Q. The consolidation report. I am
15 going to ask you to look at H-11 and Stage 2C which is
16 H-51?

17 A. That is my report.

18 Q. Then we will go to H-14. I am
19 going to direct your attention to various comments on
20 this issue as they seem to have been commented on over
21 the period in the preparation of the reports. If I
22 look at H-11 first of all, page 76. I am sorry, 77 I
23 guess is where it is discussed specifically. This was
24 in April of 1984 and there are comments made and
25 actually summarizes of the guidelines and reference to



1 them at footnotes 16 and 17 and to one of the exhibits
2 or two of the exhibits we had yesterday. I guess one.

3 A. Yes.

4 Q. The same number. I wanted to ask
5 you whether -- what consideration was being given to it
6 during this period of time and to ask you to develop it
7 as it came further in chronological order?

8 A. We were having regard to the
9 guideline in terms of understanding that there was
10 considered to be a potential problem with birds
11 adjacent to airports. At this point in time, this is
12 why this was quoted.

13 Q. Yes, go ahead.

14 A. I don't want you to miss any of
15 this. At 2B we were considering that the guidelines
16 gave an indication that there was a potential problem
17 for especially sea gulls adjacent to airports where the
18 facilities to be put in place contained food, food
19 refuse, and that continued through until 2C as well.

20 Q. I am going to refer you to page --
21 I guess Ms. Cronk took you through that yesterday and
22 there was some discussion of it, page 5-2 in H-51?

23 A. Yes, I am there.

24 Q. And continuing over to 5-3?

25 A. Yes.



1 Q. I will refer you to page 5-3.

2 A. I am there.

3 Q. And there the conclusions are
4 being taken from a report which the Region had
5 available to it, an LGL Limited report?

6 A. Yes.

7 Q. There is reference in footnote 4
8 to the fact that that report was part of the regional
9 landfill site "Potential Bird Hazards to Aircraft",
10 LGL Limited, December 1978?

11 A. I believe that was Dr.
12 Richardson's report which Mr. Leitch referred to.

13 Q. Now, you are aware of the fact
14 that there was a hearing on what we have been referring
15 to as old Site F?

16 A. Yes.

17 Q. Old Site F and now re-lettered
18 Site E?

19 A. Some part of it is Site E; it is
20 part of Site E.

21 Q. That particular decision, or that
22 particular hearing, and there was evidence given by
23 Dr. Richardson on behalf of the Region with respect to
24 the possibility of interference between the same
25 Burlington Air Park and what was then Site F?



1 A. Yes, that is correct.

2 Q. That was an issue that was
3 addressed at that particular proceeding before the
4 Ontario Municipal Board?

5 A. That is correct.

6 Q. We see at page 5-3 a summary of
7 some of the key points and the conclusions section is
8 from that, the LGL -- Dr. Richardson's report?

9 A. Yes.

10 Q. Then, if I take you to the
11 comparative study, H-14 ...

12 A. To complete it, you wanted me to
13 carry it through? .

14 Q. Carry it through please.

15 A. Up to the end of 2C we were still
16 considering sea gulls to be a potential problem related
17 to the present Burlington Air Park.

18 Q. Okay.

19 A. We went from 2B into 2C and
20 completed 2C with that still in mind.

21 Q. Then, when we go to the
22 comparative study, you referred us yesterday to the C
23 Appendix and we see there was specific direct attention
24 given to this in the categories we have just been
25 discussing, and back in the text which gives rise to



1 that, it is touched on in your report at page 17 where
2 it is addressing the conclusion of this new item and
3 more specifically over at page 26?

4 A. For the record, I guess page C10
5 of Appendix C is where she discusses that.

6 Q. Let's look at that for a moment?

7 A. And you are correct on 17 and I
8 missed the next one.

9 Q. 17 is where they talk about the
10 category and page 26 is where the factors are actually
11 discussed?

12 A. Okay.

13 DR. KINGHAM: Have you left page 5-3?

14 MR. McQUAID: I have, sir, but by all
15 means...

16 DR. KINGHAM: I wanted the witness to
17 make clear for the record what those comments to which
18 you were referring a moment ago apply to. On 5-3 it
19 refers in the first line to the study by LGL Limited:

20 "...with respect to potential bird
21 hazards of a landfill in the vicinity of
22 Site E."

23 Is that correct?

24 THE WITNESS: Yes. In the vicinity and
25 about one-third of Site E would have been approximately



1 one-third of the old Site F, the one on the map, and
2 then these comments were extracted from Dr.
3 Richardson's report dealing with his analysis of the
4 relationship of sea gulls to landfills and airports.

5 DR. KINGHAM: I understand that and I
6 was asking that particularly so I would be clear on
7 that because some comments are made there at the bottom
8 of page 5-3 about locations and directions with respect
9 to Burlington Air Park and that also must be read in
10 the context of Site E?

11 THE WITNESS: That is correct.

12 MR. McQUAID: Q. I see there is
13 discussion continuing on page 5-4 and 5-5 of this
14 particular report and it is given a rating in
15 relationship to this factor, and perhaps you should
16 tell me what was the conclusion or is this the
17 conclusion of all land use issues when we see moderate
18 and high over at page 5-5?

19 A. Yes, sir, and with taking into
20 consideration the potential land use conflict with the
21 Air Park.

22 Q. Then, as you continue into the
23 comparative study, further specific study was
24 undertaken on this issue. Is that what I understand?

25 A. Yes. This was something that from



1 the very first day I ever set foot into Halton with
2 regard to this particular issue of landfill, the matter
3 of the relationship of a landfill adjacent to
4 Burlington Air Park had been there. I guess it was
5 arising from the earlier hearing, but it certainly was
6 a matter. The mention of the helicopter facility at
7 the Milton District Hospital, that had arisen out of
8 the public sessions and there was concern about did
9 that have the same impact or would landfill have the
10 same impact on that as was perceived, or potentially to
11 have on Burlington Air Park, and we included that so it
12 would be analyzed.

13 Q. Were all of these factors then
14 addressed again when you came to H-14?

15 A. Yes.

16 Q. Can you indicate then -- you were
17 referring us to C10, was it?

18 A. I think it was. I had my finger
19 in it and it got numb so I took it out. I think it was
20 C10. Yes.

21 Q. Miss Hellas reported to you as
22 part of the study that was being undertaken and then do
23 I understand correctly it is back at page 26 which is
24 your conclusion, or analysis of this factor?

25 A. Yes, it is our text.



1 Q. Can you direct us to -- I guess
2 midway through there is reference to the low impact
3 assigned at Site D. Could you read that out for us and
4 explain how you came to that particular conclusion?

5 A. Where it starts with the low
6 impact?

7 Q. Yes.

8 A. "The 'Low' impact now assigned to
9 Site 'D' is, however, considered to
10 appropriate, given the more detailed
11 level of investigation that has been
12 undertaken. The impact assigned to Site
13 'F' with respect to this factor is
14 'nil', however, and Site 'F' is
15 therefore the preferred site. The
16 consultant's comparative analysis may be
17 found in Appendix C to this report, and
18 a more detailed explanation of the way
19 in which this factor was investigated
20 may be found in the Biophysical Analysis
21 Technical Study Report for Site 'D'."

22 Q. I guess I would direct the Board's
23 attention and yours to the sentence just before that
24 portion you began to read on the low impact; that is
25 the sentence that deals with the moderate to high



1 impact at Stage 2C we were looking at a minute ago.

2 A. That's correct.

3 "This matter was addressed under the
4 'Land use Compatibility' factor in Stage
5 2C, and contributed to the
6 identification of a 'Moderate-High'
7 impact level for Site D at that time."

8 MR. McQUAID: I am sorry, Mr. Chairman,
9 I will have copies of the OMB decision in the morning
10 and I meant to get a series of copies today as I
11 thought it would be the appropriate time to file it.

12 Q. You have examined the Board's
13 decision and there is obvious reference to
14 Dr. Richardson's evidence and the fact that this issue
15 was thoroughly addressed insofar as Site F, old Site F
16 and the Air Park was concerned back in 1979 when this
17 hearing took place?

18 A. You gave me a copy to read over
19 lunch and being a slow reader and wanting to eat
20 something, I read some of it, and I think I picked up
21 everything that related to birds. It appears from the
22 words of the decision that the panel at the time
23 thought it had been thoroughly discussed.

24 Q. Now, just continuing through the
25 charts, the categories as we continue ...



1 A. Can I put this away? The
2 comparative analysis I guess I still need.

3 Q. You still need that.

4 A. What page?

5 Q. Page 48. Before we go there I
6 guess I started this discussion just before lunch by
7 looking back at page 40, or beginning at page 40 and I
8 would ask you to look back at it. I am sorry, back at
9 page 38, my apologies, public health and safety on
10 page 38:

11 "As a result of the investigation and
12 analyses subsequent to Stage 2C, Site
13 'F' is the preferred site within the
14 'Hydrology and Hydrogeology' factor,
15 although the differential between the
16 two sites is relatively small. There is
17 no preference indicated under the
18 'Traffic Safety' factor; however, the
19 preference for Site 'F' under the 'Land
20 Use Conflict: Vermin' factor would tend
21 to reinforce the preference for Site
22 'F'."

23 Then, you moved on or we move on to look at the next
24 category which is the natural environment, and that
25 one, as we read at page 38, addresses in the third



1 paragraph under that:

2 "...Site 'D' may now be said to be
3 marginally preferable for landfilling to
4 Site 'F' within this category, although
5 the nature and extent of this slight
6 difference is difficult to define."

7 Now, if I understand as you are going through that, you
8 had F under public health and safety as the preferred
9 site and reinforced by the land use conflict: vermin,
10 then you go to natural environment and you had
11 agricultural impact moderated by the proposed after-use
12 and then still major constraints to the landfilling on
13 Site F from a biophysical perspective, notwithstanding
14 the reduced extent of the fill area and then Site D is
15 now marginally preferable.

16 Do I understand you are treating these
17 as cumulative as you go down the categories, Mr.
18 Walker, is that right?

19 A. I don't think I was treating them
20 cumulatively, I was trying to separate out the two for
21 a summary statement and then the summary statement
22 region and then the summary statement overall for the
23 natural environment.

24 Q. You are really discussing the
25 natural environment category in talking about these



1 three sentences?

2 A. In the third paragraph, yes.

3 Q. I am sorry, I misread it. Let's
4 turn to that for a moment, pages 48 through to 50. I
5 guess to do it quickly I wanted to ask you, you have
6 presumably taken the comments and the summary comment
7 from the appendices we see in the back of the report,
8 and I wanted to ask you if you did the ranking or if
9 this was given to you by the respective consultants?

10 A. This was given to us by the
11 respective consultants in the sense that their
12 expression of which site was preferred over the other.
13 I would say that the ranking of 2 to 1 on page 50 for
14 biophysical probably doesn't speak to the extent of the
15 differences between the sites, that in fact on Chart 2,
16 the biophysical aspects, Miss Hellas was still very
17 concerned about the biophysical aspects on F and was
18 relatively not concerned about the biophysical aspects
19 on Site D.

20 So, the use of rank 1 and rank 2 would
21 not speak to the differences. You would have to go to
22 the text to understand that and the summary information
23 here would help you better understand the strength of
24 her opinion about the adverse effects on Site F if used
25 for landfill.



1 Q. Do you have any view on it
2 yourself as a land use planner, comparing the loss of
3 the biophysical if you were to landfill at Site F
4 compared to, as we have been informed by Dr.
5 Mackintosh, a temporary loss for something up to
6 approximately 20 years on Site D followed by a return
7 to agricultural. Have you any views and you could
8 treat it as crossing each other in this particular
9 category and do you feel that is appropriate concerning
10 the permanent loss...

11 A. It is a bit like comparing apples
12 and oranges, but in terms of them both being fruit and
13 fruit having a value, then they are comparable.

14 Q. You are saying you wouldn't treat
15 it that way then?

16 A. Well, I would listen very closely
17 to what those two people said because they are both
18 very good in their respective professions, and the loss
19 of agricultural land is something which in policy terms
20 is important at the provincial, regional and municipal
21 level. The loss of the rare plants or the uncommon
22 varieties is also important, and important enough to
23 rank at least equally with the agricultural in my
24 opinion.

25 As I say, they are both a type of



1 resource and my analogy to apples and oranges both
2 being fruit -- they are both resources. I respected
3 Miss Hellas' position with regard to Site F and I also
4 respected Dr. Mackintosh's opinion over the importance
5 and therefore the ranking he gave to D. I think he
6 quite rightly reduced the impact he had earlier found
7 on D because there would be some return to the
8 agricultural base.

9 Q. Have you considered the Food Land
10 Guidelines as part of your overall conclusion with
11 respect to your recommendation that either site,
12 particularly Site D, could be supported as a landfill?

13 A. I was respective of the intent
14 behind the guidelines throughout, Mr. McQuaid. The use
15 of the guidelines comes at a policy level, in other
16 words at the approvals level without specific reference
17 to it.

18 Q. In making that recommendation that
19 either site was acceptable, and I concentrate on D
20 which is the agricultural one, but you made that
21 recommendation fully aware of the Food Land Guidelines?

22 A. Yes, sir.

23 Q. On this agricultural issue I
24 wanted to clarify one thing for the Board, or a couple
25 of things, particularly dealing with the documents



1 which the Board is being asked to approve if D were to
2 be designated as the landfill site. I am referring to
3 the Milton Official Plan amendment and zoning by-law
4 and I refer you to Exhibit H-5?

5 A. I don't have that but I have my
6 own version in this. I will gladly look at it if that
7 is preferable.

8 Q. I wanted you to look at the
9 proposed amendment to the Official Plan which is at Tab
10 11 of H-5?

11 A. The proposed Official Plan
12 Amendment?

13 Q. Right.

14 A. I have it.

15 Q. I guess before we begin I was
16 going to refer to page 9, but I also wanted to ask you
17 to confirm that having regard -- in drafting this
18 document you had regard, I assume, to a document I am
19 showing you from the Town of Milton Planning Department
20 dealing with after-use on Site D.

21 You will see reference in this exhibit
22 to potential agricultural after-use and also to a golf
23 course after-use as well on the site. Is that correct?

24 A. I am just reading it. I may have
25 seen this document, but I would have to check my files,



1 Mr. McQuaid. I am prepared to proceed into it...

2 Q. I am going to ask you to look at
3 it overnight.

4 A. I had talked to Mr. Zsadanyi about
5 the type of after-uses he might contemplate, but in
6 terms of the actual work that was being done at the
7 technical level on after-use, Mr. Stevens was in charge
8 of Landplan was doing that work and that is why, as I
9 said, our original applications included recreation and
10 agriculture because those were the two basic ones we
11 had concluded in 2C would be generically the types of
12 after-uses that would be appropriate.

13 Q. I am going to ask you how these
14 developed, these documents, how the policies developed
15 but first I will ask if we can mark this as the next
16 exhibit.

17 MR. LANCASTER: B-344.

18 ---EXHIBIT NO. B-344: Town of Milton Report
PD-24-86 dated March 10, 1986

19 MR. McQUAID: Q. I would refer you,
20 Mr. Watson,

21 A. I'm Walker.

22 Q. ... Mr. Walker ...

23 A. We're good friends, but I'm still
24 Walker.

25 Q. ... to the third page ...



1 MR. LANCASTER: It's elementary, my dear
2 Watson.

3 MR. MCQUAID: Q. ...of that exhibit and
4 you will see a letter from Mr. Stevens addressed to the
5 Town of Milton?

6 A. Yes.

7 Q. If you look at that letter,
8 Mr. Stevens is informing the Town, and this is in early
9 1986, that D has been selected as one of the two
10 preferred sites and he is advising the municipality of
11 the Region's recommended after-use concept for Site D?

12 A. Yes.

13 Q. In the second paragraph he refers
14 to Dr. Mackintosh's company, I believe:

15 "In concert with Ecological Services
16 for Planning ..."

17 and is that Dr. Mackintosh?

18 A. It is. ESP.

19 Q. "...we are recommending the site
20 be restored to agriculture use. At the
21 concept level of detail, the site will
22 be restored and planted to cash crops.
23 No livestock is planned. The site will
24 be appropriately sloped and buffered
25 with landscape material to integrate



1 with the continued agricultural land use
2 of the area."

3 And then he asks for consideration of the proposed
4 concept for after-use and asks for advice through
5 Mr. MacKay of any issues, concerns or questions that
6 the Town might have?

7 A. Yes.

8 Q. If I direct you to the first two
9 pages of B-344 there is discussion about the proposed
10 after-use and a recommendation was made, as I
11 understand it, by Mr. Zsadanyi, the Director of
12 Planning, that the recommended after-use:

13 "That the Regional Municipality of
14 Halton be advised that the preferred
15 afteruse for Site D, should that site be
16 developed for a sanitary landfill, is an
17 18-hole Municipal golf course with
18 related greenhouse and horticultural
19 facilities?"

20 A. Yes.

21 Q. Correct?

22 A. Yes.

23 Q. Then there is discussion as to
24 that and we see Mr. Zsadanyi's signature and a note
25 from the administrator on the second page?



1 A. I was just reading that, yes. What
2 shall I do with this?

3 Q. What I want to know is when we
4 look at this proposed amendment, just to give it a
5 date, I understand it was submitted in late 1985, is
6 that correct, the latter part of 1985 approximately?

7 A. December 17, 1985 was the letter
8 to Mayor Krantz and Council.

9 Q. We see reference that you were
10 contemplating both agricultural and the possibility of
11 a recreation area, and I am referring to page 9?

12 A. Yes.

13 Q. "Studies have been undertaken to
14 determine the final use or uses which
15 may be put in place once landfilling
16 operations are completed on all or part
17 of the subject site. Landfilled areas
18 are subject to a number of constraints
19 which would prevent the erection ...
20 studies indicate that rehabilitation of
21 the site for agriculture or a golf
22 course or a combined active and passive
23 recreation area could be potentially
24 feasible subject to further
25 investigation."



1 And then could you direct me to the policies that would
2 refer to this, the alternate use?

3 A. Yes. Page 10 under Part B,
4 amendment as proposed, and a new section 4.1.4 was to
5 be inserted and about halfway down you will see "to
6 apply" beginning the line and it went on to say:

7 "With the exception that no amendment to
8 this plan shall be required to permit
9 active outdoor recreation facilities
10 such as sports fields or golf courses
11 together with ancillary uses as part of
12 a rehab program on the sanitary landfill
13 site subject to section 40."

14 That was, in my opinion, the method by which the
15 additional uses would be permitted.

16 Q. Could you just explain, was it as
17 a result of the discussion going on with the Town of
18 Milton through your office or Mr. Stevens or others of
19 the Region that this combination of agricultural or the
20 golf course came about?

21 MR. LEITCH: First of all this witness
22 has not yet identified the document as to whether he
23 has read it. It is marked, but he hasn't read the
24 thing yet and hasn't said he had read it at any point
25 in time in the past.



1 MR. McQUAID: Q. Can you help us out
2 on that?

3 A. I don't recall whether I had read
4 the document before, but I have read it now and the
5 contents were something -- generically I talked with
6 Mr. Zsadanyi and it was clear that he did prefer a golf
7 course or perhaps municipal greenhouses which are both
8 embodied in this. The concept of agricultural land was
9 my planning proposal and I disagreed with him to the
10 extent there should be an alternate use on there and I
11 believed agriculture, if it was implementable, which
12 was going to be determined, would be better as an end-
13 use than the recreational aspects.

14 Q. Was it Mr. Zsadanyi in spite of
15 your recommendation, was he asking it be a golf course?

16 A. Ours was an initial discussion and
17 from the standpoint of putting together the amendments,
18 the actual work, and this is embodied by Mr. Stevens'
19 letter, Mr. Stevens was in charge of actually making
20 the proposals, first of all making the proposals and
21 then in league with the other consultants making it
22 work or proposing to make it work. I was moving
23 relatively independent of that as this point in time
24 and was trying to cover off both bases.

25 Q. This discussion you had with Mr.



Nethercut & Co. Ltd.

Toronto, Ontario

15032

Walker, cr ex
(McQuaid)

1 Zsadanyi would have been when?

2 A. If you will give me a minute I
3 will give you the date.

4 Q. Actually we are at that point, at
5 the end of the day, and perhaps you could do it over
6 the evening and you could check to see if you actually
7 received this report in your office?

8 A. I can check and if I can find the
9 files I will definitely check that.

10 MR. LANCASTER: Fine. We will adjourn
11 until 9:30 a.m.

12
13 ---Adjournment at 4:25 p.m.

14
15 Certified Correct

16

17

18

19

20 C. F. Nethercut, C.V.R.

21 (Page 15100 follows)

22

23

24

25