

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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OFFICIAL REPORTERS

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Toronto, Ontario

I N D E X

WITNESS:

WALKER, Peter Robert, (resumed)

Cross-examination by Mr. McQuaid (cont'd) 15104

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



Nethercut & Co. Ltd.

Toronto, Ontario

Hearing conducted at The Oakville
Granary Commercial Centre, 105 Robinson
Street, Oakville, Ontario, on
Thursday, November 26, 1987.

VOLUME 65

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 Limited



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Toronto, Ontario

APPEARANCES (Cont'd):

1	C. Stevenson	for Framgard Holdings,
2	P. Hancock	Fosseri Investments
3		Limited, Seriphos
4		Investments Limited and
5	J.H. Olah	Topic Investments
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21		Nethercut & Co. Ltd.
22		Official Reporters
23		185 Richmond St. W.
24		Toronto, Ontario
25		M5V 1V3
		Per: C.F. Nethercut, C.V.R.



Oakville, Ontario.
November 26, 1987.

--- Upon commencing at 10:15 a.m.

MR. LANCASTER: Please be seated. I'm
glad you got here.

MR. LEDERER: Thank you. Apparently
everyone in Toronto but us knew the traffic was backed
up. We chose to listen to Peter, Paul and Mary tapes
and I guess that was our mistake.

PETER ROBERT WALKER, resumed:

CROSS-EXAMINATION BY MR. McQUAID (cont'd):

Q. Yesterday when we adjourned, Mr.
Walker, I had put to you the report from Mr. Zsadanyi,
which I think was marked as B-344 and I had asked you
over the evening to check to see if you or your office
had received that. Had you received that in the past?

A. We did not receive that report,
Mr. McQuaid. What I do have are minutes from the June
27, 1984 meeting that was held with Mr. Arbeck and Mr.
Zsadanyi and it was referred to in the front part, in
the first three lines of that exhibit.

Q. All right. In any event, is it
as a result of that meeting that the policies or that
the idea, as it were, of potential after-use for
passive and active recreation uses found its way into



1 the draft Official Plan Amendment as submitted to the
2 Town?

3 A. Yes, sir. It is as a result of
4 the generic consideration in 2C which post-dated this
5 June, 1984 meeting. So, in June of 1984 we met and in
6 June of '85 the 2C reports were finalized and in that
7 there was a generic discussion of both those types, if
8 you will, both extremes of the after-use, and it was
9 flowing from the 2C reports that the applications
10 contained both alternatives.

11 Q. All right. Now, can you indicate
12 to us, do you recommend that the proposed amendment
13 include the potential after-use for passive and active
14 recreation uses?

15 A. I would not recommend that. Both
16 sides of the possibility were considered from June of
17 1984 right through until June of 1985, but I think that
18 the best after-use is the agricultural one because, in
19 my opinion, it fits more into line with what the Town
20 had in mind for that area over the long haul, i.e., in
21 their Official Plan.

22 Q. Then can you explain the rationale
23 for the fact that the proposed amendment includes the
24 passive and active recreation uses?

25 A. Because there was quite an



1 expressed desire to have recreational aspects included
2 from the standpoint of the Milton staff, and it was no
3 breach of good planning to put both alternatives in
4 there. My preference is the agricultural one but, as
5 you can tell from the format, there was an attempt to
6 try to conform to the Town -- the way the Town used its
7 OP and zoning bylaw and, in the same vein, if you will,
8 in the same spirit, it was an attempt to try and
9 conform to some of Council's desires with respect to
10 after-use and that was all in the context that they
11 didn't want it.

12 Q. Now, I wanted to go back to H-14,
13 the Competitive Analysis Report, and yesterday we had
14 gone through first of all the public health and safety
15 category. Those are the pages up to page 47 and then
16 at page 48 we see the second category, the natural
17 environment category, which includes the biophysical
18 and the agricultural factors which we have heard
19 discussion on and which we have just been touching on
20 in part and I wanted to ask you before we went too much
21 further into the other categories that we find, you
22 had, I think, identified generally that the priorities,
23 as it were, came as a result of the process; we have
24 the five categories as a result of the ongoing process,
25 discussions as to what would be given priority and so



1 on over the period?

2 A. Yes, sir.

3 Q. When we come to discuss, for
4 example, the actual factors under natural environment,
5 or the factors under social environment or the factors
6 under cultural environment, how were they established?

7 A. They were established by the
8 various consultants involved and submitted to us for
9 our agreement, if you will, our review.

10 Q. Would I be correct that generally
11 you accepted the sub-categories they submitted to you
12 or do you recall any that you altered?

13 A. I can't recall any that I altered,
14 no.

15 Q. Now, I wanted to ask you to go
16 over to the social environment category, beginning at
17 page 51 as we numbered them. There we have the results
18 of Dr. Schiff's work, as I understand it; is that
19 correct?

20 A. That is correct, or part of it
21 anyway. The population impacts....

22 Q. I am looking at page 51?

23 A. You are correct.

24 Q. One point I wanted to ask you as a
25 planner was whether you agreed -- as I understand the



1 technique that was followed, there was no new survey
2 done as a result of the 2C work. Rather, the
3 assumption was made that the changes that might have
4 occurred in terms of population would lead to the same
5 result as the other study, if there were any changes?

6 A. She had some updated information
7 for the site plan area itself, but she did not have
8 information for the whole study area and that was her
9 general assumption.

10 Q. Right. I noted in the Appendix
11 which Dr. Schiff -- Appendix E which Dr. Schiff
12 prepared, if I could ask you to turn to Appendix E, and
13 looking at, I guess, the last sentence on page E1, the
14 first page of the letter of January 26th, 1987:

15 "As well, it has been assumed, with
16 respect to the study area, that any
17 changes which have occurred at either
18 site have been random -- i.e., that
19 there is no systematic difference
20 between the people who moved out and the
21 people who moved in."

22 I wanted to ask you as a planner whether
23 you agreed with that concept, particularly in light of
24 the fact that as you know, it has certainly been the
25 trend, I think in most municipalities, that you provide



1 those people would know about it and the response was
2 that those people would have known about the
3 application for instance in the D case, in the Site D
4 case.

5 Q. Now, looking at the ownership map
6 we touched on yesterday, H-51, and this is at page 5-
7 1(b)?

8 A. Yes.

9 Q. Perhaps I should ask you before we
10 get to this, would the posting you are talking about,
11 the formal notification by way of a sign, have occurred
12 at about the time you filed the application with the
13 Town, December, 1985?

14 A. There would have been a
15 requirement to have it up in short order. I don't have
16 the date, although I could get it and the Region was
17 responsible for producing the sign, but, if necessary,
18 that date could be obtained.

19 Q. Perhaps you could get that
20 information for us?

21 A. I will try.

22 Q. Then, in addition to that, and
23 subsequently there would be public meetings in the area
24 as well. There was a formal public hearing, as I
25 understand it.



1 A. There was.

2 Q. In July of 1986?

3 A. Yes.

4 Q. Now, looking at Map 5-1(b), we
5 have heard various names referred to as the ownership
6 and we could take -- I think Mr. Watson's report has a
7 summary of the properties and he numbered them 1
8 through 12, starting with the Martin property in the
9 upper left portion of the actual site, and that site
10 appears to be in the same ownership, but as we go down,
11 am I correct that there has been at least two changes,
12 if not three in some portions of the site where we see
13 R. Ford and C. Ford? Those properties have changed
14 ownership?

15 A. Yes.

16 Q. You are aware of that?

17 A. Yes.

18 Q. And I think we have a Martin,
19 another Martin interest and a Reed interest now in
20 those particular properties?

21 A. Yes.

22 Q. Continuing around where we see the
23 Jelinek property, that is now owned by Newman, as I
24 understand it?

25 A. Yes, that is correct.



1 Q. Now, would you, in keeping with
2 the general approach we have been talking about, would
3 you as a planner agree that there certainly is some
4 notice to those people in terms of what potentially
5 might be happening on Site D and that factor should be
6 taken into account in some respects when you consider
7 the impact in this area?

8 A. I believe there would be some
9 notice and also, as I said -- this may be something
10 which is not universally held, but in my mind, somebody
11 who purchases land, especially if a lawyer is involved,
12 they can expect at the end of that purchase process to
13 be made aware of what is happening on the site and what
14 the zoning is and what the Official Plan is and whether
15 there are any proposals in the area. That to me is the
16 responsibility of the lawyer involved and if the lawyer
17 doesn't do it, that is something which I, from a
18 planning standpoint, can't be responsible for. In
19 addition, obviously municipalities are concerned to
20 avoid any slips, if you will, and they do therefore
21 require posting, for instance, of applications.

22 Q. I guess I'm really saying, would
23 you in light of the approach you have just been
24 describing of notice to the people, would you agree
25 with Dr. Schiff's comment that there really should be



1 no difference between the people who moved in and the
2 people who moved out?

3 A. I would gladly try and answer the
4 question, but I'm not sure I understand what you mean
5 by "difference"?

6 Q. Assuming notice was posted or the
7 vendor and the purchaser were aware of the potential in
8 the area for, in this case, a proposed landfill site;
9 then the price of the house or the lot may very well
10 have reflected what the potential and the expectations
11 were in that area?

12 A I don't think I can answer that
13 without going into it in a little bit -- into the facts
14 a little bit more deeply, Mr. McQuaid. The
15 possibility is there that a purchaser might have paid
16 something less if the vendor built that in or had that
17 in mind in terms of let's sell and let's move. On the
18 other hand, if the vendor felt that for the time being,
19 and say prior to this hearing getting underway, when
20 there would be potentially additional exposure to the
21 issue, they could ask a relatively consistent price,
22 consistent with what other properties would be -- other
23 similar properties would be going for, and then they
24 might have paid full price.

25 Q. I hear what you are saying.



1 A. I hope I am not being too elusive,
2 because I am trying to work the thing through and this
3 is something new I am trying to get at here.

4 Q. Have you finished as I don't want
5 to interrupt?

6 A. There was something else I was
7 thinking about. Just let me think for a minute.
8 It's slipped my mind.

9 Q. If it comes back, let us know.
10 What I'm trying to get at is isn't if the purpose that
11 the municipality requires posting, so there will be as
12 informed a decision as possible on the purchaser's part
13 as to what might be happening in that general location?

14 A. Yes, sir.

15 Q. So there will be, or the
16 potentiality will be addressed presumably in that
17 transaction, as much as it can be?

18 A. That's correct. On this
19 particular issue I don't think in either municipality
20 there would be any administrative person who would not
21 be aware of the potential for a landfill in either one
22 of the locations at this point in time.

23 Q. You are saying as a general rule
24 there has been enough notoriety that you would think a
25 purchaser would be informed about the potentiality?



1 A. That is a pretty good word, yes.

2 Q. And I guess what I am really
3 saying to you is that if in fact that was the case and
4 there was enough notification or notoriety, whatever
5 the right word might be, and there was an informed
6 decision made by the purchaser, can the purchaser have
7 the benefit of whatever has been reflected in the price
8 of the property in terms of his purchase sale and then
9 also, with that knowledge, turn around and say I want
10 to be treated the same as if I had not known and
11 therefore I am entitled to the same consideration in
12 terms of social impacts, nuisance, or whatever it might
13 be seen as, perceived nuisance or whatever they were
14 concerned about?

15 A. I think you could expect to obtain
16 the same market value per acre as the other people in
17 the area, yes.

18 Q. I am not thinking about market
19 value. I am trying to get to the point that as I have
20 always understood it in the planning context, the
21 reason you put notices in the newspaper or send it to
22 people around the area, or you post it so that people
23 who may be about to make a decision if they are moving
24 into a community which may be changing from one use to
25 another, so they will know about that and they then



1 will in a sense be choosing to go into the fact that
2 the neighbourhood may be changing. Isn't that the
3 general rule for notice in the planning context?

4 A. Generally speaking, yes.

5 Q. Isn't it also the general rule
6 that if you are in such a changing community, that the
7 disruption that has occurred after, if you have moved
8 into it, you are not treated as having been as
9 disrupted as those people who may in fact already have
10 been there and who may not have sold and did not know?

11 A. From a social standpoint, there
12 may be some consideration that they wouldn't be as
13 socially impacted, emotionally impacted from an
14 economics standpoint. I don't know whether the
15 distinction could be legitimately drawn on not. The
16 distinction I am making is that if people have been
17 there a long while and their lives revolve around a
18 site which will then be taken from them, then, in my
19 opinion from a planning standpoint, that has
20 potentially more emotional upset built into it, or
21 potentially built into it than if someone is newly
22 there and has not had a chance to put down roots and/or
23 their lives revolving around the site, at least to any
24 basic degree. That sounds convoluted, and I could go
25 back and take another run at it, but from a planning



1 standpoint, essentially that is what I would expect.

2 Q. I think what you are saying is to
3 a certain extent you would not agree with Dr. Schiff's
4 comment that the older, established residents, the
5 disruption to them -- let me put it the other way
6 around because I'm getting convoluted myself -- a
7 person moving in to a community which may be through
8 notoriety about to change and so on, they should not be
9 treated in exactly the same manner as someone who has
10 been living there?

11 A. If you are talking about age....

12 Q. Not age, I am talking about the
13 fact they are moving in and there are signs up in the
14 general area indicating that the area may be changing,
15 and isn't their disruption in a sense going to be
16 lesser than the person who has been living there for a
17 longer period of time?

18 A. The potential is there, whether in
19 real estate terms it would happen or not, but
20 potentially there is a chance that the emotional impact
21 would be less for the new people.

22 Q. There is also a chance....

23 A. Also, Mr. McQuaid, it's a pretty
24 general statement and a pretty general question
25 requires a pretty general answer. Just to be somewhat



1 cautious on that, a lot would depend, sir, on whether
2 the purchaser has finally resolved a major problem in
3 their life by making this purchase and/or has done
4 something which is a major break with the past in
5 making this purchase. In those cases, as an example, I
6 think that you would be looking at a higher level of
7 emotional impact, if you will, or upset, than for
8 somebody who is on the move as a regular thing. I
9 think you could say that people in urban areas are more
10 likely to be less impacted than people in rural areas
11 to the extent that, for instance, they have had trouble
12 finding the right lot and they have never designed
13 their own home and they now have a chance to design
14 their own home. They have never had a chance to live in
15 the country and they have finally found the right spot,
16 whether it is an old building or a new building, or it
17 faces west and they have not been able to find anything
18 except that which faces east. There is a lot of that,
19 just to qualify the general answer to the general
20 question.

21 Q. Do you have any appreciation of
22 how many residents who are actually on the site are
23 what would be characterized as long-term residents?

24 A. Me, no.

25 Q. That was left to Dr. Schiff, that



1 type of analysis?

2 A. Yes, it was.

3 Q. You made a comment when you were
4 giving evidence in chief which I also wanted to ask you
5 about. You made a comment, and I took it down, that
6 there was no real local ownership on Site D?

7 A. No real local ownership?

8 Q. Yes. You mean that some of the
9 parcels -- some of the parcels have no residences on?

10 A. Yes. Of all the parcels on the
11 site, there are four which have residences.

12 Q. Yes?

13 A. That would be Tomosky and the
14 former Jelinek, now Newman, the former Ford and now
15 Reed, and the former Ford now Martin and T. Martin at
16 the top.

17 MR. GARROD: That's five.

18 THE WITNESS: Miller-Figa is no longer
19 there; so Tomosky, Jelinek, Ford, Martin and Martin.

20 MR. McQUAID: Q. And the remainder are
21 vacant?

22 A. Tomosky is not on site. Tomosky is
23 off-site.

24 Q. Tomosky is off-site. Is that what
25 you meant by no real local ownership?



1 notice of changes in the area that might be occurring
2 to people so that either by way of the notices which
3 are up on the actual sites that are to be changed or
4 notices that are given by way of Official Plan or
5 zoning documents, that people who are moving into an
6 area would be aware of what they may be moving into.
7 It is certainly a general philosophy that has been
8 followed in planning, isn't it?

9 A. It's a general philosophy and in
10 practice, somebody moving in today to a location for
11 which there had been large or small public process with
12 communication up to yesterday, they might not be --
13 they might not know about it and I think I would not
14 expect those people to be given specific notice of it
15 in the sense that if you buy something, the assumption
16 that I have always undertaken is that you do
17 investigate what is going on by contact with the
18 municipal authorities. In this case there was a sign
19 on the site, because applications had been filed.

20 Q. You say "in this case", but are
21 you saying in the case of Site D?

22 A. Site D, yes.

23 Q. It was a requirement of either the
24 Town or the Region... I suppose the Town of Milton that
25 you post the site?



1 A. Yes.

2 Q. Was that done?

3 A. It was.

4 Q. One sign or more signs?

5 A. I only know of the one, but there
6 may have been more. You see, what I am saying is yes,
7 there is a need to post and that is a municipal
8 requirement. I would say pretty much in every
9 municipality, especially ones that have an ongoing
10 activity of application, and you might hit a rural
11 municipality which didn't do it, but mostly where there
12 is a number of applications that would take place. In
13 addition to that, new purchasers would be expected to
14 either themselves or through their lawyer, they would
15 be expected in my opinion to check the municipal
16 zoning, et cetera.

17 Q. We have the posting and you are
18 saying there is also sort of the understanding that
19 some searches, done presumably by the purchaser through
20 the solicitor or individually on their own. That is an
21 assumption generally made?

22 A. It is an assumption and in
23 particular in the Milton case, when we found additional
24 people on and around it, we contacted the Planning
25 Director, Mr. Zsadanyi and asked him if in his opinion



1 A. Yes.

2 Q. Now, did you prepare....

3 A. Am I finished with H-51?

4 Q. Not really. You may need it; keep
5 it handy.

6 A. I just wanted to get it off the
7 podium.

8 Q. I was going to ask you, you did go
9 around the site when Ms. Cronk asked you to go to the
10 uses around the site to describe them in her cross-
11 examination?

12 A. She took me at some length around
13 F, but I don't recall her taking me in the same vein
14 around D.

15 Q. I was going to ask you if there is
16 in the documents, and I wasn't able to find it last
17 night and you might remember, but is there a land use
18 map showing the uses around D and/or F in any of the
19 material that you prepared or were you called on to
20 prepare that?

21 A. I think the comparative
22 analysis...

23 Q. I know in the comparative analysis
24 there is a text -- a sort of inventory by text on your
25 land use compatibility....



1 A. There are three maps in the front
2 of the comparative analysis. Map A and Map B have
3 land use to the extent they pick up residences.

4 Q. I appreciate that. I am thinking
5 particularly if I ask you to look at page 53, again
6 under the social environment, but looking at the land
7 use compatibility factor, the lower half of page 53, we
8 do see an inventory on the technical studies of some of
9 the land uses. I guess I was asking if there was a
10 map that would show us where, for example, the
11 commercial uses are that we see, the second line under
12 "The number of study land uses."

13 A. A map, no, we didn't prepare a
14 map.

15 Q. Can you tell us what those
16 commercial uses are, Mr. Walker. We see the total
17 residential and the study area land uses, the seventy-
18 five, and you have given us -- we don't need to go into
19 the updated number as Ms. Cronk took you through that,
20 but we see commercial uses and there is reference to
21 two. I wondered if you could tell us what they are
22 and whether there has been any change with respect to
23 them?

24 A. One would be the riding stable
25 which we classed as a commercial use and that would be



1 new.

2 Q. Where would that be?

3 A. Just to the southeast, on the east
4 side of Highway 25. I believe it is right in here
5 (indicating), south of the site and east of Highway 25.

6 Q. I am sorry, could you point it out
7 again?

8 A. I believe it's in here, and I
9 could check that, but I believe it's in here.

10 Q. South of map A we see here?

11 A. Yes.

12 Q. If that's new, that would not have
13 been included back at the time you were writing this
14 report?

15 A. We found that for the comparative
16 analysis and I am saying "new" between this and 2C
17 earlier.

18 Q. All right.

19 A. I forget what the other one was.

20 Q. I think we have heard reference to
21 Mr. Newman having a landscape business?

22 A. But he is on the site.

23 MR. LANCASTER: How about Mr. Gilles'
24 beef operation?

25 THE WITNESS: We wouldn't class that as



1 a commercial use. I forget, Mr. McQuaid, and I can
2 check it for you in my notes.

3 MR. McQUAID: Q. There is a sign for
4 an abattoir as you are going up Highway 25 and would
5 that be one of them?

6 A. Yes, north of there. That could
7 be it.

8 Q. Could you give us where that would
9 be, looking at map A?

10 A. I believe it's in here
11 (indicating), north of the site, and I believe it's
12 either here or here and I would have to check it.

13 Q. Could you describe that for the
14 Board?

15 A. On the east side of Highway 25
16 north of the easterly portion of the candidate site.

17 MR. LEDERER: Could you just point to
18 that again, Mr. Walker.

19 THE WITNESS: The abattoir. I believe
20 it's either this site or that site (indicating) but, as
21 I say, I would have to check it.

22 DR. KINGHAM: You are referring to two
23 sites on M-102 on the east side of Highway 25?

24 THE WITNESS: Yes, north of this
25 easterly leg.



1 MR. McQUAID: Q. Are there any other
2 commercial uses which have come to your attention since
3 you wrote this report in January of 1987?

4 A. Off the site?

5 Q. Off the site?

6 A. Not that I can recall.

7 Q. Institutional uses. What were you
8 referring to on page 53 under that heading?

9 A. They would be the Boyne Community
10 Hall, which is Britannia east of Highway 25 and there
11 was a Masonic Hall up at the north end of the study
12 area.

13 Q. Further to the north?

14 A. Yes, and it would be on the east
15 side of Highway 25, off Exhibit M-102.

16 Q. You have explained to us that the
17 study area in fact was originally set by reference to
18 the candidate area?

19 A. Yes.

20 Q. It was not amended subsequently?

21 A. That is right.

22 Q. That study area was determined by
23 Dr. Schiff, is that concept?

24 A. The original concept of the study
25 area was a planning one essentially and that was



1 Q. Go ahead, I'm listening.

2 A. I was trying to save you reading
3 the transcript to get what I am saying. The original
4 concept was a planning one, essentially to give an area
5 adjacent to the candidate area at the time, a candidate
6 sub-area, and basically it was the half-mile rule as
7 the concept in any event. At the 2C stage, there was
8 an indication in the work program that we would review
9 these to see whether there were any additional changes
10 necessary and, at that time, there was a desire on Dr.
11 Schiff's part to try to include elements of the
12 community, elements of the study area that might give a
13 good indication of what the framework for the candidate
14 site was. We were part of that in terms of one of my
15 staff members was with Dr. Schiff when she did the tour
16 of the sites to determine what it is, but, in this
17 particular case, the going out or enlarging of the
18 study area was an attempt to include some additional
19 clusters which she had seen and figured in this
20 particular site because the vista was so flat, or you
21 could see so far that there was a need to expand it.
22 She did expand it then north. I am not trying to pass
23 the baton to her, since I know she has gone through
24 before this Board.

25 Q. I think I understand that. She has



1 explained that in the witness box with respect to the
2 social environment or sort of the social impact study,
3 but I am now sort of -- I want to get from you, because
4 you are looking at land use compatibility?

5 A. That is correct.

6 Q. In your area, when you are looking
7 at compatibility, that may be different than Dr.
8 Schiff's area?

9 A. Or my interpretation of
10 compatibility or degree of compatibility might be
11 different.

12 Q. For example, if she had said, "I
13 want to go to the north...." and how far would you say
14 the Masonic Hall is to the north?

15 A. It might be a kilometre or more.

16 Q. It looks almost as far again and I
17 am looking at a land use -- a comprehensive land use
18 map and just holding it up, you can see the distance up
19 to Boyne and it looks to be almost as far again further
20 north?

21 A. If that's the case, then it would
22 be roughly a kilometre and a half, I guess.

23 Q. I would put to you that if you
24 were thinking in terms of land use compatibility and
25 you go that distance, then why wouldn't you also



1 perhaps look further to the south and do an inventory
2 in terms of land use compatibility of the distance
3 further to the south?

4 A. It was not appropriate in my
5 opinion to have different boundaries for study areas
6 and so we adopted the common study area boundary and to
7 do would otherwise, in my opinion, be ridiculous. If I
8 felt there was a need to expand the study area any
9 more, then I would have had a different study area and
10 it would have been very difficult to compare.

11 Q. Are you familiar with the sludge
12 storage facility of the Region at Lower Baseline Road
13 and Highway 25?

14 A. Just inside the Oakville boundary.

15 Q. Just inside the Oakville boundary?

16 A. Yes.

17 Q. Could you tell the Board what
18 facility is there and could you point to the crossroads
19 and it may be where the legend is?

20 A. It's just to the south where the
21 road starts to swing, as I recall, and where Highway 25
22 starts to swing and just to the south of that is the
23 sludge storage facility.

24 Q. Could you explain to the Board
25 what that facility looks like and what it is for?



1 A. What it looks like, no. It is
2 used to store sludge from the sewage treatment plan.

3 Q. There are a series of tanks there?

4 A. As I recall.

5 Q. Are there a number of them?

6 A. I don't know how many. The Region
7 has a sludge storage program and a sludge spreading
8 program and they provide the sludge to farmers for
9 their use, and this is a collecting station.

10 Q. I wish Ms. Cronk was here and we
11 could talk about her garden party and bringing things
12 to her garden party.

13 A. The skunk in the garden party.

14 Q. We have the sludge facility here
15 but it's in Oakville, so it's all Oakville's fault, Mr.
16 Leitch says. I guess I'm saying from a land use point
17 of view, if you were content to go looking for major
18 land use features as far as two and a half or two
19 kilometres to the north, why would you not take into
20 account a facility of this nature, which I thought
21 would have had important land use implications as well.
22 Wouldn't you agree?

23 A. You would have to put your
24 planner's hat on and tell me what you thought the major
25 land use implications are. The boundary essentially,



1 as I explained, was being expanded to pick up people
2 and/or community facilities that might be impacted and
3 really it was to bring them in for analysis and to see
4 whether in fact they were impacted, in the same way we
5 brought in the heliport for assessment, to see whether
6 it would be impacted and we effectively rejected it as
7 having any impact, but it was brought in for the
8 purposes of looking at it.

9 Q. I guess what I am trying to
10 understand is that you have indicated, or I think you
11 said that the general distance that you were looking at
12 from a land use compatibility viewpoint was about a
13 half a mile?

14 A. That was the rule of thumb we put
15 forward in the 2B stage for that, but there were other
16 things that could temper that, that distance, and did.

17 Q. What we are coming to now is
18 because Dr. Schiff wanted to include an additional area
19 to the north, you effectively adopted that additional
20 area?

21 A. She wanted to and she did want to
22 include some to the south and went down to Baseline as
23 well to include people down there, but it all goes to a
24 matter of degree, in my opinion. There is nothing
25 wrong, in my opinion, with her expanding that study



1 area.

2 Q. I understand that and we see the
3 number of course that she finds in terms of residents
4 in her study area, those are all calculated back at
5 page 51 and we see that on the charts. What I wanted
6 to understand was when you were doing your land use
7 compatibility factor at page 53, you are saying I used
8 the identical study area that she used and I don't
9 change it and with my hat on now, I am looking at
10 it....

11 A. The example you used would be --
12 as the example you used, why didn't I go to the sludge
13 storage facility? The basic notion or concern she had
14 was to see whether people would be impacted and I can't
15 see for the life of me why a sludge storage facility
16 would be impacted by a landfill and in the meantime --
17 I am not trying to be funny, but there are a whole lot
18 of intervening open space there and the relevance of
19 open space and the topographical setting that D finds
20 itself in is in terms of view, vista, emotional impact
21 on people and/or the facilities people use. People
22 don't use a sludge storage facility directly and there
23 is no view from it, from the viewpoint of people
24 living, and so I think if I was looking to expand and
25 to get her to expand the study area as well, to be



1 consistent, then it would be totally immaterial to me
2 that there was a sludge storage facility there as a
3 rationale for extending the study area.

4 Q. I understand that, but maybe I am
5 misunderstanding what you were looking at or doing when
6 you were looking at land use compatibility. We know
7 that Dr. Schiff paid specific attention to the number
8 of people and split them into the categories we see on
9 page 51?

10 A. Yes.

11 Q. When you came to do your study,
12 land use compatibility, you were studying then the land
13 use compatibility, again from the point of view of use
14 in the local area?

15 A. That is correct, yes.

16 Q. You have indicated that you have
17 adopted exactly the same area?

18 A. Yes. We used the same area.

19 Q. You did not take into account
20 other features there might be, as we just talked
21 further to the south and east, of a land use nature
22 which might have some bearing on the overall character
23 of the area?

24 A. Not of the area of the site for
25 the proposed landfill itself and the surrounding areas.



1 I did take into consideration the lands around that
2 area and I also took into consideration something
3 identified outside the area, if there was something we
4 thought would have an adverse impact on the surrounding
5 area or the converse; would in fact be effected by what
6 was being proposed on the site, and that would be the
7 air park at the time. Again, I think that the choice
8 of not going -- for instance, in the example you gave
9 me of not going in the direction of the sludge storage
10 facility was a valid one from a planning standpoint. I
11 don't believe that we went looking for things to add in
12 just for the purpose of adding things in. I guess I
13 could have gone a lot farther in either direction and
14 added some more stuff in, but I don't know what the
15 effect would have been.

16 Q. Let's go back to page 52. I
17 wanted to discuss with you a few questions on the
18 specific facilities -- not facilities, but the specific
19 potential impacts we see listed as dust, odour, litter
20 and noise.

21 A. Yes, sir.

22 Q. Looking at the technical studies,
23 we see that certainly in the summary, when we look at
24 the adjectives that are in brackets, we see in the
25 dust, D and F are both low; odour is low in both and



1 litter is low in both. In terms of a qualitative
2 description of impacts, they are extremely close, they
3 are all low; correct?

4 A. Correct.

5 Q. But again we see a ranking and I
6 guess before we get to that, if we look at the dust,
7 and if I am correct, the difference really is, if we go
8 back to page 30, I think that is where it is pointed
9 out, but the difference in dust between the two relates
10 to the eight week -- at the time you wrote this report
11 there was the potential for dust impact for the short
12 period of eight weeks?

13 A. I think it was eight at the front
14 end and eight at the back. No, that was noise.

15 Q. I will ask you.

16 A. All right.

17 Q. You will see certainly at page 30
18 you were talking....

19 A. You have asked me and I can check
20 it out. Yes, it was noise. You haven't got me to
21 number that far back, but I am referring to the noise
22 impact summary chart following page H-3.

23 Q. That is page 132 actually. I did
24 number mine.

25 A. You always were good at numbers.



1 Q. I am good at numbers and commas.

2 A. 132?

3 Q. 132.

4 A. Yes, it was the dismantling at the
5 end.

6 Q. Going back to page 52, are you
7 aware of the evidence of Dr. Koczukur as he gave it here
8 with respect to preference or lack of preference?

9 A. I believe he has now come to the
10 conclusion there is very little difference between the
11 sites from the dust standpoint, but I have not read his
12 evidence, nor did I hear him give that evidence.

13 Q. Even back at the point, however,
14 when you were writing it, there was not very much
15 difference at that point either, was there?

16 A. No, that is correct. The big
17 difference was there were people around one site and on
18 one site and there were none on or around the other.

19 Q. Well, that question of people
20 around one raises this question I have in my mind, and
21 perhaps you can answer it, but Dr. Schiff has already
22 counted people at page 51, and when we come over to
23 page 52, they are low, low, low, low, but people are
24 taken into account again.

25 A. Sure.



1 Q. Is there not a little overlap?

2 A. No, not at all, no.

3 Q. But we are talking about low
4 impacts which are potentials only; correct?

5 A. I think the specialists here
6 believed in what they said, that in fact it wasn't just
7 potential but they expected things to happen as they
8 outlined it. They are all pretty practical people when
9 it comes to understanding, and of course it's all
10 potential because it has not happened yet, but in that
11 framework I think that their recommendations would have
12 to be taken seriously from that standpoint, that they
13 likely would happen over the span of time they said
14 they would.

15 Q. Just looking at the ranking under
16 dust, odour and litter, is that your numbering or their
17 numbering?

18 A. It's ours.

19 Q. And the same is true with respect
20 to noise?

21 A. Yes.

22 Q. The ranking you have outlined in
23 both cases is within the framework but in absolute
24 terms it is low because both sites are assessed low,
25 but in relative terms within that framework, the



1 presence of people versus the presence of facilities
2 and people on a temporary basis has given rise, in our
3 opinion, to the distinction in the ranking.

4 DR.KINGHAM: Would we be correct in
5 concluding in all of these rankings that what you are
6 telling us with the No.2 is low and No.1 is lower and
7 that is essentially what you mean?

8 THE WITNESS: Yes.

9 MR. McQUAID: Q. Continuing over to
10 page 53 to the visual, I wanted to ask you about your
11 involvement in that. As a planner -- let me ask you
12 first of all if you have examined from your own
13 perspective as a planner what the visual impacts might
14 be at both sites?

15 A. Yes, sir, I believe I have as a
16 planner. I didn't have balloons or anything like that
17 flying to identify the height -- I say that seriously,
18 because at the liquid natural gas hearing I was on,
19 they did fly balloons and we were able to see, but yes,
20 in my opinion, I have looked at both sites from a
21 visual standpoint.

22 Q. In the case of Site D, if I
23 understand it correct, you do see some reference to the
24 screening berms on Map A, but there is also to be a
25 berm of some height with grassed slopes and so on,



1 which are designed to screen the fill area?

2 A. Yes, sir.

3 Q. So the visual effect or visual
4 impact around Site D, if I understand it correctly, is
5 intended to be that of berm; isn't that correct?

6 A. As far as you go, yes, that's
7 right, but the very presence of a berm is something
8 which is clearly not there now and the land I would say
9 from a planner's standpoint is relatively flat and if
10 not from a distance flat, and what you will see now is
11 height, and I think I used the term mound, but you will
12 certainly see height, whether it be the berm or whether
13 it be the landfill facility itself if the berm wasn't
14 there.

15 Q. Isn't there a difference between a
16 berm and a landfill facility, to your mind?

17 A. In some respects, the actual
18 working face, there is a heck of a lot of difference.

19 Q. That's what I meant.

20 A. You didn't put it in those terms.
21 There is a heck of a lot of difference between the
22 actual working face of the landfill and the berm which
23 is grassed and shrubed and saucered and blowed each day
24 to make sure that it is clean and green, or snow-
25 covered in winter, but there is not a lot of



1 difference, in my opinion, between the finished part of
2 the landfill and the berm. There might be different
3 types of vegetation, depending upon what you were
4 trying to grow on the landfill versus what you were
5 certainly able to grown on a mound of topsoil, but, in
6 essence, I don't think from a distance that
7 structurally you would see a lot of difference. You
8 would see relatively the same configuration.

9 Q. I understand what you are saying,
10 the finished product. Let me go back to the early
11 stages before the finished product and during the
12 filling of the landfill. Would you agree with me or do
13 you understand that basically the main visual impact
14 around Site D will be that of the grassed berm around
15 the actual landfill itself?

16 A. I think the main feature you will
17 see at First Line, if you are on First Line, is the
18 berm.

19 Q. That's what I just said.

20 A. That's not what you said. If you
21 want to talk about First Line, then ask about First
22 line, but you asked me from a planning standpoint about
23 the landfill in that location.

24 Q. I said the first and main thing
25 you would see around the site would be the berm and now



1 you are talking about First Line?

2 A. It doesn't go around the site.

3 Q. It goes on Highway 25.

4 A. There are some small berming
5 effects over there called screening berms and there are
6 four of them, but it's not the solid berm you see on
7 First Line, and to the south, if you are coming at it
8 from a distance and not cheek by jowl with the berms on
9 Highway 25 or First Line, you would see, in my opinion,
10 this mound or this elevation which you would not see
11 under normal circumstances.

12 Q. Is a mound or an elevation
13 necessarily a bad thing to see from a distance?

14 A. Well, in terms of a distinctly
15 different feature from the rural features you would see
16 in that area right now, it would be a different kind of
17 feature, and this goes to a very subjective thing, very
18 subjective opinion as to whether as to what -- it would
19 clearly not be a natural feature and whether it would
20 be offensive to you or not, and it would be a
21 subjective thing. The visual consultant felt there
22 would be some visual intrusion of this facility.

23 Q. We heard his evidence, but I'm
24 asking you as a planner whether you find that a problem
25 or not. Is this something you have given evidence on



1 in the past, that a berm is a bad thing really and we
2 shouldn't even have berms?

3 A. Sir, I may be mistaking where you
4 want me to answer, but let me clarify. The berm, in my
5 opinion, is intended to mitigate the effect on the
6 residences on the west side of First Line, and that is
7 a primary reason for it, and I used the term cheek by
8 jowl so I am consistent in my terminology and I will
9 continue to use that, but they look into the site and,
10 as I understand it, the berm is really an attempt to
11 mitigate that view for them. Obviously views from the
12 west, to the extent that you are farther away, will see
13 this as a mound and will see it as a structure which is
14 different. But, the berm doesn't surround the landfill
15 and so you are not looking into the berm, but you are
16 looking into a finished landfill as it gets finished
17 and you are looking at a working landfill when it is
18 working, to the extent you can see the working going
19 on. I think in a rural area -- this isn't a Mulmur
20 Hills or Albion Hills where another bump or another
21 roll would be something which would be consistent with
22 what you see in the contextual landscape. As I said,
23 this is relatively flat if you're close up and it's
24 flat if you are far away and you would see this feature
25 there now, which would not be normal.



1 Q. All right. Can you say to the
2 extent you can see the working face from the west...

3 A. You are not supposed to see the
4 working fact from the west.

5 Q. That's what I thought, but you
6 said you can see it and is that your understanding?

7 A. No. When I said from the west, to
8 the extent you saw the site from the west you would
9 pick up the berm.

10 Q. But not the working face?

11 A. No.

12 Q. Can you compare that to what you
13 will see of the working face down at Site F. What do
14 you know about the berming or lack thereof down at Site
15 F, as you fill?

16 A. There is no berming on Site F as I
17 recall. No. Then again Site F in a textural framework
18 is in an entirely different topographical situation.
19 It is not in a contextual framework, you don't see, you
20 are not into this flat plain where this facility rises,
21 you are into an area which has a lot of interference
22 with views, depending upon how far away you go. If
23 you are close to it, say on 403 for instance, then you
24 are looking up into a rise of land and it is a natural
25 feature of the site and in the area it's in right now



1 and if you are looking at it from 403, by and large you
2 are looking at it from a very short perspective, and
3 this is speaking from a planning viewpoint, my
4 assessment.

5 Q. That is what I want.

6 A. So, if you stopped on 403, which
7 is probably something you shouldn't do anyway, you
8 could look into the site at some length and if you were
9 on 403 and driving along you wouldn't see the site for
10 very long at all and when you do, you are looking up
11 into the site, because the site is generally rising to
12 the Escarpment.

13 From a distance, you would see, as I say
14 in the particular area, your view is -- I don't want to
15 use the term "interfering" the wrong way, but your view
16 of this particular site is confounded, if you will, by
17 the fact that the further away you are the more
18 intermediate or interstituary type of uses there are
19 between you and the site, and again you look above the
20 horizon, if you will, as picked up by the Escarpment
21 and not by the top of any mounding that is going on or
22 the top of any berming, which of course is not there.

23 Q. What about the working face? What
24 do you know about what you will see of the working
25 face? Have you any idea of how it is to be filled from



1 south to north?

2 A. It is being filled, as I
3 understand it, from half-way up and that will all be
4 filled first and then they will work from the bottom
5 and fill up to the half-way line. I have used half-
6 way....

7 Q. South to north on the first half
8 and then south to north on the last half. Is that what
9 you understand?

10 A. Yes.

11 Q. That means the working face will
12 be seen?

13 A. I don't know how the cells are
14 actually being filled and whether the working face is
15 visible or not.

16 Q. You don't know that?

17 A. No, the design and operations
18 report...

19 Q. Would that not make a difference
20 to you as a planner when you are comparing, for example
21 here, where we are looking at visual impact and you are
22 in one case on Site D where it is designed as much as
23 possible that you would be looking at a berm rather
24 than the working face?

25 A. Along First Line.



1 Q. Along First Line?

2 A. Yes.

3 Q. And I guess you don't know whether
4 there would be a working face or not from the south, or
5 do you know that at Site D?

6 A. The Site D filling is not from the
7 south, as I recall.

8 Q. It will be at the north, but will
9 you be seeing the northerly cell filled from the south,
10 so you would see a working face, or will there be a
11 sort of berm effect -- if they start at the south and
12 if they work south to north, you would be behind the
13 southerly face when you are coming from the south?

14 A. I can't remember and if it's
15 important I do recall I can go and look it up, but if
16 you do, you would see it from some extended distance.

17 Q. How would that compare to what you
18 would see from a distance at Site F, or can you tell
19 us?

20 A. In my opinion there would be no
21 views into the site on Site D because they are
22 relatively unencumbered and views into the site on F
23 are relatively -- I used the word encumbered again and
24 I'll use it again, encumbered visually because visually
25 the sights from a distance into Site F are encumbered



1 by a number of other uses, some of which are urban uses
2 and some of which are corridor uses like 403 and the
3 rail line, some of which are the Escarpment as the
4 horizon and not the site, and compared to D where
5 basically the plane of the land is the horizon. There
6 are trees obviously in both cases, but there is a
7 distinct difference in there from a planning standpoint
8 anyway.

9 Q. Would it make a difference to you
10 if large amounts of the working face at Site F were in
11 fact unencumbered from 403 and the area to the south?
12 You have assumed that they are encumbered and is that
13 what I am to understand?

14 A. I said I couldn't recall whether
15 they were or not, but in essence, there still would be
16 some visual impact, I think, as a planner. It wouldn't
17 be nil impact anyway, but in essence, as a planner, I
18 think that visually D would be much less obtrusive,
19 much less offensive than F. F, rather, would be much
20 less than D. It shouldn't be hard to understand that
21 from a planning standpoint, because where you are able
22 to see F to any substantive degree, you are moving.

23 Q. So, the combination, as I
24 understand it -- you place the emphasis on the moving
25 along 403 and even if you had the working face there,



1 you are saying you can only see it for a brief period.

2 A. Yes.

3 Q. And also the mound, and you are
4 saying there is already some mounding or height along
5 the Escarpment or along the Parkway Belt and therefore
6 it really isn't that obtrusive?

7 A. Substantially compared to D, there
8 is a substantial difference in the natural topography.

9 Q. It isn't so much you are seeing
10 the working face at D, but the fact that there is a
11 mound there from a distance?

12 A. Yes.

13 Q. The fact there wasn't a mound
14 there....

15 A. And remember what I said, even if
16 you did see the working face, you would be seeing it
17 from a distance, and distance is a big mitigator in
18 terms of the impact of view. Now, you are listing my
19 points.

20 Q. That seems to be the main
21 difference?

22 A. No. The other thing is -- that
23 is dealing with people who are transient. If you lived
24 next door to it, then that also would be something to
25 take into consideration from a planning standpoint in



1 terms of view.

2 Q. We have it then at this particular
3 point in time, and I suppose I should ask you in
4 fairness, but when you did the summation we see on page
5 53 of the visual, the factors and so on, was that
6 ranking really what came out of Mr. Stevens' work? You
7 didn't go into the visual yourself, but you adopted
8 what reports he had given you -- I am sorry, Mr.
9 Wright?

10 A. I don't think it was Mr. Stevens,
11 it was Bob Wright.

12 Q. My apologies to everyone. There
13 are so many names and exhibits at this point, you have
14 to forgive me.

15 A. I didn't have to go behind the
16 data as the distinction was quite clear from the
17 material obtained from him.

18 Q. You didn't as it were go out, and
19 you said it wasn't a situation where you have gone and
20 looked at it yourself from the point of view of putting
21 balloons up from the south on Highway 403 or anything
22 of that nature?

23 A. No, sir, I didn't have the contact
24 with him and he came to his own conclusions from his
25 own specialty, I didn't.



1 Q. You yourself did not, as it were,
2 double track or doublecheck or go back and re-do his
3 work; you just adopted what he had done?

4 A. Why would I re-do his work?

5 Q. I just asked you.

6 A. Money was tight enough on this job
7 as it was.

8 Q. I am not faulting you but I am
9 just asking you to confirm for the record that you
10 didn't?

11 A. I did from a planning standpoint
12 look at the views into both sites, but I didn't go back
13 and check his work and I didn't do it in nearly the
14 detail he did either. It would be something -- all
15 right.

16 Q. So you did go and do your own
17 visual examination, did you?

18 A. I did it as part of...

19 Q. I thought you said you didn't....

20 A. The way you put it, did I go back
21 and re-do his work or check his work, no, I didn't. I
22 formed my own opinion about the visual aspects as I
23 looked at the two sites. It's not something that I set
24 out to do, it is something I did as part of looking at
25 the two sites, that's all. Now, if I hadn't had



1 visual expertise, then I would have had to do a much
2 more thorough job than I did from that standpoint.

3 Q. So you can confirm for us that you
4 are really not certain -- perhaps I have put it
5 wrongly. Is it your evidence that there will in fact
6 be an open face or the face of the landfill will be
7 visible from 403 throughout its entire filling period?

8 A. I don't believe it will.

9 Q. Why not?

10 A. For one thing, they are filling --
11 they are starting half-way up, which is, relatively
12 speaking, at a height of land and they will be filling
13 high, but then once they have filled the first cell,
14 then they will be filling behind the first cell, so why
15 would it then be visible?

16 Q. You can ask me questions if you
17 want, but I am asking you what you know about it, Mr.
18 Walker. You told me that you understood that they
19 filled the north half first from south to north?

20 A. Correct.

21 Q. My evidence -- my question to you
22 is does that mean for the first half you will be able
23 to see the working face as they go from south to north,
24 even though it may be at a distance?

25 A. If they fill from this point



1 roughly, which I called half-way, but from the point
2 where the easterly projection is projected westerly and
3 if they filled, starting there and going north, then in
4 my opinion it would not be visible through most of the
5 filling of that part because they would be working
6 behind what was already filled.

7 Q. Would it make a difference if in
8 fact they were filling going up so you would see them
9 as they are going up from south to north?

10 In other words, north would be higher,
11 or the elevation when it is finished, than the south
12 part, so they would be going up a hill. Do you
13 understand?

14 A. But it's not a hill like that
15 (indicating). As I recall the configuration -- I'm
16 sorry, that's a diagonal line going up.

17 Q. Let's call it fifteen degrees.

18 A. Don't take degrees from my arm
19 elevation, but just straight up.

20 Q. That won't be very helpful to us
21 in the record.

22 A. That's why I tried to give an
23 explanation.

24 MR. LEDERER: If it will help Mr.
25 McQuaid it is my recollection, and this may be wrong,



1 but at the time Mr. Wright gave his evidence, he
2 prepared some drawings on the flip chart which
3 demonstrates what it is Mr. Walker is discussing and I
4 am not clear why it is....

5 MR. McQUAID: I want to know what Mr.
6 Walker knows.

7 MR. LEDERER: The issue presumably is
8 what is the situation at this site and what studies
9 have been conducted and what evidence has been
10 presented here and whether or not the matter has been
11 covered properly.

12 MR. McQUAID: That is not the question.
13 I asked Mr. Walker what he did and what he knows and we
14 have evidence as to Mr. Wright and Mr. Lederer doesn't
15 need to prompt Mr. Walker.

16 MR. LEDERER: I'm not prompting Mr.
17 Walker and all of the witnesses, of all the ones who
18 have been here, the one who doesn't need my help is Mr.
19 Walker.

20 MR. LANCASTER: I recall the flip chart
21 and I am trying to picture it now.

22 MR. McQUAID: Q. Can you tell us, Mr.
23 Walker, what you know.

24 A. As I recall the cross-section of
25 the finished landfill, it would be like a hip roof and



1 it would be from roughly half-way up, which would be a
2 more gradual slope. Roughly half-way down would be a
3 steeper slope rising ultimately from 403 at the lower
4 end and rising up to approximately the mid-point. In
5 each case those two pieces would be filled from the
6 south end going north and with cells 1 to 4, and I
7 think that's 1 to 4, they go north from the top of the
8 hip and cells 5 to 7 or 5 to 8 go from 403 up.

9 Q. In dealing with the north end, is
10 it your evidence that the southerly end of the hip will
11 block the open face as it is going further to the
12 north; is that what you are saying?

13 A. I believe that is the case and
14 obviously Mr. Wright did know the exact configuration
15 because it was his job to assess the visual aspects
16 from that standpoint, but that's what I recall.

17 Q. Dealing with the southerly portion
18 going from south to north, when you are doing the lower
19 half, what is your understanding at that point?

20 A. Again they would be filling behind
21 and some part of the working face might be open to view
22 because of the steeper nature of the steeper slope.

23 Q. Filling behind what? I don't
24 understand what you are filling behind?

25 A. I think you do understand. If the



1 first cell filled is to the south and the second cell
2 filled is to the north of the first cell, it seems to
3 me that you are filling behind the previous cell.

4 Q. That's all I asked. You think the
5 more northerly cells of the lower half will be shielded
6 by the southerly cells, or at least the first cell?

7 A. By and large, yes. If I was asked
8 to undertake that visual analysis and be responsible
9 for it, then I would be more fine-tuned in terms of
10 what the design actually led to and I apologize to the
11 Board if I don't appear to be.

12 Q. I am trying to find out how much
13 you as the planner go into the visual. For example, let
14 me ask you, you know Site F is in the general vicinity
15 of the Bruce Trail to the north?

16 A. That is correct.

17 Q. What is your evidence as to
18 whether Site F would be visual from the Bruce Trail or
19 not?

20 A. I wouldn't think that by and large
21 it would be visible from the Bruce Trail.

22 Q. I didn't say "by and large," I
23 said is it visible or not?

24 A. Well, I would have to have the
25 balloons flying and walk the trail to know for sure



1 whether it would be visible at the time. I don't
2 believe that because of the basic nature of the trail,
3 and at any one point in time the trail can move
4 depending upon the desires of the owners, because, as
5 you know, a lot of that land is not owned by the
6 government but rather by private owners who by
7 agreement let the Bruce Trail members use it and it has
8 been designated as the Bruce Trail, but it can move
9 over time. I don't believe as a general feature the
10 Bruce Trail would be impacted by a landfill on the
11 site. If somebody determined that it was impacted, then
12 it would also be -- it would already be impacted to the
13 extent that it passes close by the existing Burlington
14 landfill or in the same general vicinity of the
15 existing Burlington landfill. So, if it was visible at
16 any one point in time, it seems to me it's an impact
17 which would have already have been perceived by users
18 of the Bruce Trail.

19 Q. You are saying it shouldn't be
20 taken into account if it was seen from the Bruce Trail
21 in any event because there has been a landfill there
22 for years, so let's continue, there is no reason to
23 worry about it?

24 A. I don't think I said anything
25 along that line.



1 Q. I thought that that was what you
2 were saying, that there already was an impact there,
3 so, therefore, we don't need to be concerned about it?

4 MR. LEDERER: It's clear that Mr. Walker
5 doesn't think that that's what he said.

6 MR. McQUAID: Q. Correct me if you
7 think I have taken it wrong?

8 A. You have taken it wrong.

9 Q. You say the Bruce Trail should or
10 should not be taken into account?

11 A. I am saying the Bruce Trail should
12 be taken into account but, as I said, the Bruce Trail
13 is in place and is in situ with an existing landfill
14 operation in the vicinity, shall we say, and it happens
15 to be right beside the proposed landfill and therefore
16 the element in the context of where the Bruce Trail
17 goes, there is already an element there and that
18 doesn't mean that the Bruce Trail is not affected by
19 the fact it is there and at that point in time the
20 Bruce Trail may not be passing through pristine
21 wilderness that doesn't have a landfill nearby it, but
22 it is there. Once something is there, it's a lot
23 different, in my opinion, than introducing something.

24 Q. Therefore, we need not give it any
25 serious consideration, in your view, in this



1 assessment?

2 A. No, sir, I didn't say that and
3 certainly the study team did not take that position.

4 Q. Do you know whether the study team
5 took into account whether you could see the site from
6 the Bruce Trail?

7 A. I believe Mr. Wright did take into
8 account that you could see the proposal from the Bruce
9 Trail.

10 Q. All right. Now let's turn over to
11 page 54, the cultural environment category. Is this a
12 significant category in your view as a planner?

13 A. It's of lesser importance than the
14 first three categories. It is still relevant in the
15 sense that I believe heritage is important in the
16 context of planning. I believe archaeology, although I
17 have not had a lot to do with archaeology, but it is
18 becoming something which planners are having to deal
19 with or -- not having to deal with, but are in a
20 position to deal with, mainly because the group hired
21 by Halton were hired by the OWMC and do other work as
22 well and were becoming very active in bringing forward
23 archaeological information which was considered then in
24 the planning matters.

25 Q. Is this more significant than the



1 cost factor?

2 A. Yes. I think as long as -- as
3 long as affordability was present, I think it is more
4 relevant from a planning standpoint because of the
5 nature that if something was irretrievably lost or
6 irretrievably damaged that could otherwise be saved
7 and/or mitigated, just for a matter of cost, then I
8 think that there would be something wrong with that.

9 Q. If these features could be saved
10 either by the expenditure of money, relocation of
11 buildings or whatever it might be, or saving the
12 building, would that not be a factor which would then
13 be included in the cost category?

14 A. Yes, it could easily be done, but
15 first you must identify them and give them priority in
16 the cost and then include them in the cost, so I think
17 the priority order is appropriate. Identify them and
18 see the value of them and, if costs will help, then
19 cost is in a secondary position to them.

20 Q. That has been done, has it not, in
21 terms of there have been talks that if there are
22 archaeological digs necessary, those have been costed,
23 or do you know that?

24 A. I don't recall that it's been done
25 at all.



1 Q. If arrangements were undertaken to
2 protect the features, heritage or archaeological, then
3 that would remove any serious concern about that item
4 as it would then accounted for in the costing, is that
5 correct?

6 A. If cost was the problem and if
7 timing was the problem. For instance, often with
8 archaeological findings, it is important to give some
9 time to allow it to be assessed and to be removed if
10 necessary, and/or mitigated by realigning, whatever you
11 are proposing to do. Cost may not be the problem, the
12 problem might be timing or delays.

13 Q. Assuming that is taken care of
14 then, these features would then be taken care of?

15 A. I think as a general response to
16 that fairly general question, yes.

17 Q. Then we come to the cost category,
18 page 55. Now, I guess your main focus in terms of
19 bringing a professional opinion to this process was in
20 the land use category, Mr. Walker, and as the
21 coordinator you were not, for example, called upon to
22 say that a cost differential of \$3 million is
23 significant, and I think that should be taken into
24 account, or a cost differential of \$5 million is
25 significant or something of that nature. If I ask



1 what is a significant cost differential which would
2 outweigh another category, that would not be your
3 particular field?

4 A. In response to that question the
5 cost -- it would not have been my responsibility to say
6 that we can withstand \$3 million, but we cannot
7 withstand \$10 million or something of that nature. My
8 role would be to bring forward the costs and to have
9 them represented in a way that made sense and was clear
10 as the coordinator and also as the coordinator, and
11 where necessary as the planner to argue that costs
12 should be kept at the proper level of priority within
13 this process. I might lose the argument, and I would
14 suggest I would lose it if affordability was an
15 element, and it's almost a foregone conclusion that
16 anyone who argued for something that was not affordable
17 would lose the argument because the term "reasonable"
18 under the Act would have to apply, because then it
19 would not be reasonable.

20 Q. I don't want to take the Board's
21 time to go back into it, but were there one or two
22 sites in the 2C stage where there was a liner and \$20
23 million and they were excluded because of costs, or
24 affordability basically?

25 A. Well, I would have to check



1 exactly, but the issue of liners came up for sure and
2 there were relatively high costs for liners being put
3 forward. Whether the term affordability came up or
4 not, Mr. McQuaid, I don't recall.

5 Q. The cost differential was the main
6 feature?

7 A. To the extent that costs precluded
8 any site and that particular site or candidate site had
9 a liner, that could have been the contributing factor,
10 yes.

11 Q. Over at page 56 you have a
12 comparative analysis portion, Chart 6, and you
13 summarize the various rankings which we have been
14 discussing over the last period of your cross-
15 examination?

16 A. Yes, and with the one typo and did
17 you mark that in, under litter? D was two and F was
18 one. There was a typo and if you go to the chart on
19 page 52 for litter, it was 2, 1 and it was just a typo
20 here and it should have been 2 and not 1 under D.

21 Q. Well, really over at page 52 we
22 really see there really was no ranking numbers given
23 for litter specifically under dust, odour and litter,
24 they were combined and there was a 2 and a 1.

25 A. Except if you go to the memorandum



1 signed by Theakston, he made the distinction in the
2 last paragraph:

3 "... that Site 'F', which has fewer
4 houses located nearby, would be the
5 preferred site from this perspective."

6 Q. Which appendix?

7 A. G1, Appendix G1.

8 Q. Page 126:

9 "No substantial distinction can be made
10 between the two sites regarding off-site
11 litter impacts; however, the number of
12 houses located in close proximity to
13 Site 'D' would suggest that Site 'F',
14 which has fewer houses located nearby,
15 would be the preferred site from this
16 perspective."

17 A. Yes.

18 Q. The suggestion is made and you say
19 that that accounts for the fact that over at page 56
20 you put it down as 2 for D and 1 for F?

21 A. Yes, and that is not inconsistent
22 with the rationale for ranking dust, odour and litter
23 on page 52 and the fact they were both in the low
24 category but within that category, to use Dr. Kingham's
25 word, one was lower.



1 Q. Now, I want to show you -- this is
2 Chart C6 and what you see listed in the lines are the
3 adjectives which are in the brackets, and I wanted to
4 discuss with you what I guess I would characterize as a
5 qualitative comparison of these two sites based on the
6 summaries that were in the brackets?

7 A. Are we making this an exhibit?

8 MR. McQUAID: I would like to tender
9 this as the next exhibit.

10 MR. LANCASTER: Exhibit B-345.

11 --- EXHIBIT B-345: Revised Chart 6 from Ex. H-14.

12 MR. McQUAID: I have put a dash next to
13 the hydrology/hydrogeology items because there are sub-
14 headings under that and it's hard to get one adjective.
15 As we go down....

16 A. I am sorry, I am misunderstanding
17 why there is a dash there.

18 Q. Let's go back and I'll try and
19 explain it to you. If we go back to page 47.

20 A. 47?

21 Q. Traffic safety?

22 A. Yes.

23 Q. There is a low and a low. If you
24 go to land use conflict: vermin, there is a low for D
25 and a nil for F...



1 MR. LEDERER: Before we go on with this,
2 I presume what Mr. McQuaid is doing is what he did
3 yesterday, but just to ease the cross-examination and
4 these words we find of low, low, nil, those are from
5 other places in the report, but I don't understand one
6 thing and perhaps this isn't being put through a
7 witness and since Mr. Walker can't know, but could we
8 have some explanation as to what the rationale is under
9 costs and under hydrology and under hydrogeology and
10 potential impacts of engineered site development and
11 hydrology, hydrogeology, potential impacts of landfill
12 contingency implementation and why nothing is shown?

13 THE WITNESS: I just asked that
14 question.

15 MR. LEDERER: I was reading it when you
16 were talking. I apologize.

17 MR. McQUAID: Q. Effectively I hope
18 these are quotes, and you can put quotation marks
19 around these, because I will take you through them and
20 then we can go back and I can explain my difficulty
21 with respect to the others. If you go over to page --
22 the natural environment?

23 A. You have done something with that
24 which you didn't do with hydrogeology. You have got
25 -- you have taken words for biophysical and have



1 combined all the factors, all the sub-factors into one
2 low and high when in fact there is no low and high as
3 you have noted it there. It's a real aberration and
4 this table as it stands is a real aberration. If you
5 are going to do it one way, I think consistency-wise
6 you should do it that way for all of them.

7 Q. I am just trying to understand it
8 and whether it's an aberration, we can put notes on it?

9 A. Is "misleading" another good word
10 to put on the record?

11 Q. I don't know. I guess I can ask
12 you. Under the biophysical, can you help me out?

13 A. I'll gladly help if I can.

14 Q. In biophysical, and we will make a
15 note of it at the point where we are there because
16 quite correctly you point out that you have to sum up,
17 as it were, what the qualitative adjective would be?

18 A. What's the difference between that
19 and the hydrogeology?

20 Q. We are coming back to the
21 hydrogeology. Just bear with me. Now, is there
22 another adjective? If I go over to....

23 A. Well,...

24 Q. Just a moment and I'll ask you a
25 question and you can comment. Page 50, and you will



1 see you did put a ranking of 2 for biophysical and one
2 for Site D?

3 A. That is correct.

4 Q. As we go down the adjectives, we
5 go back to page 48 and we have Site D nil in the first
6 one and high in Site F?

7 A. Yes.

8 Q. We have nil and low in the next
9 one?

10 A. Yes.

11 Q. We have managed woodlots, nil and
12 nil?

13 A. Yes.

14 Q. Over at page 49 we have low for D
15 and high in the rare?

16 A. Yes.

17 Q. Nil and nil under wildlife. Nil
18 and low in the corridor for D and F respectively, and
19 wildlife, nil and nil in the species and so wildlife is
20 not really a significant addition here. Then when you
21 go over to aquatic systems, you have four nils?

22 A. Yes.

23 Q. It would seem we could rule out
24 the aquatic systems and pretty well rule out the
25 wildlife. There is a lot for F, but they are pretty



1 close to nils and in the significant ones, that is the
2 ones at the top of page 49, the rare plant species, you
3 have low and high for D and F and going back, backwards
4 to managed woodlots, that is nil and nil in both cases
5 and you have nil and low for important and nil and high
6 for uncommon vegetation respectively for Site D and
7 Site F. I guess I am really saying that if we were to
8 put an adjective and try to subsume it under one
9 adjective, wouldn't it be fair to select the highest of
10 the sub-factors, and there are highs down here and lows
11 for D and wouldn't that be a fair submission of the
12 biophysical?

13 A. I can't answer that for a second.

14 MR. LEDERER: I'm sorry ...

15 MR. McQUAID: Is there something wrong
16 with my question?

17 MR. LEDERER: I haven't said anything
18 yet, so perhaps I would be allowed the courtesy of
19 explaining my problem before he asks the Chairman
20 whether he sees there is anything wrong.

21 MR. McQUAID: I don't see why you have
22 to ask a question. It's an interruption and an
23 attempt.....

24 MR. LEDERER: May I speak?

25 MR. McQUAID: ... to try and throw



1 everything off.

2 MR. LANCASTER: Go ahead.

3 MR. LEDERER: Mr. McQuaid said this was
4 a transcription of what is found in the report, but
5 this is not a transcription.

6 MR. MCQUAID: I stand corrected.

7 MR. LEDERER: So it was worth my getting
8 up, wasn't it? The fact of the matter is this is not a
9 transcription.

10 MR. MCQUAID: Mr. Walker brought that to
11 my attention.

12 MR. LEDERER: It's a matter of some
13 importance because now we don't know whose this is.

14 MR. MCQUAID: I am taking the witness
15 through each of the lines and I will ask him to agree.

16 MR. LANCASTER: A transposition of
17 sorts.

18 MR. LEDERER: With respect, somebody has
19 placed some judgment on something and it's not Mr.
20 Walker's judgment and that's very important.

21 MR. LANCASTER: That's what we are
22 trying to get at, words have been transposed from one
23 to the other.

24 MR. MCQUAID: To be accurate, and I
25 apologize because I said a transcription and I'm sorry



1 for that, and I would like to at this point ask Mr.
2 Walker if he would agree so we have it absolutely
3 correctly for future reference, but if we look under
4 traffic safety and land use conflict, we could actually
5 put quotation marks around the low, low and the low nil
6 we see there?

7 THE WITNESS: Yes.

8 MR. McQUAID: That will show those are
9 transcriptions.

10 Q. However, as you pointed out to me,
11 and now Mr. Lederer has done again, that is not a
12 transcription in the biophysical area?

13 A. Yes, and it is totally
14 inconsistent.

15 Q. I'm sorry it's inconsistent and I
16 really apologize for that mistake and you have brought
17 it to my attention.

18 A. I didn't ask for your apologies.

19 Q. Now it has been brought to our
20 attention, I do feel that I am entitled to ask you,
21 after all, you are the person who ranked these numbers,
22 but if you are capable of ranking them in qualitative
23 adjectives, based on the summaries that were given to
24 you?

25 A. The qualitative adjectives used in



1 this and which were broken down were those of Miss
2 Hellas. The ranking we provided of 2 to 1 or 1 to 2,
3 D to F, were the ones we derived from the report she
4 gave us.

5 Q. I understand that, but you were
6 the coordinator and you were the man who prepared this
7 summary report. You may not have done it before, but
8 I am asking you if there is anything wrong with looking
9 at it from a qualitative point of view as well as the
10 2s and 1s?

11 A. She prepared the summary report
12 which is in the appendix and we provided the
13 comparative analysis test, yes.

14 Q. Would you not look at it with me
15 and are you saying you are refusing to answer the
16 questions I am putting to you? Would it not be -- if I
17 want to put it to the Board as of some assistance to
18 them later in argument, would you not bear with me and
19 attempt to answer the question?

20 A. I am not a witness who refuses to
21 answer questions if I am capable of answering them.

22 Q. Bear with me and if you can't
23 answer the question after I take you through, you can
24 say I can't answer that and that is certainly one of
25 the answers you are entitled to give. I am not trying



1 to be argumentative, but I am trying to look at it in a
2 different light. It's not funny, it's not funny to me,
3 Mr. Walker, it's quite serious to me and my client.

4 A. I'm not treating you as being
5 funny.

6 Q. You seem to be treating me as
7 being very funny?

8 A. You say you are not trying to be
9 argumentative, but when I say it's inconsistent, you
10 stop me from pursuing it, so you are in essence trying
11 to stop me from clarifying my answers. I will do what
12 I can.

13 Q. Do you best then. If you feel --
14 don't say it's inconsistent. If it's something you
15 can't do, just say it's something you can't do.

16 A. I'm not talking about being
17 inconsistent.

18 Q. I'm not trying to be inconsistent.
19 Now you understand what I'm trying to do will you just
20 bear with me and see if you can put quantitative
21 adjective on it when we come to the ranking. Could you
22 try and do that? Will you?

23 A. Yes, of course I'll try.

24 Q. Go back to the biophysical and I
25 have taken you through the sub-factors of the



1 biophysical and read them to you and would you agree
2 with me that a fair adjective to apply to the
3 biophysical for D is the low and for Site F is the
4 high?

5 A. For a second -- I can't answer for
6 a second, excuse me.

7 Q. Can I refer you to C18, Miss
8 Hellas' report?

9 A. Could I answer the first question?

10 Q. I was going to ask you to look at
11 C18 before you answered because it might be of some
12 assistance.

13 A. The answer is, sir -- all right, I
14 will go to it. What did you want me to look at?

15 Q. I note at page C18 of Miss Hellas'
16 report that she says:

17 "Considering the biological
18 characteristics of the Sites, as
19 summarized above....."

20 and on the previous page she has all those adjectives
21 we have just gone through:

22 ".... it can be seen that Site D has
23 minor and Site F has major biological
24 constraints to the development of a
25 municipal landfill site."



1 She uses the words Site D has minor and
2 Site F has major biological constraints and then goes
3 on to say that Site D is the preferred site?

4 A. Yes.

5 Q. Having looked at that, and having
6 gone through those categories and measures she has on
7 the previous page, would it not be a fair summation of
8 the biophysical to put low and high as we have done on
9 B-234?

10 A. I don't know if anybody came to
11 that conclusion, but I don't think you could do that on
12 the basis of the information that is presented to me.
13 You might say that one was nil and the other was
14 moderate or meek or moderate and I come to that
15 conclusion because if you look at both D and F, and
16 this is a simplistic way of doing it, but there is no
17 other methodology laid out for me by your chart. If
18 you take all the illustrative words, the impact
19 weightings of low, nil, et cetera, and list them down
20 under each, D and F, then you are remaining with three
21 nils under D, two highs and a low under F and the fact
22 there is a low remaining would mitigate against using
23 the term high. So I am going to something less than
24 high which is moderate and there would not be a low
25 rating for D, it would be nil.



1 Q. You are saying I should cross out
2 my typing here of nil?

3 A. And it's very subjective and it's
4 taking the ratings she gave and....

5 Q. ... putting nil in for the low.
6 What do we put in for the high? What would you put in?

7 A. I would say you would have to put
8 low to moderate.

9 Q. Moderate to high? We see a high to
10 moderate further on in the report. Tell me what you
11 would put in?

12 A. She doesn't use the range so I
13 would go to moderate and no more than moderate anyway.
14 I think that that result would not be totally
15 inconsistent with her very words on page C18 you read,
16 the first part, and if you went into the second part of
17 the paragraph:

18 "However, for Site F, in light of the
19 mitigation introduced by the reduction
20 of the areal extent of the landfill, if
21 when evaluating all aspects of the
22 'environment,' as defined in the
23 Environmental Assessment Act, Site F is
24 found acceptable as a landfill site,
25 there are no biological conditions



1 within the proposed area for landfilling
2 that would absolutely preclude the use
3 of Site F as a landfill site, since none
4 of the biological resources, although
5 very significant, are categorized as
6 endangered."

7 Q. If you did that simplistic
8 exercise, then you might come up with a nil and a
9 moderate and that would have some semblance to her
10 general conclusion.

11 Q. Another way we could go about it
12 is we could depart a little bit from the wording we
13 have been using and could put minor under D and major
14 under F. Those are her words on C18 and put quotes
15 around those?

16 A. Now we are into another level of
17 inconsistency.

18 Q. They are just adjectives. They
19 have to be analyzed, don't they, in the end result.
20 Isn't that what had to be done?

21 A. I would prefer to say -- you see
22 "minor", if you use the term "minor", that implies
23 something and in fact if you just did the simplistic
24 exercise I did, then the result is nil, which is
25 nothing.



1 Q. You would prefer to go with nil
2 rather than minor?

3 A. It's not my preference to deal
4 with this chart in this way at all, but I am just
5 trying to respond to your questions.

6 Q. Please do that and I can stand
7 here and drag you through it, but bear with me. You
8 were saying you would rather have nil there than minor?
9 I am giving you the option of if we are going to talk
10 about it qualitatively with adjectives, I am giving you
11 your choice. Would you prefer a nil there or would
12 you prefer to have her word, minor? They are
13 adjectives.

14 A. I wouldn't depart from the words
15 that were used, the ratings used.

16 Q. You would use nil?

17 A. I put it on the basis of that
18 checklist and I am suggesting that that term should be
19 there.

20 Q. Nil?

21 A. Yes.

22 Q. Nil and moderate?

23 A. Yes. That same exercise should be
24 done for hydrology as well.

25 Q. I see you are dying to do that.



1 A. I don't know what the result is,
2 but if you are presenting a table....

3 Q. I thought it would be hard for you
4 to do that, but if you want to go back and do it, it is
5 not your area of expertise?

6 A. Neither is this. Neither is
7 biophysical.

8 Q. I think you are making that very
9 clear to me that this -- you would not be able to do it
10 under adjective and would have to do it under 1's and
11 2's. But, let's go on on the agricultural here for a
12 moment, and let's see if we can put quotation marks
13 round some of these others.

14 The second priority, agricultural, and
15 have I got it right, high-moderate and low and with
16 quotes around them in both cases?

17 A. That's what it says.

18 Q. There's a bit of a typo here.

19 Page 51 and I apologize for the word medium, because we
20 should put moderate, please.

21 MR. LEITCH: Where is that?

22 MR. McQUAID: Population impacts,
23 moderate-high.

24 Q. Have I got it right that if we
25 look at page 51 in H-14, Dr. Schiff, it would appear she



1 has summarized the impacts in the adjectives just above
2 the rankings here as you gave them?

3 A. Yes.

4 Q. So we can put quotation marks
5 around moderate-high as corrected on the sheet and low-
6 moderate?

7 A. Correct.

8 Q. Community facilities, low for D
9 and high-moderate for community facilities and we see
10 that at the top of page 52.

11 A. Correct.

12 Q. Then we have respectively the six
13 lows we see for D and F under dust/odour, litter and
14 noise, correct, and they could all have quotation marks
15 around them?

16 A. Just a moment, please. Yes.

17 Q. Under visual impact, we have a
18 high in quotation marks for D and a moderate-low for F;
19 right?

20 A. Right.

21 Q. Land use compatibility is low-
22 moderate in quotation marks and low for F. We see this
23 at the bottom of page 53?

24 A. Correct.

25 Q. A typo, and we had it on another



1 sheet and I apologize for that, but under heritage
2 features, a moderate in quotation marks and strike
3 "moderate" and put nil in quotation marks for heritage
4 features under F and archaeology we see on page 54 is a
5 low and a low?

6 A. That is only one element. There
7 are three aspects of archaeology and the low, low
8 refers to one of the three, does it not?

9 Q. I thought that that low-low summed
10 the situation up, but tell me if I have read it wrong.
11 I would certainly be glad to hear from you on that?

12 A. I think it refers to what it
13 refers to.

14 Q. You are saying that that is the
15 excluded area?

16 A. That was the potential.

17 Q. I'm sorry and maybe I have taken
18 the adjectives wrong and again that was trying to put
19 it into words and shorten it for everybody. What would
20 you put the archaeological number at then?

21 A. I wouldn't.

22 Q. Or adjective as?

23 A. I used the number.

24 Q. Can you help us out?

25 A. I just used the number to rank



1 them.

2 Q. You can't give me an adjective for
3 either?

4 A. No.

5 Q. Just cross it out? You can't put
6 an adjective in for that.

7 A. One is low and one is lower, but I
8 don't want to use the term lower.

9 MR. LANCASTER: How about lower
10 approaching nil?

11 THE WITNESS: It could be. There is no
12 area that has been surveyed, so obviously there is some
13 potential in there but the potential is ranked as low
14 so if there is any distinction to be made and it was
15 made in the ranking, we ranked F as the first versus D
16 as the second. I am sorry, Mr. McQuaid, I can't give
17 you the words you are looking for.

18 MR. McQUAID: Q. Okay, I am prepared,
19 if you want, to go through the exercise and if you want
20 to try and summarize the adjective of what is a more
21 complex area, the hydrology and hydrogeology, I can try
22 and go through it with you, but I thought it would be a
23 pretty difficult exercise for both of us and given your
24 expertise, given your expertise and the complexity of
25 the hydrogeology, and we have heard a lot of evidence



1 about it in this hearing, but it really would not be
2 appropriate for you to try and summarize those into
3 adjectives. On the other hand,...

4 THE WITNESS: Well,...

5 Q. Hear me out. I would put to you
6 as a planner these other areas we are talking about,
7 particularly with the data you have been given, and in
8 most cases you will see they are direct quotes, but
9 with the exception of the biophysical and the
10 archaeological, they are all quotes, but, as a land use
11 planner, I would have thought that these areas of bio-
12 physical and archaeological were closer to your area of
13 land use and things you had to deal with in the past so
14 you could, from your experience, maybe work on the
15 adjectives for them. If I have been unfair to you,
16 tell me. If you now want to say you want to do the
17 hydrogeologic with me, that is fine. Do you want to try
18 that? I am saying let it be argued. You weren't here
19 to hear all the evidence.

20 A. I wasn't, but that didn't stop you
21 from having me go through the biophysical in a very
22 simplistic way. It seems to me....

23 Q. I am sorry if this is simplistic
24 and I'm sorry if the exercise

25 A. Don't get me wrong, I'm not in a



1 position to ask for an apology, nor would I, but I am
2 saying I had to go through a very simplistic exercise
3 to derive a rating to fill into your biophysical box
4 because there was no rating given. In essence,
5 depending upon what you intend to use Exhibit B-345
6 for, I think there is inherently a mistake by not
7 listing the hydrogeology and if nobody can combine them
8 and if you believe my expertise is not correct, and you
9 are probably right to combine all the hydrogeological
10 things, but then list them all.

11 Q. Mr. Walker, I do think that I am
12 entitled to conduct my case and put my case in as I
13 wish.

14 A. Yes, sir.

15 Q. I don't think it's your
16 responsibility to criticize if we have a partially-
17 completed exhibit and if we don't get to the full
18 adjectives until argument. Do you agree with me?

19 A. I am not in a position to disagree
20 with you.

21 MR. LEDERER: I don't agree. The witness
22 is in a position to indicate, and should indicate, if
23 he has difficulties with the exercise Mr. McQuaid is
24 taking him through. It is for the witness to point out
25 if he sees inconsistencies and it's up to the witness



1 to say if he feels the exercise may have no value, what
2 he has carried out, and it is within his rights to do
3 that. Mr. McQuaid can press on if he wants and he is
4 within his rights as well, but it is open to Mr. Walker
5 to indicate the difficulty he has with the exercise.

6 MR. LANCASTER: I think that perhaps as
7 you suggest that kind of exercise would be better left
8 to argument.

9 MR. MCQUAID: Or to other witnesses when
10 we get later into the case, but I seem to be criticized
11 for not having done it and I wanted the Board to
12 understand, and perhaps Mr. Walker to understand, that
13 I don't think it would be helpful from my perspective
14 if Mr. Walker took the time and I was not going to have
15 him do it. I am content to let the exhibit rest as it
16 is and we can deal with it later with other witnesses
17 in argument. I did feel that Mr. Walker was being
18 quite critical of it and I didn't think he needed to be
19 frankly at this point because hopefully the case will
20 fall in in argument and enough said about that as far
21 as I am concerned.

22 MR. LEDERER: To be absolutely clear,
23 when I rose at the outset to ask why those things
24 weren't there, I was not being critical but I wanted an
25 explanation because there was no witness here, but I



1 accept what Mr. McQuaid has said.

2 MR. McQUAID: I have never understood in
3 cross-examination where an opposing counsel could get
4 up and say "I don't want any questions asked until I
5 understand completely where Mr. McQuaid is going with
6 these subsequently in argument." This has been going
7 on consistently and I do think it's inappropriate.

8 MR. LEDERER: The other option is
9 simply to object to this going in because there is no
10 way of proving it as an exhibit and that would be the
11 technical proper position. So Mr. McQuaid has a
12 choice, he can either allow us to understand it because
13 there is no witness to explain it or I will argue it
14 shouldn't be admitted because it can't be proven.

15 MR. LANCASTER: I think it is time we
16 had lunch.

17 MR. LEITCH: That's my position too.

18 MR. LEDERER: Thank goodness there's
19 someone here with some wisdom.

20 MR. McQUAID: I apologize. I thought
21 it was shortening the thing to put it in in this form
22 rather than do it on a tearsheet.

23 MR. LANCASTER: That's another approach
24 and I can appreciate the approach and it's difficult
25 because it requires immediate weighting of all these



1 factors and that's the problem as far as Mr. Walker is
2 concerned. He must think of all these things
3 immediately and give a weight to them. Some of them
4 are quite simple and others are not. I'm sure
5 hydrogeology would not be simple.

6 MR. LEITCH: I have a problem with it
7 because it seems that what Mr. Walker is saying, and
8 perhaps over the lunch hour he can go through the
9 exercise he has suggested, but this is misleading the
10 way it's done and it would be less misleading if he
11 could go through the exercise with the hydrogeology.
12 If we are going to have something that is supposed to
13 assist the result in the case, to the least degree of
14 it being misleading is the best position, and if he
15 wants to go through the hydrogeology....

16 MR. MCQUAID: I'm not asking him to go
17 through it and I'm not going to go through it. I am
18 content to leave it and we can work with the rest of
19 the exhibit later on.

20 MR. LANCASTER: Mr. Walker's point has
21 been made and I don't think he needs to go through it.
22 We will adjourn until a quarter to 2:00.

23 MR. MCQUAID: Thank you, Mr. Chairman.

24 --- Luncheon Adjournment (12:20 p.m.)

25



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

2 MR. LANCASTER: Please be seated.

3 MR. McQUAID: Q. Mr. Walker, just to
4 pick up on where we were, we had gone through the
5 charts down to page 56?

6 A. Yes, sir.

7 Q. We had gone through B-345 and put
8 some adjectives attached to various categories?

9 A. Yes, sir.

10 Q. Can we leave that aside for a
11 moment? After you did Chart 6 -- after you did these
12 charts, as I would understand it, you then went back
13 and prepared the text. Maybe I have it wrong. Did
14 you do the charts and then the text or the text and
15 then the charts?

16 A. I think I did the charts and the
17 text as you originally said it.

18 Q. You did the charts?

19 A. The conclusions....

20 Q. That is what I thought, but I
21 didn't want to presume too much. You did the charts
22 and then you go back to the text we see from really
23 page 1 through to the conclusion portion on page 40.
24 I am going to go back and concentrate, if we could, on
25 pages 38, 39 and 40?



1 A. Yes, I have those.

2 Q. The reason for that is that it
3 seems to me you were required, as it were, having done
4 the charts, to sort of analyze those ones and twos and
5 those numbers and to put adjectives opposite them in
6 order to write something for the Regional Council and
7 for other people, such as at this hearing; correct?
8 That is what you were doing, you were taking the charts
9 with the ones and twos and now you will translate it
10 into a qualitative text?

11 A. Yes.

12 Q. When we look at page 38 at the
13 first category, Public Health and Safety, you did in a
14 sense have to pull together all of the public health
15 and safety comments, and the way you did that was by
16 saying:

17 "As a result of the investigations and
18 analyses subsequent to Stage 2C, Site
19 'F' is the preferred site within the
20 'Hydrology and Hydrogeology' factor,
21 although the differential between the
22 two sites is relatively small."

23 A. Yes.

24 Q. So, highlighting for a moment that
25 clause, "... although the differential between the two



1 sites is relatively small", you pulled together, and
2 would I be correct that this is your wording here?

3 A. Yes.

4 Q. These are your words we see here
5 and this isn't Mr. Sobanski?

6 A. It may be his thoughts, but they
7 are our words.

8 Q. "It may be his thoughts, but they
9 are our words." You see, when we did the charts, you
10 will recall that the ones and twos were your numbers
11 ...

12 A. Correct.

13 Q. ... of what you understood their
14 preference was. Now we are going back and putting it
15 into, as I say, a clause of English. I guess I am
16 asking you is did this clause, "relatively small," did
17 that come from Mr. Sobanski or is that what you
18 understood when you looked at these?

19 A. We understood that to be the case.

20 Q. You understood that to be the
21 case. Okay. You understood that to be the case and
22 then the wording "... although the differential between
23 the two sites is relatively small;" that is how you
24 expressed what you understood to be the case?

25 A. That is correct.



1 Q. All right. Then, continuing down
2 to Natural Environment, you make the comment in the
3 first sentence on the moderation of the agricultural
4 impact on Site D, moderated by the proposed after-use,
5 and then I guess you are picking up again from the
6 charts and the appendices where you say:

7 As a result of the Technical Studies,
8 there are still major constraints to
9 landfilling on Site 'F' from a
10 biophysical perspective...."

11 There you use the adjective "major"?

12 A. Yes.

13 Q. All right. Then, continuing, and
14 again thinking in terms of qualitative adjectives and
15 continuing in the next paragraph you say:

16 "Overall, Site 'D' may now be said to be
17 marginally preferable...."

18 and I highlight those word:

19 ".... marginally preferable for
20 landfilling to Site 'F' within this
21 category although the nature and extent
22 of this slight difference is difficult
23 to define."

24 A. Yes.

25 Q. And here you are using the



1 adjective "marginally preferable" and commenting on the
2 slight difference within the category of F over D?

3 A. Yes, sir.

4 Q. Then continuing under Social
5 Environment, you indicate first of all:

6 "Site 'D' is preferred with respect to
7 the 'Community Facilities' factor."

8 Then you continue:

9 "Site 'F' is preferred with respect to
10 the 'Population Impact', 'Land Use
11 Compatibility' and 'Visual Impact'
12 factors. It is also preferred under
13 the 'Dust', 'Odour', 'Litter' and
14 'Noise' factors, although impacts for
15 both sites under these factors are low."

16 Here you have to pull together
17 everything, all the sub-factors:

18 "Overall Site 'F' is regarded as the
19 preferred site. This degree of
20 preference is more marked than for the
21 'Public Health and Safety' and 'Natural
22 Environment' categories, mainly because
23 of the extent of population impacts on
24 Site 'D'."

25 There the qualitative assessment is more



1 marked, the differential or degree of preference than
2 there was in the above two, correct?

3 A. Yes, sir.

4 Q. Then, continuing, you go over to
5 Cultural Environment on page 39 and there the
6 qualitative words we see under Cultural Environment is:

7 "Site 'F' is clearly preferred with
8 respect to the 'Heritage Features'
9 factor (two heritage features would be
10 displaced on Site 'D'),"

11 and you go on to indicate that Site F is preferred
12 under the Cultural Environment category.

13 Then under Costs you make the note:

14 "No preference between the two sites..."

15 A. Yes, sir.

16 Q. Now, having gone through the
17 categories, as I understand it, you are still analyzing
18 so you can come down to your conclusion and you
19 continue in the summary where you say in the first
20 paragraph:

21 "It should be noted that the Stage 2C
22 evaluation was based on the information
23 that was available at that time, which
24 did not include detailed engineering
25 designs. Given this consideration, it



1 was felt that the framework developed
2 for site comparison in the Environmental
3 Assessment is generally appropriate for
4 a comparison at this more advanced level
5 of detail, subject to the refinements
6 that have been introduced."

7 Here I guess you are saying we are
8 looking at it with those detailed engineering designs
9 and more technical studies, something you commented on
10 earlier as well; correct?

11 A. Yes, you are correct insofar as
12 what you have said, but I think in here we were also
13 referring to the methodological approach to doing the
14 comparison, Mr. McQuaid.

15 Q. Okay. Then you say:
16 "There is a preference for Site 'D'
17 under one factor category - the second
18 in priority - and the degree of
19 preference is relatively small and
20 difficult to define."

21 A. Yes, sir.

22 Q. That is referring back to the
23 Natural Environment category on the previous page?

24 A. That is correct.

25 Q. "Site 'F' is preferred under the



1 first, third and fourth most important
2 categories of factors. The degree of
3 preference for the most important
4 category is small, "

5 and that is the adjective you used back on page 38:

6 ".... whereas for the remaining
7 categories, where there is preference
8 for Site 'F', the Social Environment
9 category shows the strongest
10 preference."

11 A. That is correct.

12 Q. Then you refer to the relative
13 rankings under each factor and say they are summarized
14 on Chart 6.

15 Then, going over to page 40 and here is
16 where you were sort of putting it together, as I
17 understand it, and you say:

18 "Based on the above 'pairing analysis,'
19 Site 'F' in the City of Burlington is
20 recommended as a preferred site for the
21 sanitary landfilling component of
22 Halton's solid waste management system.
23 The degree of preference between the two
24 sites is somewhat smaller than the
25 number and priority of categories in



1 which each site is preferred would
2 suggest."

3 Again you are sort of really commenting
4 on the degree of preference when you take all of the
5 categories and all these sub-factors or priorities or
6 sub-factors and priorities, is that correct?

7 A. Could you repeat that?

8 Q. You are really sort of taking it
9 down and saying the degree of preference is somewhat
10 smaller than all the various -- the number of
11 categories and the priorities would suggest and it's
12 getting narrow in a sense in your thinking?

13 A. It was narrow, and what we were
14 trying to bring to this text, bring to people's
15 attention, was that there were differences between the
16 various factors, and that was a fact, but the fact is
17 that some of them were within certain categories, there
18 were large numbers of them, and we wanted to make sure
19 that people understood that you should not read those
20 or list those numbers of sub-factors to have any more
21 weight than they contributed to the overall category
22 ranking. It was more or less a caution to it, don't
23 read too much into a great big long list but rather --
24 we had broken out the elements of the categories. It
25 was an attempt to be as fair as we could be bringing



1 that forward.

2 Q. Really, as I say, you are sort of
3 sorting it down to where you can start to give an
4 indication or conclusion to Council as to -- here we
5 see the difference between the two being commented on
6 and in the next paragraph, as I understand it, you are
7 saying:

8 "It appears that either site is viable
9 and safe as a future sanitary landfill
10 site, and that any preference would be
11 based on a matter of degree of impact,
12 rather than an overwhelming case against
13 one or the other."

14 A. That is correct, based on the
15 information we had available.

16 Q. Then I think you finished there by
17 sort of summarizing again what you had gone through in
18 the latter portion of page 39 as to the categories?

19 A. Yes.

20 Q. Just to pick up and so the Board
21 has the context of what then happened with this report,
22 this was issued or published and the date is January,
23 1987, but I think if we were to check the history, I
24 understand it was released to the public on February
25 2nd, 1987. Would that agree with your recollection or



1 your notes? I have a letter....

2 A. I don't recall, sir, but I will
3 check the chronology. Did you say February?

4 Q. That is the date the report was
5 made available to the public. I think that's the date
6 the City of Burlington, for example, was able to get
7 it?

8 A. This would be '86.

9 Q. 1987. January, 1987.

10 A. I have a note that on February 10,
11 1987, there was a meeting of the SWM Committee to deal
12 with that.

13 Q. I will get to that in a moment,
14 but I show you a note and I don't think it is a matter
15 of any great issue or argument, but you will see that
16 is a letter from the Regional Municipality indicating
17 that the report would be made available to everyone on
18 February 2nd, 1987 and then I think it refers on the
19 next page to the meeting you were indicating that
20 occurred on February 10, 1987?

21 A. Yes.

22 Q. Is that correct?

23 A. Yes.

24 MR. McQUAID: Perhaps we could file
25 that.



1 MR. LANCASTER: B-346.

2 --- EXHIBIT NO.B-346: Letter dated February 10,
3 1987 from the Regional
4 Municipality of Halton.

5 MR. McQUAID: Q. So, that report was
6 then released and the purpose, as I would ask you to
7 confirm for me, was that there was a meeting coming up
8 on February 10, 1987 and you referred to the SWM
9 Committee but you will have to explain to the Board,
10 and I don't know if we have had that acronym defined or
11 not?

12 A. The initials stand for the Solid
13 Waste Management Committee.

14 Q. Of the Region?

15 A. That is correct, yes.

16 Q. That was a public meeting, the
17 purpose of which was for you to explain to that
18 committee of Regional Council that report; is that
19 correct?

20 A. Yes. It was a meeting actually
21 held in the Council Chambers and the SWM Committee did
22 not always meet in there, but since they were expecting
23 a large crowd, it was held there.

24 Q. As I recall that meeting, it was
25 an explanatory meeting and you reviewed the report,
answered questions from the councillors, but there were



1 no questions from the public allowed, it was really
2 just to explain the report and to get it in front of
3 the Regional Council Committee, is that correct?

4 A. No. On that evening there was
5 representation from some members of the public anyway.

6 Q. There was a public meeting,
7 another meeting, as I recall, a joint meeting on
8 February 25, 1987, a joint meeting of the Regional
9 Solid Waste Management Committee and the Planning and
10 Public Works Committee, at which you again, I think,
11 made a presentation but there were public
12 representations made that night as well or made on that
13 night and I am not sure you were there the first night?

14 A. What was the date?

15 Q. February 25.

16 A. I don't think I was there. Was
17 that the meeting at which you attended?

18 Q. Yes.

19 A. I wasn't there. If I'm not
20 mistaken, I think it was a Council meeting, but I could
21 be wrong. I made a presentation on the 10th of
22 February and in fact Mr. Chumley from Ms. Vigod's
23 client group and Mr. Stevens from the Conservation
24 Authority, Mr. Ward, a Burlington resident -- no, not a
25 councillor, but they did make representations.



1 Q. They made representations.

2 A. I guess we both -- I don't know if
3 it was representations, but they certainly spoke.

4 Q. They spoke? Not much turns on
5 the question or not, but at this point, the first
6 meeting was really, and I would ask you to confirm it,
7 it was to ask you to explain your report to the
8 Committee on February 10?

9 A. And the public was invited to it
10 as you have indicated.

11 Q. Now, during the course of that
12 meeting, the councillors were called upon to go through
13 the sections, the whole report, the charts and they had
14 the whole report and you were being asked to summarize
15 that particular report and really to indicate....

16 A. I was asked to make a presentation
17 and to answer their questions and I don't know if that
18 would be classed as a summary. I guess a presentation
19 is really a summary.

20 Q. You didn't stand up and read the
21 whole forty pages?

22 A. I'd still be there because I'm a
23 slow reader.

24 DR. KINGHAM: You told us what SWM is
25 and we see it's the Solid Waste Management Committee



1 but what kind of people are on the committee?

2 THE WITNESS: Councillors.

3 DR. KINGHAM: All councillors?

4 THE WITNESS: A sub-committee of the
5 Planning Department and they are all Regional
6 Councillors.

7 MR. MCQUAID: Q. From the four regional
8 municipalities?

9 A. The SWM Committee members were
10 representing all four member municipalities.

11 DR. KINGHAM: If it's not too much off
12 track, what is it's responsibility vis-a-vis you in
13 this whole process?

14 THE WITNESS: They were the committee we
15 reported directly to. If they decided we should report
16 to other people, then we did report at other committee
17 levels, if you will, but the staff member who was
18 responsible for us was the Commissioner of Planning and
19 Development, Mr. Mohammed, and that is the committee
20 that he was responsible to and so when we made reports,
21 unless there were very unusual circumstances, we made
22 our reports first to the Solid Waste Management
23 Committee and they could decide if they wanted to
24 combine with a larger committee.

25 DR. KINGHAM: I may want to explore that



1 later on.

2 MR. McQUAID: Q. Am I correct that at
3 the end of the process I have notes there was a public
4 meeting, a joint meeting of the SWM Committee and the
5 Planning and Public works Committee on February 25,
6 1987, but I don't think you were in attendance at the
7 meeting?

8 A. No, and my notes say that the
9 meeting on the 10th of February was in fact the
10 Planning and Public Works Committee and I think
11 Councillor McLaughlin chaired it. I could be wrong on
12 that, but that's what my notes say. You have the
13 notice, so that may be a better way of clarifying it as
14 I'm not trying to mislead anyone.

15 Q. We can pick that up as I think the
16 notice there indicates it was the SWM Committee, but we
17 can pick up that if necessary. Would I be correct in
18 saying that that was really the last occasion you
19 attended at a committee or council of the Region. In
20 other words, the night you explained the report?

21 A. Yes. My recollection is that it
22 is.

23 Q. Would you also confirm that the
24 Council, or at least one of the councillors on that
25 committee was asking you to explain this difference of



1 the small difference between F and D in terms of
2 preference. I think it had been referred to in a
3 committee or summary report as being a marginal
4 difference or marginal preference. Is that correct?

5 A. Yes.

6 Q. They were asking you, and one of
7 the councillors, Councillor Mulkewich, as I recall,
8 asked you by reference to a metaphor of a horse race,
9 whether F was ahead by a nose?

10 A. Yes.

11 Q. He asked you that and do you
12 remember your answer?

13 A. Yes.

14 Q. Can you tell me what you answered
15 him?

16 A. I said they weren't closer
17 together in our opinion and, although these terms were
18 imprecise, if Site F was a neck ahead before, it was
19 now just a nose ahead.

20 Q. That was the last attendance you
21 attended and then there were subsequent meetings?

22 A. That may have done it actually.

23 DR. KINGHAM: That was February 10?

24 THE WITNESS: It was.

25 MR. McQUAID: That was February 10. We



1 can get the minutes of the meetings in between, but I
2 just wanted to pick up for the record and file with the
3 Board the meeting of March 4, 1987 when the Regional
4 Council dealt with this particular report and I am
5 filing a copy of a certified -- a certified copy of the
6 minutes of that special meeting.

7 MR. LANCASTER: Exhibit B-347.

8 --- EXHIBIT NO.B-347: Certified copy of minutes
9 of special meeting dated
March 4, 1987.

10 MR. McQUAID: While I'm here I will hand
11 out the actual certified resolution or a copy of the
12 certified resolution as approved by Council.

13 THE WITNESS: Who would have taken
14 these minutes?

15 MR. McQUAID: The regional secretary, I
16 guess.

17 MR. LANCASTER: The resolution will be
18 B-348.

19 --- EXHIBIT NO.B-348: Certified Resolution.

20 THE WITNESS: Mr. McQuaid, could I make
21 one point. The term "marginally preferred;" I don't
22 think that was mine or not my text. It's in the
23 minutes...

24 MR. McQUAID: Q. If you didn't hear me
25 correctly, I think it was the staff report or a staff



1 comment which had summarized it in that fashion.

2 A. Sorry.

3 Q. Just to pick up in terms of what
4 Regional Council did with this, if you look over at
5 page B-347, we will see item 6, "Approval and Adoption
6 of the Comparative Analysis Study: Proposed Site F in
7 Burlington and Proposed Site D in Milton" and there is
8 reference here

9 A. What page?

10 Q. The fourth page. The fourth page
11 and you see a report of the Committee of the Whole?

12 A. Oh yes, thank you.

13 Q. Council resolved into Committee of
14 the Whole at 8:15 and then you see in the first
15 paragraph where the yeas and nays appear:

16 "Councillor Savoline requested a
17 recorded vote be taken on Item 6.1 and
18 the results are as follows:"

19 If you look over at the next page, the
20 last page of B-347, I want you to assume that 6.1
21 refers to the first paragraph on the last page and this
22 is approving and adopting the report, your report:

23 "... save and except for the conclusion
24 of the consultant contained therein with
25 respect to a preferred site."



1 So they were dealing that, save and
2 except for that particular component of it. You will
3 see there were eleven yeas and eleven nays:

4 "As a result of a tie vote, Regional
5 Chairman Pomeroy voted in the
6 affirmative."

7 It was certainly a horse race to that
8 respect, as a matter of speaking:

9 "Councillor Savoline requested a
10 recorded vote be taken on Item No.
11 6.2...."

12 and looking at 6.2 and on 6.2:

13 "That the Regional Municipality of
14 Halton recommends that both Site D and
15 Site F are viable and safe as future
16 sanitary landfill sites."

17 And again an eleven to eleven vote and the tie was cast
18 by the regional chairman. Then it goes on to say:

19 "As a result of the recorded vote,
20 C.O.A. Report No. 44/87 re: Approval and
21 Adoption of the Comparative Analysis
22 Study: Proposed Site F in Burlington and
23 Proposed Site D in Milton was CARRIED."

24 A. Yes, I see that.

25 Q. Do you see that?



1 A. Yes.

2 Q. I think if we look at B-248, that
3 is a certified copy of I guess the end result now. I
4 said the third paragraph on the last page, 6.1, and yet
5 B-348 does not seem to have that concluding wording.

6 A. Isn't it B-348?

7 Q. B-348, sorry. I think we had
8 better get the CAO Report 44/87. We had better be sure
9 of what it is.

10 A. Certainly there is a difference
11 between 348 and 347.

12 Q. I think I have made an assumption
13 that that is the last page of the report and that is
14 not correct. Have you a copy of the CAO 44/87 report?

15 A. I may have, but if you can give me
16 one.

17 Q. I don't think this last page is
18 6.1. I am sorry. I have jumped to the conclusion
19 that the last page, subparagraphs 1, 2 and 3 were 6.1
20 and that doesn't appear to be correct when you look at
21 B-348 because the two paragraphs are not identical to
22 that last page. I will file the executive report
23 referred to and that has the actual 6.1 on it.

24 DR. KINGHAM: Was the marginally
25 preferred language that you took exception to before



1 the language you find in the second paragraph of 348?
2 Is that what you are concerned about?

3 THE WITNESS: And when you see the CAO
4 report you will see that that is the wording used in
5 that report.

6 MR. MCQUAID: I will ask Mr. Ramsay to
7 photostat this for us right away, but if you could mark
8 the original and release it to me, I'll get copies of
9 it right away. I guess it would be B-349 and you will
10 see the wording there of the paragraphs are the same on
11 B-348 and hopefully that has 6.1.

12 MR. LANCASTER: Yes. That will be B-349.

13 --- EXHIBIT NO.B-349: CAO Report 44/87.

14 DR. KINGHAM: While they are discussing
15 that, you can expound on the difference between a neck
16 and a nose and photofinish and marginal.

17 THE WITNESS: My comment about neck and
18 nose is about the extent of my knowledge of horse
19 racing, but physiologically, if the horse is -- if you
20 have won by a neck, you have won by a lot longer than
21 if you win by a nose.

22 DR. KINGHAM: Marginally is in between.

23 THE WITNESS: Marginally is somebody's
24 interpretation of the difference between the two sites.
25 The author of the original question has just walked



1 through the door, so I am sure he will appreciate the
2 fact that this is the question you are posing at this
3 point in time, but although the question was of a
4 serious nature there was some jocularly involved with
5 it. As I said, the question was serious in terms of
6 probing for the extent, but his use of the analogy was
7 seen to be at least marginally humorous in terms of my
8 response. I thought it was anyway, Councillor
9 Mulkewich.

10 MR. McQUAID: Q. Would I be correct
11 that you have not changed your views strongly since
12 that particular meeting, and coming down to giving
13 evidence at this particular proceeding?

14 A. No, I have not been asked to do
15 any more work and my recommendation was based upon the
16 very extensive amount of work that had been done, and I
17 wouldn't change my opinion based on that level of
18 information. I wouldn't change the recommendation at
19 that time.

20 Q. The reason I asked that, and I'm
21 not saying this to be argumentative as we have all had
22 a bit of lunch -- a good lunch and so on, but before
23 the luncheon break and when we had been talking about
24 B-345 and the qualitative -- taking the clauses or the
25 adjectives from the clauses and putting them down as



1 opposed to using the one and two, the reason, and the
2 way I was putting that forward was I knew that you had
3 to go through the thought process of taking the ones
4 and twos and putting them into English as we have been
5 reading on page 38, 39 and 40 and summarizing, so that
6 people can understand it in ready fashion without going
7 down all the sub-categories and priorities and so on.
8 I was concerned as I sat here yesterday when Ms. Cronk
9 was asking you questions when she concluded by asking
10 you that there was no doubt that clearly strongly there
11 was a preference for F and that maybe you had changed
12 your views. She also put to you wasn't it black and
13 white that F is ahead of D.

14 A. It was the skunk at the garden
15 party analogy. However, it's the same colours.

16 Q. I wanted to know in a sense
17 whether there was an inconsistency in your evidence,
18 really, because as I read these adjectives, I can see
19 they are very close and as you go down the adjectives,
20 and thinking of the hydrogeology as you have summarized
21 it here, the differential between the two sites is
22 relatively small and bearing in mind the costs and
23 where it is in the priority and that the costs were
24 close and very much the same back then, and as you go
25 through the comparative analysis with the adjectives



1 in, the adjectives do appear to make the sites very
2 close. Yet, when you have a one and a two, they may
3 not recognize, as Dr. Kingham has put it, that there
4 may be a low and lower and there may be a 1.3 and a one
5 involved?

6 A. I think the numbers do reflect
7 better than the words if there is a low and lower and
8 that is why in two cases at least, the numbered ranking
9 was different than the words, but by and large you are
10 saying -- I understand what you are saying and I don't
11 disagree with it.

12 Q. But I really want to be sure when
13 we leave here that there is not an inconsistency. You
14 at one point had indicated that in this text here as we
15 have just analyzed it, that they were close and it was
16 taken as we see in the resolution as a marginal
17 preference for F and you answered Councillor Mulkewich
18 that it was by a nose in a horse race. Yet as you were
19 answering questions of Ms. Cronk yesterday, it seemed
20 more black and white and I wanted to know whether we
21 should take it that it is a black and white situation
22 or is it in your view that it is a small difference, a
23 small preference in favour of it?

24 A. I think I understand your
25 question. Part of it I think -- you have to put



1 yourself back to the time when she was asking the
2 question and Ms. Cronk, from what I heard, and it was
3 on the basis of the framework in which I responded, but
4 she was saying you as a land use planner looking at
5 this and she went through a number of different things
6 in Ms. Cronk's inimitable style, which was rapid fire,
7 bang, bang, bang, and she said in the planning context
8 and she said a planning context, a series of
9 circumstances, and then asked for my opinion and she
10 may have expected a different answer, but I believe my
11 opinion was as a land use planner, and if I wasn't
12 backed up by a lot of detailed analysis from
13 specialists in their own fields and then my opinion as
14 a land use planner may have been a wider gap. I went
15 through some of those specific things she asked me at
16 the time, but having had behind me a number of
17 consultants providing detailed information of a very
18 specialized nature, the planning opinion to be drawn at
19 the end of that was one which essentially is in the 2C
20 and comparative analysis reports, Mr. McQuaid, and so
21 the differences based on that data, the differences in
22 my opinion as a land use planner were narrower and as
23 narrow as I have indicated when you take the term
24 marginal, which is not mine, or the nose, which is
25 mine, or whatever other words you can find in our



1 report, but based on that information at the time of
2 the comparative analysis, that was and essentially
3 still is my opinion. You see, there is a distinction
4 which I hoped in my answer to her I drew. She was
5 leading me through a series of events and circumstance
6 and said what is your opinion as a land use planner of
7 that and in the context of one of the questions you
8 asked me about visual. I have been out and seen these
9 sites and, from a visual standpoint, I think there is
10 quite a difference between the two from a visual
11 standpoint, in my opinion, but when you bring a visual
12 specialist in and he gives his idea of what the
13 differences are, then I think I am ethically bound, as
14 long as I understand what he has done, he has given his
15 professional opinion and I am ethically bound to accept
16 that opinion.

17 DR. KINGHAM: I would like to make sure
18 I understand. You are saying that based on the experts'
19 opinions, the sites would be closer together?

20 THE WITNESS: The accumulation of the
21 expert opinion draws the differences closer together
22 and the differences between the two sites is less on
23 the basis of the number of expert opinions that have
24 been rendered in the specialist fields. Those are
25 elements which to varying degrees a land use planner



1 could be expected to report on if there is no
2 specialist, that he could be expected to have an
3 opinion on. It goes right back, Dr. Kingham, to one of
4 the earlier parts of my evidence in chief, saying, I
5 think in cross-examination, Mr. Leitch probed over two
6 days or overnight you might say, as a result of having
7 asked the question and not totally having got the
8 answer he expected or not having clarified the answer,
9 he asked it again and the distinction is as a land use
10 planner. There are a number of them in the room, but
11 if you were hired to look at something and say you have
12 no experts, I want your opinion on it, then you would
13 give your opinion based on your experience and your
14 knowledge. If, however, you are brought in and you
15 are asked to give your opinion, but you are given in
16 addition a number of expert reports on various
17 components of that, as long as those components can be
18 brought together and they are not sort of flying all in
19 different directions and doing different things and
20 studying different areas at different times of the year
21 and different planning periods and this sort of thing,
22 but as long as they are consistent in the way they
23 approach the study, then the land use planner, and I
24 used the word constrained at one point in time, but he
25 definitely or she definitely is then reliant upon those



1 experts for those particular elements. Unless from
2 your own experience you think there is something wrong
3 with those opinions, in my opinion you are bound to
4 give him the credibility which you start off when they
5 are your team and you accept them as credible experts
6 and you have to give them the credibility at the end.
7 You can't fly off and take your own opinion or make
8 your own conclusions based on just your general
9 knowledge. You must have reliance on their
10 information.

11 Q. Can I take it in a sense you are
12 summarizing -- that view is somewhat summarized when
13 you look at the second paragraph on page 40 and when
14 you pulled everything together and applied your
15 judgment to it, it wasn't just a case of counting up
16 ones and twos, the scores, and saying there are more
17 ones or twos, you pulled everything together and you
18 had concluded:

19 "The degree of preference between the
20 two sites is somewhat smaller than the
21 number and priority of categories in
22 which each site is preferred would
23 suggest."

24 A. That was my opinion based on the
25 information that I had, yes.



1 Q. All right. Now, I think we have
2 the snapshot clear as to what your position is as of
3 now with all the study that has gone on and the up-to-
4 date questions and so on that have been put to you.
5 What I wanted to discuss with you was one or two
6 factors and what consideration you gave to them, what
7 consideration they may have currently in your thinking.

8 The first one I wanted to discuss with
9 you was the mineral aggregate resource policy filed as
10 Exhibit H-305?

11 A. Yes, sir.

12 Q. I think it was in Stage 2B that
13 there was some reference made to that as being
14 aggregate mineral resource or aggregate resource as
15 being something that was going to be examined, but I
16 think if we look through the material 2C and we look in
17 H-14, the mineral aggregate resource policy and the
18 fact there is a licensed quarry on Site F and so on,
19 really doesn't seem to be discussed in any detail. Am I
20 correct in that?

21 A. Well, I don't know whether it is
22 appropriate to say it wasn't discussed. Throughout the
23 process the Ministry of Natural Resources, who are in
24 charge of MARP, as it is called now, but they have
25 always been in charge of looking after the mineral



1 aggregate guidelines used by the government and before
2 that by the Ministry, but they have always responded to
3 the various levels of the process, whether it be the
4 evaluation factors, the work programs or the reports,
5 they have been very consistent, and I think a couple of
6 times they didn't and a couple of times they were late
7 in bringing in their responses. They have, except on
8 one occasion, I think in March of 1986, they have not
9 referred to the policies -- I could be wrong, but I am
10 almost certain they haven't referred to the policy per
11 se, Mr. McQuaid, but they have brought it to the
12 attention of the consulting team and the public and
13 Council the sort of specifics they are interested in, a
14 consideration of the resource, the consideration of the
15 value of mineral aggregates in the total picture,
16 local, provincial and regional, so the actual policy
17 has not been as a rule brought forward and I think in
18 terms of the environmental assessment, it was never
19 mentioned. It was mentioned in response to the
20 proposed regional plan amendments and in that process
21 the Ministry referred to the MARP, which by then had
22 been approved.

23 Q. I was going to ask you to confirm
24 as well, if we look in the Regional OP, H-87 at page
25 79?



1 A. I have it.

2 Q. We see the actual policies of the
3 Region. I don't know whether these are approved or
4 referred?

5 A. I think they were referred.

6 Q. Are they referred? However, they
7 are reflective of the fact that the Council's policy is
8 to recognize mineral resources as major regional
9 concern and we see the support, encouragement,
10 monitoring and so on which is proposed should be
11 undertaken.

12 A. Yes.

13 Q. That is confirmatory and
14 reflective, as I understand it, of that MARP policy
15 which we filed as H-305?

16 A. I think basically the regional
17 plan says it a little different way, but it goes to the
18 same thrust.

19 Q. The same object?

20 A. Yes.

21 Q. Would you agree that MARP would
22 require municipalities to recognize and protect both
23 licensed, I guess, and unlicensed, but particularly
24 licensed resources?

25 A. Yes. I'm trying to find the exact



1 words. I am in the exhibit, which I don't have
2 numbered.

3 Q. 305.

4 A. 305. The words on page 3 are
5 Section 2.1:

6 "In official plans to identify and
7 protect legally-existing pits and
8 quarries from incompatible land uses."
9 and the definition of legally-existing pits and
10 quarries would include the licensed and the unlicensed,
11 Mr. McQuaid, so your hypothesis is right.

12 Q. Would you confirm for me that one
13 of the reasons that particularly you would try and
14 recognize and protect licensed resources is because it
15 is difficult to get licences?

16 A. Yes, it is.

17 Q. Right?

18 A. Yes.

19 Q. And so the Ministry....

20 A. It's even harder in the Region
21 because they don't even recognize all the licensed
22 areas.

23 Q. I didn't know that. I know there
24 is a map here, and if we look at page -- the page
25 immediately behind page 80.



1 A. Map 4?

2 Q. Map 4. This is a map where they
3 actually identify the extractive area in the dark
4 orange or brown, the ochre colour and the protection
5 area with the lighter colouring?

6 A. Yes. Could I say something?

7 Q. Sure.

8 A. This is an example where you have
9 to be careful where you read the terms in the plan, you
10 have to read it in the context of the Official Plan
11 because, as I said, they did not recognize all the
12 licensed pits, so, in generic terms, there would be
13 other potential extractive areas that have licences and
14 they don't show on the map. I think if you look at
15 some of the referrals, you'd probably find them.

16 Q. Could you point to, in the policy,
17 what it is that the Region is proposing will happen on
18 the dark ochre areas or the darker areas, the
19 extractive areas?

20 A. That is the areas where they would
21 recognize that extraction should take place without
22 further amendment to this Official Plan and subject to
23 the various licences the Ministry of Natural Resources
24 would issue and be responsible for issuing and
25 renewing, et cetera. The lighter colour are lands which



1 are identified as a resource area, or
2 there is some possibility of there being a resource in
3 there, but it would require an Official Plan Amendment
4 in order to undertake extraction. That's a pretty
5 general statement, but I could actually find a clause
6 to support it.

7 Q. I was going to ask you to do that
8 and I think we get some direction from page 83, C4g and
9 the policy says:

10 "Identify, within Mineral Resources
11 Protection Areas, as Mineral Resource
12 Extractive Areas, any lands covered by
13 Pit and Quarry licences in effect as of
14 September 1, 1978, except as otherwise
15 limited by Milton Bylaw 58-76, as it
16 then existed."

17 A. Yes.

18 Q. Do I understand, and this may be
19 presumptuous, but do I understand that the dark areas
20 would be the areas that fall under C4g as far as you
21 know?

22 A. Just let me check something. I am
23 sorry.

24 Q. I am saying does it appear then
25 that Map 4, insofar as these dark extractive areas are



1 identified, are the ones that seem to fall within C4g?

2 A. Yes.

3 Q. Then C4h says:

4 "Restrict extractive operations to lands
5 identified as Mineral Resource
6 Extractive Areas. New pits and quarries
7 and extensions to existing pits and
8 quarries into areas not herein
9 identified as Mineral Resource
10 Extractive Areas will require amendment
11 to the Official Plan."

12 A. Yes.

13 Q. That is indicative of what, I
14 guess, we were just talking about, that there is some
15 difficulty getting into areas beyond what is designated
16 or licensed?

17 A. You certainly have to go through
18 the process and I think the difficulty or the attitude
19 of the Region in terms of being difficult is under C4j:

20 "Review, with the Province, Area
21 Municipalities, Conservation Authority
22 and appropriate aggregate owners, lands
23 covered by a licence currently approved
24 by the Minister of Natural Resources,
25 but not identified as Mineral Resource



1 | Extractive Area."

2 And that is the point I made where there are actual
3 licences floating around that aren't recognised.

4 Q. Can you summarize for us what you
5 understand the MNR concerns or objectives are in this
6 particular hearing or during the process that have been
7 expressed to you?

8 A. I was here for the opening
9 statements and I believe that they are concerned as to
10 the volume of resource which is currently on Site F and
11 whether or not the extractability of that resource has
12 been appropriately covered. This is really a
13 generalization, Mr. McQuaid, as I wasn't here to hear
14 any cross-examination of witnesses from MNR, nor have I
15 read any cross-examination.

16 Q. All right. Was this an issue that
17 you considered during the course of doing your work?

18 A. Yes, and I think in the same way
19 -- it certainly was being brought to our attention on a
20 regular basis every time the Ministry of Natural
21 Resources was given an opportunity to respond. I
22 believe from the time we started considering the
23 possibility of using pits and quarries, the matter of
24 whether or not there was resource that would have to be
25 removed was being considered and in the same way,



1 however, that the actual policy of the agricultural
2 Food Land Guidelines was not brought to bear until late
3 in the process and so the sister document, and they
4 were equivalent at the time, -- before the policy in
5 Exhibit 305 was enacted under the Planning Act,
6 Section 3, there was a sister policy adopted I guess in
7 1982 by Cabinet that was very much akin to the Food
8 Land Guidelines and it had relatively the same status.
9 That sort of policy was brought to bear later in the
10 process and for the same reason that the agricultural
11 Food Land Guidelines were. In our opinion, bringing
12 the policies, whether it be provincial or whether it be
13 regional or whether it be municipal to bear on sites
14 until such time as the technical analysis had been done
15 could lead to any one of a number of different sites,
16 depending upon whether they were subject to certain
17 policies.

18 DR. KINGHAM: Could I ask for
19 clarification? You said sister policies and you meant
20 Mineral Aggregate Resource policies and agricultural
21 policies ...

22 THE WITNESS: They both had the same
23 status, they were both Cabinet approved at the time our
24 work was ongoing. There has been no equivalent policy
25 under Section 3 for Food Land enacted to date. There is



1 a draft, as it has been referred to, but it has not
2 been enacted.

3 But, for the purposes of policy, for
4 instance the Ontario Municipal Board would be
5 considering as a general rule, they would have had
6 enough clout, if you will, or enough substance to be
7 considered on the surface at least as policy, even
8 though they were guidelines. I think the Chairman has
9 alluded to some problems that the Ontario Municipal
10 Board had on various occasions with differing members
11 taking different approaches as to whether they were a
12 guideline or a provincial policy. It was a difficult
13 situation, but in the planning profession we would
14 consider them as close to provincial policy as we had
15 at that time for those two separate matters. I don't
16 know even if I got into the question, Mr. McQuaid, and
17 I would gladly take another run at it.

18 Q. I asked you to summarize for us
19 and then I asked you what attention or consideration
20 you had been giving to it during the times the
21 reports....

22 A. I probably didn't complete that.
23 Now, from 2A on, we were considering that the pits and
24 quarries might be one of the ways of handling solid
25 waste in the Region of Halton. From 2A on, certainly we



1 were conscious in generic terms, that depending upon
2 the circumstances there may be resource in the pit and
3 quarry area. We did not map the resource area of the
4 Region and use that as a screening technique. It
5 wasn't until late in the process that the actual policy
6 element was brought in, but, for instance, we were
7 being informed throughout the process by MNR of their
8 concerns and also of their information on the
9 geological formations, the geological materials in the
10 various pits and quarries.

11 Q. I am going to backtrack for a
12 moment and trace this through because I think it is
13 important for the Board generally as well as on this
14 specific issue. I am going to ask you to look at H-10
15 your final report, Phase 2, Stage 2A?

16 A. Just give me a minute. I have it.

17 Q. H-10.

18 A. Yes.

19 Q. There is a map, Figure 2, opposite
20 page 86?

21 A. Yes.

22 Q. If we look at -- looking at the
23 legend, particularly the lines which are drawn around
24 the urban areas or urban settlements, would you confirm
25 that what you were doing at this point is you were



1 trying to determine what the compatibility was -- as we
2 can see at the top of page 86 -- within certain urban
3 or cluster or hamlet area?

4 A. Yes.

5 Q. Correct?

6 A. Yes.

7 Q. You were rating them and looking
8 at them. As I look at the settlement areas or the
9 built-up areas in the Region of Halton, once you drew
10 those lines, and, as a matter of interest, Site F is
11 within 1.6 of the designated area, just north of
12 Hamilton Harbour?

13 A. Yes.

14 Q. Is that right?

15 A. You can pick it up and see King
16 Road snaking its way up.

17 Q. Then we see the line sort of goes
18 up north of what was proposed 403 and then you see
19 circles around various other clusters that you were
20 looking at in terms of trying to rate their
21 compatibility?

22 A. Yes.

23 Q. Bearing in mind what you were
24 looking for, the location of the landfill site at that
25 site, at this particular point, you were in many



1 respects, were you not, going to be looking probably in
2 an area where you had to give consideration either to
3 the Food Land agricultural policies or these MARP
4 policies we were just talking about?

5 A. Yes.

6 Q. You were trying to avoid the
7 built-up urban areas?

8 A. Yes. I don't know, but this map
9 is relating to the built-up or the planned urban areas
10 and I am not disagreeing, but I just don't see the
11 direction, but I am sure I will.

12 Q. I wanted to bring that map to your
13 attention. Now, when I go into 2B, which is H-53?

14 A. The Consolidation Report? No,
15 it's not.

16 Q. I'm skipping. It's H-58, I'm
17 sorry.

18 A. What is the title?

19 Q. Final Evaluation Factors,
20 Selection of Candidate Sites, Stage 2B?

21 A. Yes.

22 Q. Page 12. H-58, page 12. So we
23 have the context, we were looking here in this report
24 at various goals or objectives under evaluation factors
25 you were going to take into account?



1 A. Yes.

2 Q. At page 12, the objective B.3, you
3 were going to try to avoid areas with high potential
4 for natural resources?

5 A. Yes.

6 Q. And B.3, a sub-factor for
7 evaluation has the heading Mineral Resources -
8 Extractible Resources:

9 "Lots of areas with granular
10 bedrock construction material resulting
11 in high or low impact rating, depending
12 upon the extent to which the resources
13 have already been depleted and/or the
14 quality of the resource?"

15 A. Yes.

16 Q. Certainly that was an objective
17 factor you were looking at when you started out on your
18 search?

19 A. An objective of course is
20 something you strive to do.

21 Q. Now, just to pick up in the
22 current documentation, I don't really see any
23 discussion in H-14 of this planning consideration, nor
24 I don't think when we look in 2C there is really any
25 discussion of it either. I wanted to ask you as a



1 planner why that was and what your views are on what
2 consideration you did give to MARP?

3 A. During the 2B process -- H-14 is
4 that 2C?

5 Q. The green book or your comparative
6 analysis.

7 A. Oh, the green book. 2B a lot of
8 the screening that took place knocked out the bulk of
9 the areas in which the resources had been identified
10 and the investigation of the pits and quarries at 2B
11 went further to identify resources in the pits that
12 were being looked at, the seven. There wasn't a
13 screening in terms of identifying the resource areas on
14 a map, if that is what you are alluding to, but in
15 terms of the regional plan, we were aware of the
16 resources in the areas that were falling out of the
17 process and being retained within the process by the
18 screening process itself. In other words, P&Q1,
19 which ultimately was Site F, we were aware of the
20 nature of the geological resources there and MNR told
21 us about at the time, and they were also telling us
22 that the geological resources in the other pits and
23 quarries being considered at that time as well. I
24 think if you check the responses to each of those
25 documents, you will see MNR was quite consistent in



1 bringing it forward and I think, and I hope and I
2 certainly believe, that we were responding to that. We
3 were reluctant and this was my choice and my decision,
4 but we were reluctant to bring to bear policy
5 considerations, and I mean by that the formalized
6 policies, either provincial or regional or municipal,
7 at those levels, to any real detail until we had come
8 up with some candidate sites which, from a number of
9 factors that were being addressed, were potentially
10 acceptable, and this goes right back to the very
11 beginning, to the beginning before we were even
12 involved, because there had been a process that had
13 gone on in the Region before, and there was one site
14 which had gone far further than any other site within
15 the Region and, according to our process, it was
16 designated in the Official Plan of Milton and in the
17 zoning bylaw of Milton through what we considered an
18 improper process. Therefore, to bring it forward and
19 say in order to consider that we would have to make a
20 factor of ease of approval policy and regulatory-wise,
21 or ease of existing sites, and we would have to
22 describe in some way a factor which would allow us to
23 consider that. If we did that, it would be an
24 automatic magnet right to that site because it was the
25 only one in the area.



1 In addition to that, there had a been a
2 private proposal put forward to a slightly more limited
3 degree by the National Sewer Pipe people in, I think,
4 1982, or I think it was around there anyway, and in
5 order to consider that level of detail, we would have
6 had to describe a factor that would be comparable
7 across the Region or within the candidate sub-areas to
8 say willingness of owner to accommodate landfill, or
9 availability of land for landfill from owner's
10 standpoint, or readily available or something like that
11 and that in the same way would have drawn it as an
12 automatic magnet right to NSP. That's a roundabout
13 way of answering your question, but I'm trying to get
14 to it.

15 Q. I am not sure you have really
16 understood it or answered it, but let me be more
17 specific. You indicated to us that you that you were
18 responding and MNR were continuing to make their views
19 known and you said you hoped you were responding to it.
20 However, would you confirm for me that when we look at
21 H-14 there is really no discussion that I can see there
22 of the issue of MARP consideration at all?

23 A. I just have to remember where I
24 put it Here it is. MARP per se you are right, but
25 also there is no discussion in here of the policy



1 implications of the Food Land Guidelines as well, nor
2 is there an indication in here of the Official Plan
3 policy conformity from Milton and/or Burlington and/or
4 the Parkway Belt or things like this, and that was a
5 whole body of information which was being brought to
6 bear subsequent to 2C and ergo subsequent to this
7 document to the extent that this is an extension of the
8 2C type process. It was being considered at that level
9 but as part of a separate....

10 Q. So there is no discussion and I
11 guess my next question...

12 A. Let me check one more thing. I
13 think Mr. Watson was doing something. Maybe not. He
14 had done, and I don't know if it's in the exhibit, but
15 Mr. Watson had done an analysis of the extractability
16 or the feasibility of extracting the shale from Site F
17 and I don't know if that is an exhibit or not, but that
18 was in response to the concerns raised by the Ministry
19 of Natural Resources.

20 Q. He did that and I guess my
21 question is that you, as a planner, what consideration
22 do you give to these policies and what was your
23 conclusion?

24 A. I gave it in the same way, MARP
25 and the regional policies, they all have essentially



1 the same basic approach to the protection of mineral
2 resources as the Food Land Guidelines does and that is
3 the basic premise, to protect it and preserve it, but
4 if some overriding need is implicit, then show need,
5 show cause, and if you can prove your point, then press
6 on and this is found in MARP, in Exhibit 305, Section
7 2.3:

8 "It may establish policies to permit
9 non-aggregate land uses or development
10 in areas with mineral aggregate
11 resources which are protected in the
12 Official Plan where it can be shown that
13 extraction would not be feasible or the
14 proposed land use or development serves
15 the greater long term interest of the
16 general public than does the aggregate
17 extraction or proposed land use or
18 development would not significantly
19 preclude or hinder future extraction."

20 So those are directive to the Official
21 Plan and the Regional Official Plan has that type of
22 clause in it now, Section C3e on page 80 of the
23 Regional Official Plan:

24 "Discourage land uses and activities
25 deemed incompatible with extractive



1 operations from locating within Mineral
2 Resource Protection Areas. Incompatible
3 land uses will be permitted within such
4 areas only if it is proven through
5 detailed studies by the proponent of
6 such uses that the resources are not
7 geologically or economically suitable
8 for extraction, extraction will
9 irrevocably damage a regionally
10 significant geological formation or
11 create a regional significant hazard,
12 ... extraction is not feasible due to
13 the prevalence of existing surrounding
14 incompatible land uses."

15 So there is an indication in here that
16 if you can solve those, then you can start to prove
17 your case for using it and, in addition to that, the
18 Regional Official Plan has, under Section III has D3.9,
19 which indicates within the context of the Regional
20 Official Plan that although the Regional Official Plan
21 is setting out a whole lot of land uses, and that is
22 the preferable land use pattern, from a regional
23 standpoint within Halton, that there is, this section
24 says because of landfill, the needs of landfill, there
25 may be a need to go into one of those areas which would



1 otherwise be better used for other land use.

2 DR. KINGHAM: Just on that point, are
3 you saying this Mineral Aggregate Policy was a sister
4 policy to the agricultural policy or the Food Lands
5 policy or are the Food Lands and agricultural policies
6 so close that it doesn't matter?

7 THE WITNESS: My term is sister, and it
8 shows a relationship that both were Cabinet approved
9 guidelines, but by being Cabinet approved, they de
10 facto became a level of policy. The Mineral Aggregate
11 guideline has now gone one step further under Section 3
12 of the Planning Act and has become the Mineral
13 Aggregate Resource policy which is a higher level of
14 policy if you will, under the Planning Act than the
15 Food Land Guidelines are. The equivalent hasn't got
16 there yet and is in a draft form for Food Land
17 Guidelines but it hasn't got there.

18 DR. KINGHAM: I think I understand
19 that, but what I'm trying to understand is whether you
20 considered the Mineral Aggregate Policy at the same
21 kind of level you considered policy statements that
22 have to do with food and agriculture?

23 THE WITNESS: Up to the point -- the
24 MARP wasn't passed until, I think, March of 1986. It
25 was May of 1986. I had effectively done all of my



1 work by that point in time and I was looking to the
2 other one.

3 MR. McQUAID: Q. Are you not familiar
4 with the fact that there has been a policy analogous to
5 the Food Land Guidelines on the Mineral Aggregate
6 Resources going back into the late 1970s?

7 A. I think it was in 1982 it was
8 approved by Cabinet.

9 Q. Let's assume it was 1982. It
10 didn't get to the elevation of being a Section 3
11 Planning Act policy until 1986 and certainly it was at
12 the same level as the Food Land Guidelines?

13 A. Yes, sir.

14 Q. It would have been something that
15 you should have taken into account or given
16 consideration to?

17 A. I think I did take into account
18 the essence of that policy and I draw your attention to
19 it except -- as I think at the 2A level, the policy by
20 name or the guideline, to make a distinction by name,
21 was brought to our attention by the Ministry of Natural
22 Resources and from that point on, in all the responses
23 they were dealing with in generic terms with the
24 concerns over the resource and how they thought it
25 should be resolved. They did not themselves use the



1 term, the formal reference to the Guidelines. That
2 doesn't mean they weren't taken into consideration, but
3 I think they were.

4 Q. Just to go back to the series of
5 questions which have been put to you and to pick up on
6 the question Dr. Kingham put to you, would you agree
7 with me that it might be appropriate when we are
8 looking at the Natural Environment category, as you
9 have included in an agricultural factor, to also
10 include this natural resource factor or a natural
11 resource factor?

12 A. I think we were dealing with it,
13 Mr. McQuaid, and this -- we were dealing in the same
14 way we were dealing with agricultural land as something
15 that we were conscious of and trying to avoid wherever
16 possible, but still in the back of our minds knowing
17 that if a site was appropriate and it was on
18 agricultural lands, the circumstances could be that it
19 could be proven that it should be better used for
20 landfill than for agricultural use, and I think we were
21 treating the resource in the same way. I don't think
22 we were ever not conscious of the fact there was a
23 mineral resource there.

24 Q. I think you are saying there was
25 certainly consideration being given and attention given



1 to it, but I am really saying that when we come to look
2 at the situation here at the end of the piece, and when
3 we are arguing and so on, for ease of reference or
4 whatever that might be considered, it would not be
5 inappropriate to have some category or a sub-category
6 under National Environment dealing with the mineral
7 aggregate?

8 A. I wouldn't put it in the green
9 book, but would deal with it as part of the amendment
10 procedures which are following the planning process to
11 evolve the sites, the size, the nature of the use. I
12 believe that we did take it into consideration. There
13 is a whole element of interpretation or legislative
14 authority here in the sense that MARP is under the
15 Planning Act and the Parkway Belt in terms of Site F,
16 the Parkway Belt is a separate Act and not being a
17 lawyer I don't know if there is a matter of
18 interpretation or not as to whether the Planning Act
19 prevails over the Parkway Belt West Plan or not, but
20 certainly the Parkway Belt Plan prevails over Official
21 Plans and zoning bylaws enacted under the Planning Act.

22 Q. You didn't put it in the green
23 book but you put agriculture in the green book and I am
24 simply saying in our consideration of the overall
25 picture, would you not agree with me that it has to be



1 taken into account also?

2 A. Yes. You can't make a final
3 conclusion on the viability of each site without
4 dealing with the mineral resource which is or is not on
5 Site F. I think it has to be clarified as to what is
6 on Site F.

7 Q. Would you also agree with me, just
8 going back to that policy in MARP, 2.3, that you have
9 read that policy as applying, as I would understand it,
10 both to potential sites as well as licensed sites?

11 A. I'm sorry?

12 Q. Under 2.3, are you saying that
13 that applies to both licensed and potential or
14 unlicensed sites?

15 A. This deals with policies, a policy
16 approach to the Official Plan.

17 Q. Does it, in your view, include
18 both licensed and unlicensed sites?

19 A. The Official Plan, if you follow
20 this policy, would identify and protect legally
21 existing pits and quarries from incompatible land uses
22 and, as I said, the definition of legally existing pits
23 and quarries would mean both licensed and unlicensed.

24 Q. However, would you agree that
25 consideration should be particularly careful when it is



1 viewing the licence situation for the reasons we
2 discussed a little earlier? It's hard to get a licence
3 and you must be particularly careful with licenses?

4 A. Yes. I think that that is an
5 extra element.

6 Q. Do you look upon that as a long-
7 term resource as you look upon agricultural land?

8 A. It depends upon -- in the same way
9 you have to assess agricultural land, whether it is a
10 little piece of really great land or whether it's a
11 large area of really great land, that is part of the
12 consideration you make when you give consideration to
13 the Food Land Guidelines, and from a mineral standpoint
14 you have to determine whether that particular resource
15 is unique and/or found in many other locations and what
16 the practicality of getting it out is. A lot of it
17 comes down to whether it is easy or hard to get out and
18 therefore whether or not it makes any sense to try, as
19 I understand it.

20 Q. What is your understanding as to
21 the situation here?

22 A. There has been some mining on the
23 site, so presumably part of the site is easy to remove
24 the shale from. I don't know behind the corporate
25 situation whether they feel it is hard or easy to get



1 out.

2 MR. LANCASTER: Mr. McQuaid...

3 MR. MCQUAID: This would be a
4 convenient time to take a break.

5 MR. LANCASTER: We'll take a break and
6 give the witness an opportunity to take a breather.

7 THE WITNESS: Thank you, sir.

8 --- Recess

9 MR. LANCASTER: Please be seated.

10 MR. MCQUAID: B-349, sir. For the
11 benefit of the record, I guess, and for counsel, we
12 obtained a copy of B-347 from the clerk's office today
13 in the form that you see it, with that last page
14 attached, and as well as B-348. I can't really
15 explain to you the actual source of that last page or
16 how it comes to be attached to the minutes in a formal
17 sense. I suspect I know how, but I don't want to be
18 giving evidence. I just want to confirm that this is
19 the way we received it from the regional clerk when we
20 asked for it today and I think the minute, I would say
21 the last page may have been some resolution that one of
22 the councillors had been putting forward, but that is
23 what my understanding would be.

24 MR. LEITCH: Should we add it was
25 probably one of the Burlington councillors?



1 DR. KINGHAM: That's your recollection?

2 MR. LEITCH: That's the way I remember
3 it, Mr. Chairman.

4 THE WITNESS: I would like to bring to
5 the Board's attention the fact the date I referred to
6 in 1982 where Cabinet approved the document is actually
7 found on page 1 of MARP and it confirms in 1982 Cabinet
8 approved that sister document, the Food Land
9 Guidelines, to use my term.

10 MR. McQUAID: Q. Now, Mr. Walker, I
11 wanted to turn to a couple of questions about
12 recommendations you had made to the municipality,
13 particularly with respect to Site F first of all. You
14 said, I think, when you were being examined in-chief
15 that you had recommended that the lower righthand
16 portion of the L, looking at M-102 on Site F -- not
17 102, M-103 -- that part you have your hand on; that it
18 be acquired by the municipality?

19 A. I hadn't make a recommendation,
20 but I was asked that question here.

21 Q. During the course of the evidence,
22 and I hope I have it right, but I think Mr. Hodgson,
23 when he was leading evidence, I think on design through
24 Mr. Hiraishi, indicated it was the Region's position
25 that that land might not be acquired. Do I understand



1 .that correctly?

2 MR. LEDERER: Yes, that is correct.

3 MR. McQUAID: Mr. Lederer has confirmed
4 that that is correct.

5 Q. I thought you had said in-chief
6 that you had recommended it be part of the site?

7 A. No, sir, I have never been asked
8 and my response to the question was because it had gone
9 through the process and in my opinion it was related to
10 the site on which the landfill was actually taking
11 place, that being basically the westerly two-thirds,
12 that it would be appropriate if it was controlled by
13 government and not left in the hands of private
14 industry.

15 Q. Why are you saying that?

16 A. I just think that there is enough
17 reason in terms of what landfill is that the more
18 buffer or intermediate area you can have between where
19 people are and from where they take their view and the
20 actual landfill the better off it is, and it was a
21 piece of land which was not being introduced anew, if
22 you will, into the process, it was something that had
23 passed through the process as part of the overall
24 candidate site and it really stems from no other reason
25 from that. I just thought it would be appropriate that



1 .it continue to be maintained as part of the site.

2 Q. Does it make any difference to
3 your conclusion or your evidence if in fact that
4 portion of the property were not acquired by the
5 municipality and were left in private ownership?

6 A. I think it was a preference from
7 this standpoint. As I said, it had gone through the
8 process and the actual retraction of the landfilling
9 operation away from this meant that some of the area
10 that was otherwise of concern to Miss Hellas from a
11 biophysical standpoint would be maintained under
12 government control. I was hoping that no one was
13 insinuating that by keeping it as part of the package,
14 that I was suggesting it be reserved for landfill
15 because that would be an improper conclusion.

16 Q. You do not see it then that it
17 should be maintained for reasons of increased capacity
18 in the future?

19 A. No, sir.

20 Q. It would only be for reasons of
21 buffering and possible protection of the
22 environmentally sensitive areas?

23 A. Yes, and I hope that that seemed
24 to be the same position as I evinced when I answered
25 Mr. Garrod when he asked me if this part could be



1 .otherwise designated and otherwise zoned and my answer
2 was in the affirmative, I thought it could and it
3 should be.

4 Q. Could be otherwise designated and
5 zoned?

6 A. Yes, not left as a reserve, if you
7 will, for landfill, but rather designated and zoned --
8 in that case for agricultural uses.

9 Q. What area were you pointing to,
10 the point within the lower L on Site D?

11 A. Essentially the easterly
12 projection which is not being used for landfill. It
13 has some service function to the landfill, but it is
14 not to be used for landfill and for both sites I gave
15 the answer on the basis of the fact that the
16 environmental assessment has been for a certain
17 planning period and a certain capacity and not more and
18 any inference that just because a site evolves from
19 this process today, in today's circumstances, it should
20 be reserved for continuing use beyond the framework of
21 the capacity or the time would be wrong, in my opinion,
22 because the Environmental Assessment Act at that time
23 should then be -- the process should be enacted again
24 some time from now when it is determined that it is now
25 time to consider it again. The Environmental



1 Assessment Act should be enacted again and the process
2 should be begun again because there may be, at the very
3 outset, in the waste needs analysis, there may be new
4 technology and techniques which may lead to new
5 conclusions about landfilling as well as new
6 circumstances which would lead to the determination of
7 a different site.

8 Q. And the same comment you have made
9 with respect to that lower portion of Site D would
10 apply to the lands that are possibly to be obtained to
11 the north of property, the four properties or the four
12 approximately 25 acre parcels along the frontage of
13 Highway 25?

14 A. Site D?

15 Q. Yes.

16 A. That is correct. I think I went
17 into the fact that I thought they would be a prime area
18 for the consolidation of four smaller parcels into a
19 larger parcel and used for agriculture.

20 Q. If I asked you -- do you have a
21 copy of H-15, Mr. Watson's review of the waste quantity
22 projections, the Technical Study, Schedule L?

23 A. I don't have it, I have the later
24 version, H-45, but I don't have H-15, no.

25 Q. I am going to show you my copy and



1 .you will see there are three different...

2 MR. LANCASTER: Here is another copy.

3 THE WITNESS: Thank you very much.

4 MR. McQUAID: Q. I would refer you to
5 page 1 to 4 -- 1 to 6 of this report and I think, if
6 you look through it, Mr. Walker, you will see it has a
7 summary of various forecasts and projections that were
8 being thought of from time to time as to capacity that
9 might be required. If you look at page 6, you will
10 see, as I understand it, at the Stage 2B November, 1984
11 date, the projections that the municipality, the Region
12 had in mind at that point were summarized as being
13 4,922,000 tonnes and the current projection, if I
14 understand it correctly, would go from that figure to
15 the current one, January, 1986, of 4,208,000 tonnes, a
16 drop of 14.5 per cent?

17 A. Yes.

18 Q. This is page 6 at the bottom?

19 A. The Rinaldo, Moore report and it
20 is the beginning of that report.

21 Q. Would I be correct that the
22 projections in terms of numbers and so on, were you
23 involved in those at all or were those done by Mr.
24 Watson?

25 A. At the EPA level, Mr. McQuaid, I



1 was not involved. In the 2B update projection, that
2 was our reiteration process and I was involved to the
3 extent that I was in the coordinator's role, yes.

4 Q. Can you explain in the
5 coordinator's role what you had to do with the initial
6 projection of 4,922,000 tonnes?

7 A. I had no input into that report,
8 that was Mr. Watson's report, but we had to take the
9 figure that came out of that and assess whether there
10 were implications for the preceding 2B process.

11 Q. Now, that had in it as well as the
12 current figure of 4,208,000 tonnes, it had the
13 assumption that there would be a certain percentage, 50
14 per cent I think is the current figure, that would go
15 to EFW as of 1996?

16 A. Yes. In absolute terms, the
17 amount of landfilled waste in the twenty year period
18 was increased as a result of, among other things, the
19 reduction from 75 to 50 per cent going to the EFW
20 facility.

21 Q. Am I correct that from your
22 perspective as a planner that is a very important
23 assumption, the EFW being available in 1996.

24 A. Could you be more specific? I am
25 trying to get a handle on it. You are looking for a



1 land use planning opinion here.

2 Q. Yes. Let me turn up a note that
3 I had. I believe at the meeting on February 10th when
4 you were explaining the differences between the two
5 sites that one of the issues came up as to what would
6 happen if there was no EFW plant, and I believe I took
7 it down as accurately as I could, and you were asked
8 about what would happen if there was a change in that
9 assumption and whether it would change the final
10 conclusion and you answered...

11 MR. LEITCH: I don't mind my friend
12 asking that question anew, but I don't think it's
13 proper for the witness to be cross-examined on
14 something he said at a Council meeting which is not
15 part of any minutes we have before us and we have no
16 idea whether, as Mr. McQuaid candidly points out, he
17 got the note down right or not. First of all, it seems
18 to me if he is going to put the question, he should put
19 the question within the context of these four walls.
20 I don't think it's proper for him to be using some note
21 he took in some unsworn forum where there was a sort of
22 political debate going on and to use it as you would a
23 transcript of sworn testimony in earlier proceedings.
24 I object to that kind of question.

25 MR. McQUAID: I think it is perfectly



1 .proper if Mr. Walker said something at a meeting and I
2 put it to him, first of all, do I have it correctly and
3 does he remember it and then to ask him the
4 implications from that.

5 MR. LEITCH: I don't mind that.

6 MR. LANCASTER: Yes, if you word it that
7 way.

8 MR. McQUAID: Q. At the meeting on
9 February 10; I believe you were asked whether a change
10 in the assumption would lead to a change in the final
11 conclusion, and reading from a note that was taken:

12 "That a change in the assumption
13 or capacity would open the whole issue
14 and require re-evaluation of the
15 recommendation of Site F."

16 Now, that was the note that was taken
17 down at that point in time and does that agree
18 generally with what your recollection is of what you
19 answered?

20 A. Could you repeat that, please?

21 Q. Yes. You were asked whether a
22 change in the assumption that there would be an EFW
23 plant by 1996, whether that would have a change in the
24 final conclusion, and you answered:

25 "That a change in the assumption or



1 capacity would open the whole issue and
2 require re-evaluation of the
3 recommendation of Site F."

4 A. I think that my recollection of
5 what I said was that there were two issues being raised
6 and one was whether EFW would happen at all, and my
7 initial response was that the life of the landfill, it
8 would be foreshortened, but I don't recall the answer,
9 or the question -- we had looked at already at the 2B
10 supplement stage, the fact that there were changes to
11 the assumptions that we were working with and had
12 reiterated to come up with the conclusion that it
13 wouldn't be affected, but I am not sure that I would
14 have said it would throw -- whatever words you quoted
15 me, but certainly there would be -- there could at
16 least be a need to reiterate to a certain point,
17 depending upon the nature of the changes to the
18 assumptions.

19 Q. What do you mean by "reiterate"?

20 A. That is the process envisaged
21 within the Act of going from one point and going back
22 to a certain point in time in the process and picking
23 it up and coming through again with the revised
24 information.

25 Q. We have had some evidence, and I



1 .will put it to you as to the numbers so that you can
2 have that and we can talk about it a little later, but
3 we had the numbers during Mr. Watson's evidence that
4 for every year that the EFW were delayed, that would
5 reduce the capacity of the site by approximately five
6 months, or certainly less than six. Say five months is
7 what was put to him. I am reading from page 365 of
8 Volume 2, the cross-examination of Mr. Watson by Mr.
9 Leitch.

10 MR. LEITCH: There were two periods in
11 which Mr. Watson addressed those questions I put to
12 him. He did it on two separate days and I can't
13 remember if it was over a weekend, but I put a series
14 of questions and got a series of answers and then on
15 the next day the Board sat, he had reworked it and gave
16 another answer to the question I put to him previously.

17 MR. McQUAID: I would be grateful if I
18 could turn that up. I have got the first answer and I
19 believe the figure was for every year it was five
20 months.

21 Q. Just take it as an assumption and
22 we can get the actual correct figure.

23 MR. LEDERER: My recollection, if I may,
24 because I think we have part of it and we can check the
25 transcript, but on both occasions when Mr. Watson



1 appeared here, both in June and lately, this question
2 was put to him. I believe he said ultimately that if
3 EFW or diversion, as Mr. Rinaldo called it, failed
4 completely, then it would be three and a half years
5 loss of life for any landfill and I think he said that
6 twice, to the best of my recollection, on both times he
7 was here.

8 MR. LANCASTER: I am sure he said it
9 once. Do you want to ask the question on that
10 assumption, Mr. McQuaid?

11 MR. McQUAID: Q. Volume 2, May 6, 1987.
12 I want you to have the assumption and I want you to
13 assume there was no EFW, it didn't materialize. Would
14 that make a significant difference to your conclusions
15 and your recommendations?

16 A. Not to the recommendations as to
17 the landfill in terms of scale or in terms of location
18 because we have gone through the process of searching
19 for the landfill component. It would make a
20 difference to the system within which the landfill was
21 being found, or was found and was operating, but that
22 would require a new environmental assessment process to
23 begin. The one thing that would still be clear, Mr.
24 McQuaid, was on the basis of the Stage 1, the Waste
25 Needs and Systems Analysis, there was only one element



1 of the methodologies that did not require a landfill,
2 and so that analysis would still be valid, in my
3 opinion, and therefore the results would still be
4 valid. As I said at the meeting on the 10th, the
5 capacity or the life of the landfill would be
6 foreshortened and it would be foreshortened by some
7 calculation based upon the lack of EFW coming into
8 being.

9 Q. Are you saying you did not say
10 that such a change in the assumption or capacity would
11 open the whole issue and require a re-evaluation of the
12 recommendation of Site F?

13 A. You see, we did reiterate when
14 certain changes were made to the EFW and, as I just
15 said again....

16 Q. That wasn't my question. My
17 question was did you not say that?

18 A. I don't recall the point you are
19 making.

20 Q. You don't recall whether you said
21 it or not?

22 A. I'm giving the answer....

23 Q. I just want to know whether you
24 remember being asked about that assumption and changing
25 it and if you recall what you said specifically?



1 A. Specifically I think I have just
2 told you again that there would be a need -- the
3 capacity would be foreshortened and obviously this
4 would now be a landfill without a major element in the
5 system we had proposed, but it wouldn't invalidate the
6 landfill search. It would go to the validity of the
7 system that had been put in place in Stage 1 and that
8 would mean, in my opinion, you would have to start an
9 EA to look at another system if EFW was not valid. I
10 think that that is the essence of what I said that
11 night.

12 Q. In other words, are you saying
13 that the EFW assumption is so inextricably linked that
14 if you don't have that, you would need another EA
15 process?

16 A. Well, inextricably linked -- the
17 landfill component is part of the system which includes
18 EFW and other elements as well, composting and source
19 separation and things like that. What we did find in
20 Stage 1 was that landfilling was a part of all the
21 methodologies except for the export option and
22 therefore the validity of landfill as a part of a
23 system and the validity of the process to find a
24 landfill would still be valid. The part that would
25 break down, if you will, if it's part of a system which



1 includes EFW -- if EFW was not going to be available,
2 then there would have to be another environmental
3 assessment begun because you would have to go back to
4 the waste needs and systems stage to find another
5 methodology or another component to the system to
6 replace EFW.

7 Q. Why wouldn't you just look at the
8 sites you are working on and determine whether any
9 additional capacity you might need could be
10 accommodated at those sites?

11 A. That in itself would be an
12 environmental assessment process. One of the
13 methodologies we had was straight landfill with some
14 source separation and some retrieval of certain basic
15 elements. Any deviation from the system, Mr. McQuaid,
16 in my opinion and from the standpoint of a land use
17 planner, if you will, from the system that has been
18 agreed to by Council, would require an environmental
19 assessment process to be fair to those people who have
20 participated in this one. It does not invalidate what
21 we have done to date in terms of a landfill, but it
22 would require that another environmental assessment
23 process be put in place as soon as you found out that
24 EFW was not appropriate.

25 Q. You would require a re-evaluation



1 of the whole selection process?

2 A. I didn't say that.

3 Q. No? You didn't say that on
4 February 10?

5 A. Give me the piece of paper you are
6 referring to and the author and let me talk to the
7 author.

8 Q. I may call evidence to that
9 effect. I need your recollection, your best
10 recollection and can you deny that, and that's the
11 point I'm asking.

12 MR. LEITCH: This is the problem I rose
13 to in the first place, Mr. Chairman. What you now have
14 is a question of credibility which is raised as
15 between the witness who is sworn in the box and someone
16 unknown to us who took, and I think it's Mr. McQuaid
17 probably from what he said, he tried to write it down
18 as best he could, but who took a note of something that
19 was said at a political debate. He is not referring to
20 Hansard or any official record. It seems to me it is
21 totally improper and the witness has put his finger on
22 it. He wants to know who wrote it down and wants to
23 see the piece of paper. In the meantime his
24 credibility is attacked on a basis which is quite
25 improper in my submission.



1 MR. McQUAID: I want to be fair. That
2 was a public Council meeting and there were many people
3 taking notes and I don't know if it would be of any
4 assistance to Mr. Walker if he had my handwritten notes
5 at this particular point in time. I want to be fair to
6 him as to whether he does recall what was said or
7 whether he doesn't recall before we get into it in any
8 more detail.

9 MR. LEITCH: Then of course the
10 recollection which now stands on the floor unsupported
11 by anything except a piece of paper Mr. McQuaid wrote
12 down is the better evidence.

13 MR. McQUAID: It's not evidence at all
14 until we call it and whether those were the words said
15 or not. If he doesn't recall it, he doesn't recall
16 it, and it's not evidence until I make it evidence.

17 MR. LEITCH: It's not admissible at all
18 in my submission.

19 MR. McQUAID: I'm giving him the
20 opportunity to determine whether he recalls it or not.

21 MR. LANCASTER: Can you recall it, Mr.
22 Walker?

23 THE WITNESS: I recall certainly the
24 principle being raised of there being no EFW, and I
25 know that I responded initially that the time period



1 over which the landfill would be filling would be
2 foreshortened -- would be shortened up by the very fact
3 that all the solid waste that had to be disposed of,
4 other than the other minor elements of the system,
5 would be going in there and there would be no relief
6 from the EFW. Then the matter of whether the
7 validity of the process, and that is the point, and to
8 be fair to Mr. McQuaid and also to Mr. Leitch, it would
9 not be my intention at a public meeting to say anything
10 of substance that is different from what I would do
11 notwithstanding that I am under oath here, because it
12 was a very sensitive issue. Certainly the point to be
13 made is that -- in the whole screening process we went
14 through, that methodology and the conclusions we came
15 to was intended to validate the landfill component and
16 to have a landfill component -- a landfill component
17 was part of all the systems but one, so unless the
18 option was there as a long-term systematic option to
19 export, then my knowledge of the waste systems
20 methodologies and the systems that would be made up
21 from those different methodologies would tell me that
22 landfill is some part. I don't know why I would
23 consider that the whole process would be invalidated,
24 but certainly the use of the landfills would be less
25 and there obviously would be a need to replace the EFW.



1 Q. All right. I think we have got
2 your current position as to what you would understand.
3 All I am trying to determine from you, Mr. Walker, is
4 is your evidence with respect to Site F and Site D
5 specifically curtailed or tied to the projections which
6 we see, and you can turn up pages 25 to 28, the
7 numbering at the bottom, and that is how we get the
8 make-up of the 4,208,000 tonnes?

9 A. Page 8?

10 Q. Pages 25 to 28. Can you take a
11 minute and look at those tables, and Mr. Watson
12 explained that this was the summary of the most
13 probable forecast, waste forecast, and you will see the
14 summary over at page 28 of what waste goes to the
15 landfill, what waste to the EFW in terms of residue or
16 ash and how you get to the 4,208,000 tonnes?

17 A. Yes.

18 Q. Back on page 27 and 26, you will
19 see at the top of page 26 there is an indication of
20 what waste was projected would be going to the EFW,
21 1,477,449?

22 A. Yes, I see that.

23 Q. My question just to stick to your
24 current planning position and understanding and advice
25 and planning, I guess I am really asking you as a



1 planner wouldn't it be wise to have some contingency
2 for expansion in the event that there was no EFW plant?

3 A. As a planner who is involved in
4 the Environmental Assessment Act and the process we
5 have gone through, and this may be totally against what
6 would appear to be reasonable, but I think it would be
7 very unfair to those people who had participated in the
8 environmental assessment process if there was some
9 unsubstantiated extra capacity built in to those sites.
10 In other words, if there was a reserve put in in case
11 EFW came down, I think, as onerous as it may be, and
12 this process certainly has been onerous as it stands to
13 date, but there is no reason why having gone through
14 this process, some unsubstantiated relief should be
15 sought if in fact the EFW does not materialize that in
16 fact the process should begin, a new process should
17 begin. If it is just for expansion, then in my opinion
18 it has the same relevance because at the time, whenever
19 that time is, Mr. McQuaid, there may be new
20 methodologies and there may be new ways of handling it,
21 there may be new circumstances which would say that the
22 site should not be expanded but rather it should go
23 elsewhere or handled in some other way. I wouldn't
24 know that today.

25 Q. Is that good planning to put that



1 .off when we are in a hearing and all the time and
2 expense it has taken to this date, to put that off to
3 the future?

4 A. I don't believe that the Region,
5 through myself and others, could do otherwise. It
6 would be bad planning to try to build in a reserve.

7 Q. It would be bad planning?

8 A. In my opinion, yes.

9 Q. Could you be very specific?

10 A. I can't be specific in terms of
11 size, but to the extent that the process that is before
12 the Board will have a capacity and a timeframe, and the
13 timeframe is related to the capacity, those are the
14 factors which have been to the public and which are
15 part of the public process including this hearing. Any
16 attempt to add something in addition to that without
17 going through a public process, would, in my opinion,
18 be bad planning.

19 Q. You started out with a larger
20 projection down to 1984 and it has since been reduced?

21 A. Yes.

22 Q. Both of which were based on the
23 assumption that there would be a facility of a major
24 nature or some other major alternative, as we have
25 heard since, for export or something of that nature by



1 1996. You are looking quissically at me?

2 A. I am trying to follow it all. You
3 are putting it

4 Q. Mr. Rinaldo said if we don't have
5 the plant, we will find some other means?

6 A. As they are finding right now.

7 Q. What is your evidence as to the
8 specific size that is required?

9 A. Right now I believe it's about
10 10.4 million cubic yards which is less than what the 2B
11 supplement agreed to and more than what 2B had as we
12 proceeded from 2B to 2C. There was a revision upwards
13 and so it is within what we had at the end of 2B and
14 the upper limit, if you will, that came out of the 2B
15 supplement. It falls in between that and that increase
16 in size did not create a need to alter the sites we
17 were considering at that time. So, I am not the expert
18 in this, but I am just giving my planning opinion on
19 the process, but I think it would be improper not to
20 have to go through an environmental assessment process
21 even if you were trying to expand the site beyond what
22 is approved by this Board, beyond what is brought
23 before this Board for its approval.

24 Q. Do you know how many years it has
25 taken to get to this point, to this proceeding? Don't



1 .laugh, I want you to be specific. How many years has
2 the Region been trying to designate a site?

3 A. I think it goes back to 1972, but
4 it certainly goes from the mid-1970s.

5 Q. I figure approximately thirteen
6 years.

7 A. That would be pretty close. 1974
8 that would be.

9 Q. 1972 would be longer than that?

10 A. There are a whole lot of reasons
11 for that; it is not a characteristic time limit in my
12 opinion for approval of environmental assessments for
13 landfill. First of all, this is the first major one,
14 but there are a number of circumstances built into the
15 history of this which I don't think would be
16 characteristic of a normal process. I don't think it's
17 fair to consider thirteen years is the normal process
18 for an environmental assessment on a landfill.

19 Q. I didn't say that, I said it took
20 that long in this particular case?

21 A. In this particular case for very
22 specific types of reason.

23 Q. Might those reasons not obtain in
24 this Region again?

25 A. No, sir.



1 Q. Are you saying it's impossible?

2 A. Yes, sir.

3 Q. You are saying it's impossible to
4 take this long again?

5 A. I believe so. First of all, we
6 are not having a Region trying to get approval under
7 the Environmental Protection Act without going through
8 the Environmental Assessment Act and we spent a long
9 time working through that process to get to a site to
10 take it to one level of approval and then to be told
11 they couldn't enact that approval. Now that won't
12 happen again, it can't, because this municipality as a
13 public authority can't undertake something of this ilk
14 without going through the Environmental Assessment Act
15 -- that's a Freudian slip, not "we" but they would
16 spend a lot less time right off the bat doing that.

17 Q. How long do you think it would
18 take to go through the process, the EFW plant plus a
19 new landfill site in the future?

20 MR. LEDERER: Is it appropriate to ask
21 this witness to speculate in this area?

22 MR. McQUAID: He said it wouldn't take a
23 certain period so I can't see why when I ask him and he
24 tells me he won't, I can't ask him what it would take,
25 because he's the man who answered the question.



1 MR. LEDERER: First of all, the
2 question you asked with respect to EFW and the question
3 before was with respect to landfill, and it's a
4 different kind of project. Secondly, the question you
5 asked before was, was it possible for this to take,
6 this process and this Region to take thirteen years
7 again and the answer was no, and he gave a very
8 specific example of why that is so and it has to do
9 with the change in 1980, the change to the
10 Environmental Assessment Act which brought
11 municipalities in and the fact that everything the
12 municipality had done prior to that time turned out to
13 be a waste of time, and he indicated that cannot
14 happen. That is a very different question from saying
15 speculate about EFW. We have talked about specific
16 history and now we are going to speculate about
17 something we haven't seen before, and in my respectful
18 submission, the question is not proper.

19 MR. McQUAID: May I continue?

20 MR. LANCASTER: I don't know much that
21 will help with such speculation, but you may continue.

22 MR. McQUAID: Q. We know this process
23 in terms of the environmental assessment took from at
24 least 1980 to the current date?

25 A. Yes.



1 Q. Have you had any experience with
2 an EFW plant?

3 A. No, sir.

4 Q. Have you not read up on any of
5 them or been involved in an environmental assessment
6 process on an EFW plant?

7 A. No, sir.

8 Q. It would likely be a new facility
9 or have to go through a new process as well, would it,
10 or do you know?

11 A. No. There have been EFW
12 environmental assessment hearings.

13 Q. We would have to find a location
14 in the Region?

15 A. You would have to go through a
16 locational search, yes.

17 Q. You would have to do a search
18 somewhat analogous to the search done here?

19 A. Yes. There has been some work
20 done on an EFW, the process for an EFW plant within the
21 Region, and I wasn't part of that, so I don't know
22 valid it is and how usable it.

23 Q. Is it into a formal process of
24 some feasibility study now?

25 A. Yes, there is an EFW process



1 .underway.

2 Q. A search process?

3 A. To my knowledge there is, yes.

4 Q. Can you tell us where they are
5 looking?

6 A. No, I can't.

7 Q. Would it be reasonable to assume
8 that it might take at least as long as this particular
9 environmental assessment process has taken?

10 A. I don't know if you could say at
11 least. It might take as long or it might take a lesser
12 period as well.

13 Q. It might take longer as well? .

14 A. I am not experienced in EFW so
15 yes, it may take longer, but, on the other hand, as I
16 said, the Region has done some work on it and there is
17 a process underway at this point in time, so I can't
18 say how long it's going to take, but the availability
19 of data and the availability of experience, which the
20 Region has now, will help and I would say it would be
21 foreshortened rather than lengthened. But, as I say, I
22 haven't had the experience, so I can't give you an
23 absolute answer on that.

24 Q. Your evidence with respect to the
25 capacity is that there should not be any consideration



1 given to additional capacity in the event there was no
2 EFW or alternate?

3 A. That is my opinion.

4 Q. It should be confined to the exact
5 areas -- exact tonnages we see here?

6 A. If the final tonnages brought to
7 the Board's attention as proposals from the Region
8 and whatever else people do with them, whatever is
9 approved by this process, which is the culmination of
10 the environmental assessment process in toto, that's
11 the one. I don't think that that should be exceeded
12 without the proper process. That is my opinion.

13 Q. I take it then that in arriving at
14 your recommendations, you did not give any
15 consideration to the fact that additional capacity
16 might be required for expansion?

17 A. For expansion?

18 Q. Yes, beyond the tonnage we have
19 just been discussing?

20 A. No, sir. The principle I was
21 working under was that we were going under a process
22 which would lead to a conclusion, and I believe the
23 Region should be bound by that conclusion and it should
24 not be exceeded without another process, because the
25 Region themselves have taken a major step by this



1 .process and they shouldn't, after that, try to put into
2 place something without another process.

3 Q. So the answer to my question was
4 yes?

5 A. Yes.

6 Q. Did you have regard, or do you
7 have any regard to what uses might in fact be located
8 in the case of Site F on the lands that would not be
9 taken by the Region, as currently intended? In other
10 words, if they did not take the lower parcel of land,
11 does it give you any concern as to what uses might
12 occur in that particular land, particularly along the
13 403 frontage?

14 A. Could you be more specific, sir?

15 Q. All right. You gave evidence, and
16 I've forgotten to whom it was, but on the difficulty of
17 amendments to the Parkway Belt. It's not important who
18 the evidence was led by, but the thrust of your
19 evidence, as I understood it, was that it's very
20 difficult to get an amendment to the Parkway Belt?

21 A. Correct.

22 Q. Have you examined, or can you tell
23 us what portions of Burlington that are in the Parkway
24 Belt, have actually been developed over and above the
25 area we are talking about around Site F?



1 A. What do you mean by "developed"?

2 Q. Built upon or some form of urban
3 use, residential, commercial, industrial?

4 A. All of the area within Burlington
5 that's in the Parkway Belt? I can't do that.

6 Q. Have you examined any?

7 A. I have examined the area around
8 the site.

9 Q. I realize that, but are you
10 familiar with what other development has taken place in
11 the Parkway Belt, and I guess if we pull it out, it
12 would be the Burlington urban area or the Map 2 portion
13 of the Parkway Belt?

14 A. There would be individual houses
15 and obviously there is some low density industrial
16 types of uses. They are all permitted within in it and
17 you can get that by changing the regulation.

18 Q. Let's talk about that more
19 specifically. Isn't it true that if you can convince
20 the local municipality that a project within the
21 Parkway Belt is worthy of their approval, that the
22 Parkway Belt regulations can be amended fairly easily,
23 or do you know that?

24 A. I'll answer the first question
25 first. In my opinion, the local municipality would be



1 .consulted and the decision would be made by the Parkway
2 Belt authority and I do know that you can get
3 amendments to the regulations through that process.

4 Q. Have you had any experience with
5 it specifically?

6 A. Yes.

7 Q. Where?

8 A. In Markham.

9 Q. What was the nature of that
10 project?

11 A. It was an attempt to get a small
12 low density office building onto a site at the corner
13 of Unionville Gate and Old Kennedy Road, and it was
14 turned down.

15 Q. By whom?

16 A. By the Parkway Belt group.

17 Q. What about the Town of Markham?

18 A. The Town of Markham....

19 Q. Did they turn it down?

20 A. They were a bit ambivalent about
21 it and I guess ultimately they did turn it down, yes.

22 Q. Any other experience?

23 A. Since then, on the site and one
24 site adjacent to it, due to the Kennedy bypass going
25 through, they have allowed some highway/commercial



1 .types of uses.

2 Q. Any other experience you have had?

3 A. Yes. At Kennedy Road, the west
4 side, just north of the 407 right-of-way, they have
5 allowed a very large industrial plant to go in that
6 makes casters and it's on a very large site.

7 Q. Does that have any similarity in
8 terms of designations, in terms of the designations
9 that are on Site F?

10 A. Yes, there is a permission under
11 Section 6 that would allow consideration of that type
12 of use on the part of Site F running from King Road
13 over to the hydro right-of-way in a westerly direction.

14 Q. The Special Complementary Use
15 Area?

16 A. Yes.

17 Q. This successful experience you
18 had, was that also in the Special Complementary Use
19 Area in that case?

20 A. I can't remember.

21 Q. Being more specific with respect
22 to Burlington, have you had any experience with respect
23 to any of the areas of Burlington in the Parkway Belt
24 area and their development?

25 A. No.



1 Q. Would it surprise you if there
2 were a series of residential and other commercial areas
3 that in fact had been approved by the City of
4 Burlington and then amended by regulation, large areas?

5 A. It wouldn't surprise me if there
6 was some residential area. If it was a substantial
7 subdivision of an urban scale, and I mean urban lots,
8 that would surprise me and if it was more of an estate
9 or a rural residential type of subdivision, that would
10 not necessarily surprise me.

11 Q. Does one hundred and twenty houses
12 surprise you?

13 A. Over how big an area? You have to
14 give me at least the benefit of knowing.

15 Q. Why?

16 A. I just said if it was residential
17 uses on small lots, that would surprise me, but if it
18 was residential uses on large lots, it would not
19 surprise me necessarily.

20 Q. I assume it was forty acres and
21 one hundred and twenty lots approximately.

22 A. Depending on how it was done, it
23 might be a possibility.

24 Q. I didn't ask you about the
25 possibility.



1 A. I am correcting myself. It would
2 not be inconceivable there could be three units per
3 acre. It would depend on how they did it.

4 Q. Did you do any consideration as to
5 what uses might occur along Highway 403, not only at
6 this subject site, but further to the east or west?
7 Was that part of your consideration at all, alternate
8 use?

9 A. Each of those would be new uses
10 put in by a specific application and would be
11 considered on the merits by the Parkway Belt group and,
12 as I say, they do consult with the local municipality.

13 Q. You understand my question?

14 A. No.

15 Q. You don't understand it?

16 A. No. I am answering what I hear.

17 Q. Don't guess if you don't know what
18 my question is because it won't be helpful.

19 A. I'm not guessing. I answered what
20 I heard.

21 Q. My question was in your planning
22 consideration, did you give any consideration first of
23 all to possible uses further to the east or west along
24 Highway 403?

25 A. The answer to that is that the



1 land is in the Parkway Belt and bound by the Parkway
2 Belt Plan provisions and the regulations. If anything
3 is to be put in place beyond that, it is put in place
4 on the basis of the process set up for it under the
5 Parkway Belt. I can't pre-guess what might go in under
6 that, except to read the plan and the regulations.

7 Q. I realize that, but did you give
8 any consideration as to what effect Site F might have
9 on development along the frontages, particularly to the
10 east of Site F at the northeast corner of King Road and
11 Highway 403?

12 A. Yes. I am not looking away, but
13 that would be a new use which would go in at the time
14 when the landfill is at least under consideration and
15 it could be going today and even if it was going, as
16 there was an application earlier, the process was
17 underway and the site had been identified as a
18 potential landfill site and that would be something
19 which would be coming in after the fact, if you will,
20 and it would be coming in with the knowledge of what
21 was going on.

22 Q. What effect would it have in your
23 view, if any?

24 A. Nothing, because it wouldn't go in
25 if it had any effect and it would have the ability to



1 judge whether it wanted to go in.

2 Q. You are assuming Site F is in, but
3 what if we were looking at it from the planning point
4 of view and what effect it might have on those lands?
5 Do you understand?

6 A. I don't think it would have any
7 real effect on that land.

8 Q. I am showing you a Planning
9 Department memo, No. 17, 1986, a Planning Department
10 memo from the City of Burlington and I would ask this
11 be marked as the next exhibit.

12 MR. LANCASTER: B-350.

13 --- EXHIBIT NO. B-350: Memo No.17 from the City of
14 Burlington, Planning Dept.

15 MR. McQUAID: Q. Can you confirm from
16 looking at the first page of B-350 that it's the land
17 at the northeast corner of the North Service Road and
18 King Road?

19 A. Yes.

20 Q. Would you point that up for us on
21 M-103 so it will be clear to everyone?

22 A. It is basically outlined on M-103
23 by the lighter area which has two wooded areas going
24 north and south through them. It lies east of King
25 Road and north of 403, north of the North Service Road.
It is pretty well outlined on that exhibit, Mr.



1 .McQuaid.

2 Q. I would refer you to page 3 of
3 this report and there we see a sketch of the
4 application by Boehring Ingelheim (Canada) Ltd. to
5 amend the Parkway Belt Plan and Development Act at the
6 northeast corner of King Road and the North Service
7 Road, and you can see there the offices, parking and so
8 on that was contemplated in that application?

9 A. Yes.

10 Q. We see a 135 metre setback from
11 King Road, and do you see that line?

12 A. Yes.

13 Q. The building setback line is noted
14 -- I am sorry, I said 135, but that's to the office
15 building?

16 A. It is marked there.

17 Q. 110 metres, I think, is the
18 building setback?

19 A. That is the buffer required by the
20 Parkway Belt.

21 Q. This would give us some indication
22 of potentially the sort of low intensity use you might
23 see along Highway 403 in this Parkway Belt area?

24 A. Yes. I would say it's possible
25 that this sort of application would wend its way



1 through the process to approval. You can't say it
2 would, but it's possible it would.

3 Q. I meant to give a general idea of
4 what sort of thing we might be looking at. I think in
5 the Parkway Belt policy in that section, 6.2.3 on page
6 31, the Parkway Belt ...

7 A. I'm sorry, I was reading
8 something.

9 Q. 31, Exhibit H-319, the Parkway
10 Belt.

11 A. What page?

12 Q. Page 31.

13 A. What am I to look at?

14 Q. Can you confirm for us that at
15 point (q):

16 "In the Special Complementary Use Area
17 located north of Highway 403 between the
18 Burlington landfill site and the
19 Burlington-Guelph electric transmission
20 line...."

21 and it sets out the uses and you have the 20 per cent
22 maximum lot coverage exclusions of parking and it sets
23 out various conditions and that is what we are talking
24 about, the type of intensity or density that might be
25 allowed.



1 A. I think I referred to that section
2 in-chief. For the record, that should be 6.2.3(q) and
3 I'm taking those numbers from page 26. May I ask a
4 question?

5 Q. Yes.

6 A. Is this the planning report on
7 this application?

8 Q. Yes, as I understand it.

9 A. Thank you.

10 MR. LEITCH: I have some difficulty with
11 that because on the face of it it appears the
12 application was withdrawn before the planning report
13 was written.

14 MR. MCQUAID: This is the report that
15 was written and you will see, if you want to take the
16 time, Mr. Walker, but staff circulated the application,
17 the third paragraph:

18 "Staff circulated this application to
19 the standard agencies and departments
20 for input. One of the replies received
21 was from the Region of Halton... a copy
22 of the Region's comments was also sent
23 to the applicant. The applicant has
24 decided to withdraw its application for
25 this North Service Road property



1 (Appendix 2)."

2 And I refer you to page 4, to the letter
3 received from the Region of Halton Planning Department
4 and I guess the specific paragraph to be addressed is
5 the third paragraph in the letter of November 6, 1986
6 at page 4?

7 A. Yes. I have a copy of this but I
8 can't find it. Excuse me if I am a little slow here.

9 Q. Have you seen this before?

10 A. Yes, I have. Yes, the regional
11 staff is advising the City of the proposed landfill
12 site, and that is why I asked whether this was the
13 planning report, because I think this is a
14 reprehensible planning report from the City of
15 Burlington and not once on the report page does it
16 mention that to the west of the site is a landfill
17 proposal. That is a major omission from this as a
18 comprehensive planning report and the Region did a
19 service to whoever wanted to read it by identifying
20 that there was a landfill nearby. It goes around on
21 several sides of the site, but it never goes west of
22 King Road as a report, and to me that is really
23 misleading in the context of the process you had me
24 describing earlier.

25 Q. Let's go back then and go back to



1 page 2 and find out where we were in the process. Does
2 this not appear to be an indication that staff was
3 circulating this application to the standard agencies
4 and departments for input; the third paragraph on page
5 2.

6 A. I'm going through the second
7 paragraph to start with.

8 Q. Okay.

9 A. It says "it circulated," not "is
10 circulating" and it talks about the replies received,
11 one of which was from Halton and they have attached
12 that.

13 A. I guess I am putting it to you
14 that this is a planning -- it is noted as a Planning
15 Department Report and you can comment, I guess,
16 whatever way you want on it, but it seems to be at a
17 fairly early stage and staff was circulating it to the
18 standard agencies and departments for input. Do you
19 think the planning staff of the City of Burlington
20 should write a formal final report, planning report
21 before they had canvassed the standard agencies and
22 departments for input?

23 A. No, but they had already canvassed
24 them from the looks of it.

25 DR. KINGHAM: I beg your pardon?



1 THE WITNESS: They had already
2 canvassed them from the look of it.

3 MR. McQUAID: Q. Based on the look of
4 it, you would characterize this report as
5 reprehensible. That seems pretty serious, a serious
6 allegation to make?

7 A. But it's a very serious element
8 when a landfill is being proposed in the immediate
9 vicinity of an application that that is a use and that
10 it be flagged by the municipal planning staff. As I
11 have said earlier, potential purchasers or purchasers
12 are reliant upon the information they can derive from
13 the public process and from contact with municipal
14 officials as to what is going on.

15 Q. Had you investigated into this in
16 any detail to find out what the department may have
17 told the applicant or what the applicant may have found
18 out before the application?

19 A. No, I hadn't.

20 Q. How do you know there wasn't some
21 discussion as to the fact there was going to be a
22 landfill to the west?

23 A. It's a matter -- discussion is one
24 thing and the written reports are something else and
25 the written reports are the formal record.



1 Q. Are there any earlier reports you
2 are aware of?

3 A. I'm not so sure that the one I
4 have may have been signed by both individuals and this
5 one isn't.

6 Q. My question was whether or not
7 there were any earlier reports you are aware of. I
8 don't know myself, but you were familiar with this and
9 I guess I put it forward to you as an indication --
10 would it not be an indication at least from the Region
11 that with the presence, construction and use of a
12 landfill site at Site F, that the use along that
13 Highway 403 corridor, at least at this corner, would be
14 discouraged for prestige industrial use?

15 MR. GARROD: With great respect, that is
16 not what this report says at all. It just indicates
17 the applicant should be aware that that is going to be
18 there and it does not say the Region would discourage
19 it. It don't think it's fair for Mr. McQuaid to
20 characterize it that way.

21 MR. MCQUAID: Mr. Walker can read the
22 document.

23 MR. LEDERER: If I may rise with respect
24 to Mr. Garrod's point because it indicates a practical
25 problem with all of this, which is Mr. McQuaid produces



1 this report and expects everybody to gather it in by
2 osmosis. What you see are various counsel grabbing on
3 certain paragraphs and Mr. Leitch stands up on one
4 point and Mr. Garrod says that's not the correct
5 wording and if Mr. McQuaid is doing this, he must
6 either give it to counsel, and I can understand why it
7 might not be appropriate to give it to the witness, but
8 he should give it to counsel to review it first and
9 have a chance to make some input. This puts everybody
10 in an extremely difficult position. Mr. McQuaid will
11 have to expect people to stand up and object if he will
12 not allow them to consider the proposition beforehand.

13 MR. McQUAID: I have never heard in
14 cross-examination that you have to do that, nor do I
15 know where the witness is going at any individual time.
16 In any event, I suppose are at that time of day and my
17 friends can have quite a bit of time if they wish.

18 MR. LANCASTER: I was going to suggest
19 that.

20 MR. McQUAID: We won't finish this. I'm
21 afraid I am going to be a little while on Monday
22 morning.

23 MR. LANCASTER: We will adjourn until
24 Monday at 9:30 a.m.

25 MR. LEITCH: I wonder, since we have to



1 .be ready to call our first witness at some point next
2 week, if we could have an indication as to how long it
3 will be before my friends, Mr. McQuaid and Ms. Vigod
4 are finished and how long Mr. Lederer might be, so I
5 can do some planning.

6 DR. KINGHAM: The Board might take some
7 time too.

8 MR. LEITCH: I wouldn't be surprised.

9 MR. MCQUAID: My best estimate, and I
10 said a day and a half yesterday when I started, but I
11 think I would be another half a day. That is my view
12 right now. In other words, I hope to be finished by
13 lunch time.

14 MR. LANCASTER: Ms. Vigod?

15 MS. VIGOD: My best estimate was under
16 a day and I may not be finished Monday if Mr. McQuaid
17 goes a half a day, but certainly by Tuesday morning.

18 MR. LANCASTER: Re-examination?

19 MR. LEDERER: I wouldn't expect to be
20 terribly long.

21 MR. GARROD: Three days.

22 MR. LEDERER: Yes, three days.

23 MR. LANCASTER: That's not terribly
24 long.

25 MR. LEDERER: As things stand now, maybe



1 .an hour. Of course I don't know what's going to happen.

2 MR. LANCASTER: It certainly wouldn't be
3 before Tuesday afternoon at the earliest.

4 MR. LEITCH: I was hoping you were going
5 to say I could start Wednesday morning.

6 MR. LANCASTER: I was just coming to
7 that. I think you can assume that that would be a good
8 time to plan for and it makes it earlier for everyone.

9 MR. LEITCH: Thank you.

10 MR. LEDERER: Before you rise, I wonder
11 if I could make one announcement, and I hope it's out
12 of an abundance of caution and nothing else.

13 Mr. Hodgson and I are attending a
14 particular social function this evening and I expect
15 Mr. Walker will be there. I also hope I will be able
16 to talk to Mr. Walker in the course of the evening and
17 I hope everyone will accept our undertaking not to
18 discuss his evidence.

19 MR. LANCASTER: The Board certainly will
20 and I don't see any problem there. Knowing you and Mr.
21 Walker, I am sure there will be no problem.

22 MR. LEDERER: I appreciate it.

23 MR. MCQUAID: I may have misunderstood
24 what you said to Mr. Leitch. Does that mean if we
25 finish earlier on Tuesday, you would break until



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Walker, cr ex
(McQuaid)

1 Wednesday morning?

2 MR. LANCASTER: Yes.

3 MR. McQUAID: Thank you.

4 --- Adjournment (4:40 p.m.)

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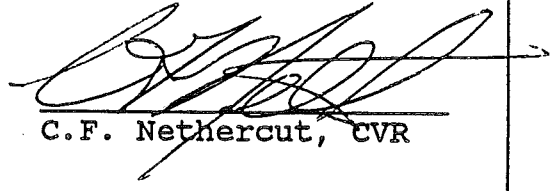
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C.F. Nethercut, CVR

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