

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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I N D E X

WITNESS:

PETER ROBERT WALKER (Resumed)

Cross-examination by Mr. McQuaid (Cont'd)	15360
Cross-examination by Ms. Vigod	15448

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Page No.</u>
B-351	City of Burlington Planning Department Request for Comments dated September 30, 1986 with attachments	15362
B-352	Letter from McConnell, Maughan Limited, dated August 25, 1987 with map	15380
B-353	Ontario Municipal Board decision of June 15, 1979	15392
B-354	Proposed Amendment No. 12a to the Official Plan for the Halton Planning area, December, 1985	15399
B-355	Proposed Amendment No. 12b to the Official Plan for the Halton Planning area, December, 1985	15399
B-356	Map	15427
WB-357	Map from H-42	15520



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Toronto, Ontario

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



Hearing conducted at The Oakville
Granary Commercial Centre, 105 Robinson
Street, Oakville, Ontario, on

Monday, November 30, 1987

VOLUME 66

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 and
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



APPEARANCES (Cont'd):

1	C. Stevenson	for Framgard Holdings,
2	P. Hancock	Fosseri Investments
3		Limited, Seriphos
4		Investments Limited and
5		Topic Investments .
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J.H. Olah

for the Halton Region
Conservation Authority

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Per: C. F. Nethercut, C.V.R.



Oakville, Ontario
November 30, 1987

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

MR. LANCASTER: Good morning. Please be seated.

MR. ESTRIN: Mr. Chairman, I heard you were having so much fun I had to come back.

MR. LANCASTER: We are glad to have you back.

MR. ESTRIN: I wanted to address you very briefly with respect to the order of witnesses for the Town of Milton. We have had some discussion with counsel and we have one witness, Dr. Richardson, with respect to birds and aircraft hazards who is only available this week before the break.

On the assumption that Mr. Walker will be finished by at the latest tomorrow, we propose to call Dr. Richardson first thing Wednesday. We anticipate that his examination in chief would take the day and it may be that cross-examination would not be completed on Thursday, but of course I have no way of knowing that.

I am quite prepared, however, to bring Dr. Richardson back immediately when we resume in January to have his cross-examination completed. The problem is he has a pre-schedule trip to Alaska for



1 certain research which necessitates him not being
2 available next week.

3 We did want to maximize the time, so we
4 wanted to call Dr. Richardson this week. Assuming my
5 friends were content with that arrangement and the
6 Board was also satisfied with it, we would then proceed
7 after Dr. Richardson in the following week to call
8 another person dealing with flying and birds, a non-
9 expert, and then we would probably finish next week
10 with Michael Hoffman of Smith, Hoffman and his evidence
11 would like take two to three days, we anticipate,
12 between examination and cross-examination.

13 We would propose to leave our evidence
14 at that point prior to the January resumption. Now,
15 Mr. Leitch had mentioned, I believe, that he intended
16 to call Mr. Zsadanyi, the Town Planner, with respect to
17 replying to certain evidence of Mr. Walker, but the
18 problem we have in calling Mr. Zsadanyi immediately
19 this week is that that would prevent Dr. Richardson
20 from taking the stand this week effectively, and we did
21 want to maximize that availability.

22 So, on the assumption that Burlington --
23 Mr. Walker will end or be finished by tomorrow, and I
24 gather from some discussions that that seems to be the
25 case, I would propose to proceed on that basis unless



1 there is some substantial objection from any of the
2 parties.

3 MR. LEDERER: Well, this is the first I
4 have heard that the reason for calling Dr. Richardson
5 on Wednesday was because he would not be available next
6 week. I must say I have concerns about splitting
7 somebody's cross-examination and introducing new
8 evidence in the middle and having him come back a month
9 later. We have certainly had a circumstance where
10 Mr. Sobanski's cross-examination was split and so there
11 is that precedent, but all in all it seems to be
12 something that should be avoided if at all possible.

13 I don't understand why we wouldn't start
14 Dr. Richardson in January when we know we can begin him
15 and end him in one session. Mr. Estrin does have other
16 witnesses, and I am not certain why it is we should not
17 be hearing from Mr. Zsadanyi as we were told we were
18 going to do last week in order that we can start
19 Dr. Richardson in a circumstance where he may not
20 finish in two days.

21 I have no idea how long his examination
22 will be and we have a report from him as he did some
23 work on an earlier hearing involving a site in this
24 area, and it seems to me there is a real question as to
25 whether he could be finished in two days and perhaps it



1 might be better to start people we know that we can
2 finish.

3 MR. MCQUAID: I certainly support
4 Mr. Lederer in that concern. I think if there was some
5 way we could finish Dr. Richardson this week I
6 certainly would not object to a change, and certainly
7 asking Mr. Estrin and Mr. Leitch can call the witnesses
8 in the order they want, but if the understanding is we
9 will hear part of the evidence and be then asked to
10 cross-examine a month from now or a month and a half
11 from now, that is not very effective in presenting the
12 issues in my submission because, as you know, the
13 evidence gets extremely cold and the cross-examination
14 is really a regurgitation of what we heard a month
15 before. So you end up with not a very effective
16 presentation of the evidence in my submission.

17 Unless there is some way we could finish
18 Dr. Richardson, and I don't know how long Mr. Estrin or
19 Mr. Leitch feel they will be, but I am hopeful I will
20 be finished in about an hour and a half this morning. I
21 have shortened some of the issues I was going to raise
22 and we will be dealing with them in other ways, and I
23 am not sure how long Ms. Vigod will be, if there was
24 some way we could get Dr. Richardson on tomorrow even
25 and finish him this week, that might be one alternative



1 we could look at. If that can't happen, then I agree
2 with Mr. Lederer, I think Dr. Richardson should be
3 called later when he could be finished in one session.

4 MR. LANCASTER: The first thing that
5 comes to mind is perhaps we should hold this until we
6 finish with Mr. Walker and see what time we do have and
7 then Mr. Estrin, is Dr. Richardson available totally in
8 January?

9 MR. ESTRIN: Yes, he is.

10 MR. LANCASTER: And you don't have
11 enough witnesses to fill in in the meantime?

12 MR. ESTRIN: Well, we could certainly
13 call Mr. Hoffman and Mr. Zsadyani, if necessary, but,
14 beyond that, the short answer is no because we get into
15 hydrogeology and I feel I'll be perhaps up to two weeks
16 in chief and I certainly don't want to break that up.
17 Mr. Stagl, our planner, we wish him to be I think our
18 last witness in order to be able to look at all of the
19 evidence in somewhat the same way
20 Mr. Walker was the last witness for the Region.

21 So, in terms of experts, the only ones
22 we would be able to present before the Christmas break
23 would be Mr. Hoffman who has a report and Mr. Zsadyani
24 who has no report.

25 MR. LEDERER: Perhaps we had better talk



1 about this among counsel at the break, because it seems
2 every suggestion that is made raises problems for
3 somebody.

4 I might point out that one thing that
5 concerns me immediately, based on what Mr. Estrin has
6 just said, and I am looking for the reports that were
7 given to us on hydrogeology and I don't have them, but
8 some of them are quite short and if we are going to be
9 two weeks in chief, my bet is there will be a lot of
10 things that aren't in the report, and of course I can't
11 prove that, but I suppose if that is the case perhaps
12 what we should do is hear the hydrogeology in chief and
13 then go away and figure out the cross-examination over
14 the break. It's a lot of evidence to deal with.
15 Perhaps we had better discuss it among counsel.

16 MR. LEDERER: The Board's opinion is
17 that it will be Milton's day in the sun very soon and
18 we would prefer to have or allow counsel to conduct
19 their case in the way they wish to do so, obviously.
20 We don't want to waste too much time and we don't want
21 to inconvenience Dr. Richardson. I would agree that it
22 would be too bad to split the cross-examination over
23 that length of time. The examination in chief we might
24 be able to do it, but not the cross-examination.

25 However, discuss it and see what you can



1 come to and you have spoken to Mr. Leitch, of course,
2 regarding who is going to go first and he is in
3 agreement with what you suggest?

4 MR. ESTRIN: Oh, yes.

5 MR. LANCASTER: Could you speak to it?

6 MR. ESTRIN: We will discuss it.

7 MR. LANCASTER: Perhaps we can come back
8 to it after we have finished with Mr. Walker.

9 MR. ESTRIN: I would like to do it, come
10 back to it by the end of the day so we will know who
11 will be here and who won't be here.

12 MR. LANCASTER: Oh, yes. I think we
13 told Mr. Leitch he didn't have to have any witnesses
14 until Wednesday and we figured it would take that much
15 time.

16 MR. ESTRIN: Thank you.

17 MR. LANCASTER: Mr. McQuaid.

18 PETER ROBERT WALKER (Resumed):

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

20 Q. Mr. Walker, when we adjourned on
21 Thursday, we had been discussing an exhibit to the
22 planning department report, to the chairman and members
23 of the planning and development committee of the City
24 of Burlington, B-352, and you have had an opportunity--
25 you indicated you had actually seen this report before?



1 A. I thought I had seen this report.
2 I hadn't seen this, but I had seen an earlier one.

3 Q. An earlier one?

4 A. Yes.

5 Q. Do you have that earlier one?
6 What was the nature of the earlier one?

7 A. The earlier one, Mr. Chairman, was
8 two pieces, Mr. McQuaid, and one was an October 27,
9 1986 letter from the Corporation of the City of
10 Burlington signed by Ms. Linda Bowles, Committee
11 Secretary, and that would be the Planning and
12 Development Committee, and it was sent out as a general
13 notice of circulation of information on an application
14 which was reported upon in the planning department
15 report dated September 30, 1986, entitled "City of
16 Burlington Planning Department Request for Comments"
17 and listing a series of people and/or agencies or
18 departments to which the notice was to be sent, and
19 also what I would class as a preliminary report on an
20 application by Boehringer Ingeheim (Canada) Ltd. for
21 the site you brought my attention to. It was that
22 report -- as you will recall, I couldn't find it.

23 Q. Do you have it there?

24 A. Yes, sir, I have. The pages are
25 out of order and the last page is the first page of the



1 September planning department document.

2 Q. This is what you saw earlier and I
3 see a Regional Municipality of Halton stamp on it, and
4 is this what the Region received as a result of the
5 committee secretary's circulation?

6 A. Yes, sir.

7 MR. McQUAID: I think to complete the
8 record at this point I would like to tender that and we
9 can get copies made.

10 THE WITNESS: I have copies.

11 MR. McQUAID: Q. This is, as far as we
12 know, the first circulation or the circulation letter?

13 A. For Boehringer Ingeheim, yes, and
14 with the caveat, I believe, that they are probably all
15 out of order. With the caveat that the last page is
16 actually one which should precede the one entitled page
17 2, September 30, 1986. They are out of order,
18 otherwise, Mr. McQuaid.

19 MR. LANCASTER: That must just be yours
20 because this one seems to be in order. We will mark
21 that B-351.

22 ---EXHIBIT NO. B-351: City of Burlington Planning
23 Department Request for Comments
24 dated September 30, 1986 with
25 attachments

THE WITNESS: It has the same file
number on it and so I believe it refers to the same



1 application.

2 MR. McQUAID: Q. The next report as
3 far as we are aware will be B-350, the planning
4 department comment of December 17, 1986?

5 A. Yes, I believe this is reporting
6 on the circulation.

7 Q. We noted on Thursday that the
8 report, and I am reading from the second page of B-350,
9 the third paragraph:

10 "Staff circulated this application to
11 the standard agencies and departments
12 for input. One of the replies received
13 was from the Region of Halton (see
14 Appendix 1) a copy of the Region's
15 comments was also sent to the applicant.
16 The applicant has decided to withdraw
17 its application for this North Service
18 Road property (see Appendix 2)..."

19 A. Yes.

20 Q. Then they say the business of
21 services staff were endeavouring to find a suitable
22 alternative location for this company within the City?

23 A. Yes.

24 Q. Turn over to page 4 of B-350 and I
25 refer to the third paragraph on that page which is a



1 recast or summary of the letter received from the
2 Region of Halton planning department, and in the third
3 paragraph, last sentence:

4 "From a land use perspective, Halton
5 staff would not necessarily have any
6 concerns with deeming the use to comply
7 with the intent of the Parkway Belt Plan
8 but do have concerns relating to
9 servicing and the site's proximity to a
10 proposed landfill site."

11 Then, it refers to the hearing we are now at and in the
12 next paragraph and I refer you to the last sentence in
13 that next paragraph:

14 "While it is not expected that areas
15 bordering the proposed landfill site may
16 be negatively affected by odours, dust,
17 or windblown pollution, there may be
18 some degree of nuisance despite on-site
19 mitigation measures..."

20 And then:

21 "...an area of greater concern is
22 related to transportation..."

23 And then again going on in that paragraph the Region of
24 Halton planning member or staff are giving an
25 indication that the applicant should be aware of the



1 transportation problems that may be associated with
2 that site?

3 A. Yes, the sixth sentence from the
4 bottom of page 4.

5 Q. All right. Having looked at that
6 letter, certainly would you agree with me that it seems
7 to be summarized as an indication from the Region of
8 Halton planning staff that they are concerned that this
9 particular site or location may be adversely affected
10 in some way by the proposed landfill site?

11 A. I have a copy of the letter the
12 Region sent. I think their initial concern was that
13 the applicant know, from a government source at least,
14 that there was a landfill nearby. The September report
15 did not say anything about lands to the west of King
16 Road. It did not inform the circulation list that
17 there was a landfill proposal nearby. The regional
18 letter was doing that.

19 I think if you go to page 4 of Exhibit
20 B-350, the fourth paragraph, the concern is stated at
21 the end of the fifth line into the sixth:

22 "The applicant should be fully aware of
23 the existing potential that a landfill
24 site may be located directly across King
25 Road..."



1 And it precedes the sentence you read. So the staff
2 planner was raising this matter about there being a
3 potential landfill adjacent to the site that was
4 proposed by Boehringer Ingeheim.

5 Q. Yes. I guess I asked you on
6 Thursday, and I put the question to you again, have you
7 made -- did you make a study of the area around
8 proposed Site F, particularly with respect to what
9 development might be occurring along Highway 403, along
10 this complementary or Special Complementary Use Area to
11 determine whether or not there would be any impact on
12 that area from the landfill site?

13 A. I believe, sir, in the nature of
14 the work we were doing that I did do that assessment of
15 whether there would be impact. In my opinion there
16 would not be impact. I don't think from the material
17 in B-350, I don't think that Boehringer Ingeheim, their
18 application could be perceived as having been
19 insensitive to landfill.

20 One thing I didn't know until you gave
21 me the exhibit, was that Mr. Pirie had been acting for
22 Boehringer Ingeheim and his letter is on page 5 at the
23 bottom. Mr. Pirie is an experienced and senior
24 planner, a senior planning person within our
25 profession, and he has been practicing in Burlington



1 for perhaps 15 to 20 years and certainly would have
2 been aware of a landfill proposal on Site F and,
3 therefore, as their representative, Boehringer
4 Ingeheim, in my opinion, would have known about the
5 landfill proposal to the extent that he was advising
6 them on the compatibility of adjacent land uses.

7 Q. All right. Well, dealing with the
8 specific application, I gather you have not researched
9 whether there was any connection between the Boehringer
10 Ingeheim withdrawal and the letter received from the
11 Region?

12 A. No, sir, I haven't. But there was
13 an ongoing application by the then owner of the site,
14 as I understand it, although in Exhibit B-351 if you
15 look at the September 1986 report it shows Boehringer
16 Ingeheim as the owner, but there was a concurrent
17 application on file with the province by a chap named
18 Ecclestone who purported to be the owner with three
19 others and asking for exemption, removal from the
20 Parkway Belt with reasons, and it is confusing as to
21 actually owned the site at the time that Boehringer
22 Ingeheim made the application.

23 Q. All right. Similarly would I
24 understand from what you say that you are surmising
25 that Mr. Pirie was aware of this particular application



1 based on your appreciation of his capabilities. You
2 don't know as a fact...

3 A. No, I didn't know until you gave
4 me that that Mr. Pirie was acting for Boehringer
5 Ingeheim.

6 Q. You are assuming then he would
7 have known before the application was filed or before
8 this letter was received about the landfill site?

9 A. Yes, sir. I think I would have to
10 come to that conclusion if there was a professional of
11 his ilk who was representing Boehringer Ingeheim,
12 especially one who practices out of Burlington because
13 that is where his head office is.

14 Q. Turning to the area that you might
15 assume would be available for development of this type
16 of prestige industrial development along 403, I would
17 like to discuss it with you. Did you examine, for
18 instance, within the subject site, are there any sites
19 you are aware of along the frontage of 403, tableland
20 sites and so on, that could be used for the same type
21 of development that the Boehring Ingeheim application
22 represents?

23 A. In terms of tablelands?

24 Q. The land along the front that
25 could possibly be developed, and I am thinking



1 particularly down at the northwest corner of 403 and
2 King. Is there land in that area that could be used
3 and yet would not have a serious impact on the
4 environmental valleys and so on that we have heard
5 evidence about?

6 A. The land in the northwest corner
7 is relatively the same. It is not quite the same, but
8 this is much more of tableland and it rises and it has
9 gullies within it as you can see from the aerial photo
10 and I would say this is more severe in the northwest
11 corner of 403 and King Road.

12 Q. What do you mean by "severe"?

13 A. There has been more erosion in the
14 hills and the topography is more severe in terms of it
15 having more rolling to it, but, generally speaking, it
16 does grade upward, and when I say "upward", it grades
17 to the north, elevating as you go north.

18 Q. Does that mean there is tableland
19 or not that could be used for locating or the
20 construction of the sort of offices, warehouses or
21 whatever it might be that we see typified on the
22 Boehringer Ingeheim...

23 A. I think it would require more
24 reworking of the site than the site which is referred
25 to as Boehringer Ingeheim.



1 Q. Is this something that you
2 examined, Mr. Walker?

3 A. In terms of buildability?

4 Q. Yes.

5 A. No. My general impression is if
6 you look at the grade of King Road, you will see the
7 land rises and there would have to be regrading of the
8 site in my opinion, but that doesn't mean that it
9 couldn't or wouldn't happen.

10 Q. I guess my question was more
11 specific. When you were examining this as a planner
12 from a land use perspective, did you have any reference
13 to what alternate use the Site F lands might be put to?
14 Was that part of your consideration as a land use
15 planner?

16 A. Alternate uses? Given the
17 reference in the Parkway Belt West Plan, I did give
18 consideration to whether the land could be used and the
19 answer is I believe it could be, but it would require
20 some reworking of the site, reworking in terms of
21 grading. So, in a sense you would not be able to
22 protect the biological/biophysical aspects which Miss
23 Hellas identified.

24 Q. What area would you be talking
25 about when you say that, that it could be reworked?



1 Can you give us some approximation of acres, hectares,
2 distances?

3 A. No, I can't do that, but you can
4 see from the aerial photo, M-103, if you avoid the
5 major woodlots, there is a height of land about halfway
6 up this easterly projection and it rises more to the
7 north and when you are on the westerly side of the site
8 it rises more up in here (indicating). In the bottom
9 part, I believe on either side of the stream areas
10 which are coming down through the woodlot, among
11 others, there is another one to the west approximately
12 where the Hydro line starts to go diagonally northwest,
13 you can see there are open areas and they are not --
14 they are not an industrial site as they stand today.
15 There would have to be reworking, and by "reworking" I
16 mean grading and removal of vegetation to allow them to
17 be utilized, and it doesn't mean all the vegetation
18 would have to come out, nor does it mean that these
19 streams which are in there would disappear. They might
20 be and it depends on the nature of the proposal, but a
21 lot of the degree or a lot of the extent of the
22 reworking of the site would depend upon the type of
23 proposal which was brought forward.

24 Q. Did you sit down and try and
25 sketch out what areas might be characterized as



1 tableland and not influence the environmental area?

2 Did you try to get some idea of what size of project
3 might go in or anything of that nature?

4 A. No, I did not sketch it out, sir.

5 Q. May I take it that you didn't try
6 and estimate what square footage or acreage might be
7 available for some alternate use of this type of
8 industrial use, or commercial/industrial use?

9 A. In terms of actual area, no.

10 Q. What was the study area that you
11 as a planner examined when you had reference to impacts
12 around Site F?

13 A. The formal area -- is that what
14 you are referring to?

15 Q. I don't know if it is a formal
16 area.

17 A. It was the 2B study area which was
18 enlarged in 2C.

19 Q. Was it the 2C study area and is
20 that what you mean by the formal study area?

21 A. In 2C that is the area we looked
22 at, yes. Prior to determining that we looked at the
23 general area.

24 Q. I appreciate that and I know
25 Ms. Cronk took you around and asked you to describe



1 many of the uses around the area, but I wanted to know
2 what the extent of the study area was that you looked
3 to. Do I understand it was coincident with
4 Dr. Schiff's study area?

5 A. Yes.

6 Q. I am showing you H-37, the social
7 impact assessment of Dr. Schiff, and I refer you
8 particularly to the map, Map 3 opposite 3-1?

9 A. Yes, that is the study area looked
10 at in 2C.

11 Q. Just opposite page 3-1. Looking
12 at that and looking at M-103, starting at the south, I
13 notice that that study area certainly goes down to the
14 CNR to the south?

15 A. It does.

16 Q. And it continues over to ...

17 A. This is King Road.

18 Q. King Road, yes. It goes down to
19 the southerly extension of King Road?

20 A. It goes farther than that. I will
21 describe it on M-103. It comes along and passes King
22 Road and goes over to the east beyond the transformer
23 station which is almost over the letter E on M-103.

24 Q. Let's stop there for a moment and
25 go back up to 403. I wanted to ask you if you



1 considered from a land use point of view what effect,
2 if any, there would be from the landfill site in that
3 triangular area, and I am calling it triangular, but
4 you know the area I mean.

5 A. Between 403, the rail and the
6 transformer station and King.

7 Q. Yes.

8 A. Did we? Yes.

9 Q. What were your conclusions?

10 A. I don't believe there would be any
11 effect of any significance.

12 Q. Then continuing counterclockwise,
13 go north of 403, if you would, and would you outline
14 for the Board where the study area is on aerial map M-
15 103. You can go that way if you want.

16 A. You said counterclockwise.

17 Q. That is clockwise.

18 A. I am sorry. Going up the east
19 side of the transformer station it went up to the south
20 side of 403 and went across to Brant Street, which is
21 to the east and off the aerial photo, and then came
22 along the north side of 403 but back, coming in at
23 about the mid-point right here and so you pick up the
24 frontage of the North Service Road as it went through,
25 and shall I continue?



1 Q. Yes.

2 A. Then it went to just to the west
3 of Indian Creek and it went semicircular up to Mountain
4 Brow Road and came back down in a semicircular way
5 picking up on this map the east end of Rennick Road
6 down past, I think it is the Johnson farm, and then
7 diagonally picking up Cumis and Tridon and then down in
8 a semicircle back to the rail line.

9 Q. Dealing with the area which is, I
10 would say, roughly four o'clock to -- one to two
11 o'clock, just going up to the east of the existing
12 Bayview site, 403 and around. Yes, in that general
13 area.

14 A. Yes.

15 Q. Now if you go clockwise down to
16 403 we have been talking about the Boehringer Ingeheim
17 project and we see the open section, I guess, of the
18 existing quarry, and we can see the open section there,
19 but is there not land which could be put to some use
20 further to the east of those two uses I just described
21 to you within the study area?

22 A. There is quite a lot of what
23 appears to be wooded area on the aerial photo.

24 Q. Do you know what, if any, proposed
25 use there is for that area?



1 A. I don't think there is any
2 proposed use as this is all part of the Parkway Belt
3 and the uses are pretty prescribed by that, but the
4 Burlington urban area is roughly in here and shown by
5 the end of the stubs of the roads coming out west from
6 Kerns Road. The Burlington urban area which is the
7 boundary, roughly the boundary of the Tyandaga
8 community, is right in there. There may be some
9 additional very narrow bands of future residential in
10 there, but I don't think there is very much.

11 Q. I want to show you a letter dated
12 August 25, 1987. You will see there is a map attached
13 to that and I would ask you if you can relate this to
14 the stubs you were just discussing?

15 A. Yes. This appears to be on M-103,
16 it appears to be -- it is hard to scale, but I think
17 some of this -- the difficulty here is that there is a
18 field pattern in here and the lines go in opposite
19 directions or a diagonally opposite direction from
20 where the lines go on here, but I believe it starts at
21 the bottom, about the width of the two joints of my
22 finger, and it goes up getting diagonally smaller as
23 you go north. As you go up the right-hand side of this
24 drawing you will pick up the first stub and you can see
25 the road pattern easily in there, and then you go up --



1 . I think you pick up this street here (indicating) but
2 I can't really see. I think it goes as high as this
3 stub on the north side, about halfway up the photo
4 between the 403 and the top of the photograph. I
5 believe it is picking up that stub there. No, it is a
6 little bit higher. It goes right up to there. It
7 appears to be all of this fairly narrow strip going
8 down the west-hand side of this residential
9 subdivision.

10 Q. Can you pick out for us what the
11 features of the Hydro right-of-way would be?

12 A. It shows better in the treed area.

13 Q. In the northern part. Can we see
14 it on the south? Is there any definitive shading or
15 anything of that nature? It is hard to see from here?

16 A. It is much much easier here.
17 There is the tower line. There are the towers and I
18 could circle them if you want me to.

19 Q. That might be a good idea.

20 A. Just outside the treed area. I am
21 circling them in red. The boundary of this subdivision
22 doesn't go all the way down to here, it picks up and
23 goes straight north. It goes straight down about there
24 and misses the bottom red circle. That is not included
25 in the subdivision.



1 Q. Now, looking at this, and is this
2 the first you have seen this, Mr. Walker?

3 A. Yes.

4 Q. Looking at the drawing itself, it
5 would appear that the southerly blocks, and you will
6 see they are fairly large blocks?

7 A. If I am going to be answering
8 questions about this subdivision, could I read the
9 letter?

10 Q. Sure.

11 A. I see the southerly blocks.

12 Q. You can read the letter if you
13 like and we will have a break this morning and you can
14 have a look at it because I was not going to ask you
15 very much in terms of detail, but I just wanted to take
16 you through the drawing and then you can come back to
17 it if you want.

18 A. I don't want to come back to it if
19 no one wants me to come back to it.

20 Q. It looks as though the southern
21 portion is industrial blocks?

22 A. Are they industrial?

23 Q. I want you to assume they are
24 industrial?

25 A. Okay.



1 Q. Looking at the configuration,
2 there appears to be then a series of residential uses
3 further to the north as you go up east of the Hydro
4 corridor over to the existing property lines and land
5 uses?

6 A. Parts of them look like a single
7 family residential subdivision and the other parts look
8 a little larger. What are those dark blocks?

9 Q. Those are apartment blocks.

10 A. Thank you.

11 Q. You will see at the top of
12 page ...

13 MR. LEDERER: The problem with this, as
14 the Chairman can appreciate, is that since Mr. Walker
15 has never seen it, it is very difficult for him to
16 prove this exhibit or who sent it or what the blocks
17 mean. Mr. McQuaid can explain his understanding, but
18 he is not giving evidence. I presume this will be
19 subject to some kind of formal proof later and should
20 not be admitted at this time.

21 MR. McQUAID: It will be.

22 MR. LEDERER: As long as it is submitted
23 subject to formal proof later.

24 MR. LANCASTER: In the meantime we will
25 mark this B-352.



1 ---EXHIBIT NO. B-352: Letter from McConnell, Maughan
2 Limited, dated August 25, 1987
3 with map

3 THE WITNESS: Those blocks are
4 industrial/commercial blocks.

5 MR. MCQUAID: Q. I was going to ask you
6 if you knew. We looked at the Official Plan for
7 Burlington, that would give us an indication of what
8 the present designation is?

9 A. It says something about the road
10 passing through the industrial/commercial blocks and
11 there is no legend.

12 Q. If you look at page 3 you will see
13 a summary of the statistics in paragraph 12?

14 A. Yes, thank you. Yes.

15 Q. You will see there is 142 single
16 family dwellings, 32 apartment units, and I think there
17 is reference to the fact that there is two blocks
18 referred to back at the top of page 2, 12 townhouses
19 and then it has the population, then the
20 industrial/commercial area, 6.8 hectares, and they have
21 a population equivalent I guess for purposes of sewage
22 and so on?

23 A. Yes.

24 Q. So you have there -- if I
25 understand it correctly, Mr. Walker, I think that is a



1 summary of what proposal has been received with respect
2 to that area, but I want you to assume that in any
3 event?

4 A. Yes, sir.

5 Q. I gather you have not seen this
6 particularly proposal before it being put to you here
7 this morning, is that correct?

8 A. That is correct, sir.

9 Q. Therefore, you accordingly did not
10 take into account in your land use analysis this
11 particular proposal?

12 A. This post-dates anything that we
13 were doing in terms of detailed work in the study area,
14 Mr. McQuaid.

15 Q. Remind me when your cut-off of
16 detailed examination really occurred?

17 A. We finished 2C and then were
18 involved throughout in the post period from the
19 standpoint of the planning policies and then we were
20 updating information to feed into the comparative
21 analysis, and we had been sort of monitoring some
22 things that went on when it was possible to determine.

23 Like, we did pick up on the Ecclestone
24 proposal. That was the one that was sort of
25 overlapping the same site with Boehringer Ingeheim and



1 then we did get Boehringer Ingeheim from the Region. I
2 had not received this. I am not on Burlington's
3 circulation list, and I don't know whether this has
4 been circulated or not as this is fairly late.

5 Q. When you say the comparative
6 analysis you are talking about H-14?

7 A. The green book, yes.

8 Q. Your detailed analysis pretty much
9 ended when this was published, or it is up to that
10 date?

11 A. Yes, sir. Where we became aware
12 of applications, for instance, if I became aware of
13 this one, I would have picked it up, but this is within
14 the Burlington urban area and so it is really
15 implementing something which is part of the material we
16 knew about and we didn't know about the exact design,
17 and I didn't mean that...

18 Q. Okay.

19 A. This actually rounds out, I think,
20 the Burlington urban area in this particular location.
21 Adjacent to that to the west or to the left-hand side
22 of this schedule is the Parkway Belt West area.

23 Q. I am going to ask you about that
24 in a moment. The Ecclestone proposal, and remind me of
25 what that was?



1 A. Dr. Ecclestone had applied to the
2 province to amend the Parkway Belt Plan to remove his
3 site which is the same site at the Boehringer Ingeheim.

4 Q. All right.

5 A. It was being circulated to the
6 Region at roughly the same time as the Boehringer
7 Ingeheim application was going forward.

8 Q. The same property, or the same
9 block as the Boehringer Ingeheim?

10 A. Yes. It was a slightly different
11 application, I would say.

12 Q. Do you understand that Boehringer
13 Ingeheim had some sort of tentative arrangement with
14 the Ecclestone property?

15 A. I think it would be foolish not to
16 have some sort of tentative arrangement to have made an
17 application. One thing I don't know is whether they
18 owned it at the time because I had an application, or a
19 copy of an application from somebody who purported to
20 be the owner.

21 Q. Turning back to this proposal as
22 shown in B-352, you are saying this was within the
23 Burlington urban area and this rounds out the
24 Burlington urban area?

25 A. In this location.



1 Q. Okay. Did you give any
2 consideration to impact potential, impact on this area
3 we are now discussing when you were making your land
4 use analysis?

5 A. We knew this was part of the urban
6 area and I didn't know the proposal that would be in
7 the area, but it was clear that any proposal for the
8 area would post-date the identification at least of the
9 land use site and therefore would be in response to the
10 landfill, not something in situ and responding to the
11 landfill.

12 Q. Yes?

13 A. So, I didn't know about this
14 precise application.

15 Q. All right.

16 A. If I take into account that it was
17 the Burlington urban area, the answer would be yes and
18 I believe the other experts did as well, because, as I
19 said, the information in terms of visual et cetera was
20 being brought together by other experts.

21 Q. All right. What conclusion did
22 you come to with respect to impact?

23 A. I didn't believe there would be
24 any impact, certainly no significant impact. It is a
25 long way away relatively speaking from the site. the



1 details of that, and I stood at the end of the stub
2 roads up in here, (indicating) and it was my impression
3 that there would be no impact from my standpoint, and,
4 as I said earlier, the actual detail of the very
5 specific types of analysis was being done by others.

6 Q. No impact then is your evidence?

7 A. I don't believe there is any
8 impact. If there is, it certainly is not significant.

9 Q. Does that opinion relate to all of
10 the proposed uses including the industrial/commercial
11 along the North Service Road frontage?

12 A. Yes, sir.

13 Q. All right. Just to complete the
14 discussion then as to the other areas that might be
15 available, are you aware of any other areas that might
16 be developed for any -- I could call it an urban
17 purpose, whether it be industrial/commercial or
18 residential, within the area you have outlined as the
19 study area, either to the east or to the west?

20 A. Well, my knowledge is that the
21 Boehringer Ingeheim site has now been sold to an outfit
22 called Jeffcott Homes which is a Burlington operation,
23 basically home builders, and there is no application
24 which has been submitted yet, but there is an
25 indication, a sign on the site that they are proposing



1 to put offices on to the site, and I have confirmed
2 with Mr. Thurgood at the Parkway Belt that he is aware
3 of this possibility.

4 MR. LANCASTER: Could you indicate the
5 site again?

6 THE WITNESS: The site which was
7 otherwise identified Ecclestone as Boehringer Ingeheim
8 on the northeast corner of 403 and King Road. In
9 addition to that, presumably at some point in time the
10 lands south of 403 could be developed for industrial
11 purposes and are designated in the Burlington Official
12 Plan for that purpose.

13 MR. McQUAID: Q. Dealing with the
14 property which you indicated is now sold to Jeffcott
15 Homes, do you have any views as to whether the
16 potential use of that site for offices would be
17 affected by the landfill site?

18 A. No, I don't believe it would.

19 Q. You told us about the lands to the
20 south, but are there any lands that can be used -- I
21 guess there is that triangular portion immediately to
22 the south of Site F, south ...

23 A. The little part contained within
24 the red lines?

25 Q. Yes. Is there any land that can



1 be used in that area for prestige or any other type of
2 commercial/industrial?

3 A. Well, it is relatively flat and so
4 it could be used. It is a relatively small site,
5 Mr. McQuaid. It is wide, but fairly narrow because of
6 its triangular shape.

7 Q. What would the size be? You say
8 "small".

9 A. It is probably in the order of ...

10 Q. Approximately 10 acres?

11 A. Approximately 5 hectares or in
12 that order. If it is important to you I can find it
13 out.

14 Q. I wanted to get some idea for the
15 Board at this point?

16 A. I am going by the fact that this
17 site is roughly 18 and a bit hectares and if you cut it
18 diagonally it is bigger than that, so 6 hectares is
19 bigger than that so I took 5. That's just a general
20 scale.

21 Q. I wanted to give the Board some
22 approximation of the size. You are saying it is small.
23 However, potentially at 20 per cent coverage and
24 assuming for the moment that it was as big as 5
25 hectares, which would be 12.5 acres at 2.5 acres to the



1 hectare, that would be 12-1/2?

2 A. Yes.

3 Q. You could take 20 per cent of
4 that, 2.5 acres and 2.5 acres times 43,550 square
5 feet...

6 A. You are doing a statistical
7 exercise. First of all it must be set back from the
8 Parkway Belt, from the roads about 110 metres and so
9 say that is the width of my finger along here, so you
10 can see you are driving it into a very small triangular
11 piece. I don't know, Mr. McQuaid, if it is usable or
12 not and if necessary I can lay it out to see if it is
13 possible or not. But, you would be running into the
14 possibility -- you are counting a floor space figure,
15 but there is parking and buffering, landscaping and
16 loading and driveways and everything else. It may be
17 possible to put it on, but I didn't check that, sir.

18 Q. In other words in looking at -- I
19 think you said to me you didn't look at alternate use
20 on some other portions and you did not look at this use
21 also?

22 A. In the terms you have said or in
23 terms of laying it out, I didn't.

24 Q. What about your views with respect
25 to the impact? Do you see any impact on this potential



1 triangular piece as a result of the landfill?

2 A. No.

3 Q. How about lands...

4 A. That is from a
5 commercial/industrial standpoint.

6 Q. Yes?

7 A. Right.

8 Q. Lands further to the east. Are
9 there any further lands that could be used for some
10 sort of prestige, some type of commercial/industrial
11 use?

12 A. To the east?

13 Q. To the west, I am sorry.

14 A. Well, we have the two uses already
15 in here.

16 Q. I am thinking in between those
17 two. Is there another parcel of land in there?

18 A. Yes.

19 Q. What land is that? Could you
20 delineate it for us approximately?

21 A. There is a piece of land called
22 Wosnick and I believe it is right in here but I don't
23 know for sure whether Wosnick is an owner or not, but
24 at various times their name did show up.

25 Q. Could you give us the approximate



1 spelling of that?

2 A. Sorry. Can I laugh at this one?

3 No, sorry. Wosnick is W-o-s-n-i-c-k.

4 Q. And in area?

5 A. Again I can get that information
6 and I have it in some file, but it would be in the
7 order of 5 hectares or maybe a little bit smaller.

8 Q. Do you consider there would be any
9 impact from the landfill on the Wosnick lands?

10 A. I don't believe so as long as it
11 is an industrial/commercial use.

12 Q. Do you know where the access road
13 would be to the proposed landfill?

14 A. It is the existing road as
15 proposed, as I understand it.

16 Q. You understand the existing
17 road -- what would be the closed Burlington site would
18 also be the access road to the new facility?

19 A. Yes. Again, Mr. McQuaid, to go
20 back to the Wosnick property for a moment, I didn't lay
21 it out and subject to the fact it could be laid out or
22 if it could be laid out, then I think -- and if you
23 could put a use on the site, then I don't believe it
24 would be an impact.

25 Q. Have you any views on what impact



1 there would be -- do you understand what is proposed to
2 happen to the Burlington landfill site, the closed one?

3 A. I believe the after-use is to be
4 recreational.

5 Q. Have you any views as to what the
6 effect would be on a new site at F if the access road
7 is the same as the access to a recreational use?

8 A. I think you would have to find or
9 at least consider finding alternate access to the
10 recreational use.

11 Q. Have you give any consideration to
12 that?

13 A. Somewhere I have a note on that.

14 Q. I thought you understood that they
15 would be the same. No? Perhaps I misunderstood.

16 A. You didn't ask me that question,
17 but you asked me if the road for the new sanitary
18 landfill, would it be the same as the one ...

19 Q. I am sorry, I made the wrong
20 assumption. You assumed there would be another road
21 somewhere in that vicinity which would go into the
22 recreational closed Burlington site; is that correct?

23 A. I am sorry, Mr. McQuaid. I asked
24 Mr. MacLeod to give me an answer on that because I did
25 pick up that they were proposed at this point in time -



1 - not "proposed", but the way it stands it would be an
2 access road for both the recreation use and the other
3 and the answer was it would be from the North Service
4 Road to the west of the existing road.

5 Q. Dealing with the access to the
6 landfill itself, if it is on the same road but goes
7 into the Burlington landfill, is it your evidence that
8 any development that might occur on the triangular
9 piece we were discussing just south of Site F or on the
10 Wosnick lands would not be affected by the access to
11 the proposed landfill?

12 A. I don't think it would, no.

13 MR. McQUAID: At this point, if I
14 could, I would like to move to another topic. Before I
15 do that I would like to file with the Board a copy of
16 the 1979 decision of the Ontario Municipal Board on
17 what we have been referring to as old Site F. If I
18 could ask that that be marked as an exhibit as I don't
19 propose to ask any questions, but we had some
20 discussion about it on Thursday?

21 MR. LANCASTER: Exhibit B-353.

22 ---EXHIBIT NO. B-353: Ontario Municipal Board
23 decision of June 15, 1979

24 MR. McQUAID: Q. Just one follow-up
25 question to the discussion we have been having. Are
you aware of where urban services are along the north



1 part of the service road in the area of Site F?

2 A. There is a sanitary sewer now
3 servicing part -- well, the Bayview Landfill, if you
4 will, the remedial works that Burlington has put in
5 place and the water pipe I believe stops at the urban
6 boundary or very close to the urban boundary.

7 Q. Generally in the area of that
8 triangle we have been talking about from the Hydro line
9 over to that road that we see, or is there a road going
10 north on M-103? Can you pick up a road?

11 A. I don't think it goes that far,
12 but if you could just give me a second please.

13 Q. Okay.

14 A. The watermain, I believe, goes
15 over past the Hydro line, so it goes to just west of
16 the bottom red dot and so it goes farther than I had
17 indicated.

18 Q. How about services over to the
19 west of the site, of the proposed site, over on the
20 side where Tridon and the Cumis plants are? Are they
21 serviced, over by the Wosnick lands?

22 A. I don't recall and don't have that
23 information with me.

24 Q. Now, I would like to turn to an
25 area of discussion relating to the recommendations you



1 made during your consulting services to the Region with
2 respect to the Milton and Regional Official Plans, and
3 I would like to concentrate specifically on the
4 regional Official Plan initially if I could. I would
5 ask you if you would to take your report, your 2C land
6 use and planning assessment report, H-51.

7 A. Yes.

8 Q. And in addition, I guess, we will
9 look at the regional Official Plan which is H-87. I
10 would refer you in H-51 to page 9-22?

11 A. Yes.

12 Q. If I understand it, at that point
13 you were addressing what planning approvals might be
14 required for Milton, Site D?

15 A. Yes.

16 Q. And at page 9-22 over to the top
17 of page 9-23, you stated there the policies from the
18 proposed regional plan that might apply to a landfill
19 site at Site D; is that correct?

20 A. Well, I mentioned D3.8 and D3.9
21 from section III, yes.

22 Q. Going over to 9-23 you had
23 reference to Part III, A3e and the resource management
24 policies?

25 A. Yes, Part IV.



1 Q. Then you referred to the hazard
2 land designation on Map 5?

3 A. Yes.

4 Q. Continuing at 9-23 you comment on
5 the fact that the majority of the lands within Site D
6 were designated as agricultural?

7 A. Under Milton?

8 Q. Yes.

9 A. Yes.

10 Q. That is under the Milton OP. You
11 are starting to look at the Milton Official Plan
12 policies at that point, and you are reviewing, as I
13 read the report at 9-24 and 9-25, what particular
14 planning policies from the Milton Official Plan or
15 other sources might apply and might need to be attended
16 to for a proposed landfill at Site D; is that correct?

17 A. Sort of recounting those, yes.

18 Q. Sort of doing an inventory of
19 them?

20 A. That is what was being done here.

21 Q. But basically for the object of
22 determining what changes might need to be required or
23 what might be recommended to the Region; correct?

24 A. It is certainly ones that we
25 considered, yes.



1 Q. At page 9-26 we see a conclusion,
2 9.4.9?

3 A. Yes.

4 Q. There you concluded:
5 "If a landfill site were to be located
6 at Site D, the following Official Plan
7 and Zoning By-law amendments would be
8 required: ..."

9 A. Yes.

10 Q. And then the second paragraph:
11 "An amendment to the Regional Plan would
12 be requested to designate the chosen
13 site for landfill purposes. Also
14 indicated within the amendment would be
15 the rehabilitation and after use plans
16 for the site. It is felt that a
17 Regional Official Plan amendment would
18 clarify the use of the lands in the
19 future.

20 An amendment to the Milton Official Plan
21 would be required...

22 Finally, a site specific zoning by-law
23 amendment to Oakville By-law 1965-
24 136..."

25 We have before the Board the amendment to the Milton



1 Official Plan and the site specific zoning by-law, but
2 we do not have an amendment to the regional plan?

3 A. That is correct.

4 Q. Am I correct that following this
5 particular report, you in fact did receive instructions
6 to prepare a proposed amendment to the Official Plan
7 for the Halton planning area?

8 A. Yes.

9 Q. Am I correct as well that you had
10 also recommended a proposed regional Official Plan
11 amendment with respect to Site F?

12 A. Yes. The answer is yes, subject
13 to if we are going through with it and you are putting
14 the documents in, I think, as I mentioned in chief,
15 Mr. Chairman, it was a situation here where we felt in
16 conjunction with regional staff and the administration
17 plus we ourselves felt that some sort of symbol on the
18 regional concept plan for whatever site was approved,
19 we would have to clarify the situation as to where one
20 was located and the Official Plan amendment that went
21 through was one which was much more extensive than that
22 and actually took all of the policies of the regional
23 plan for solid waste, and I forget exactly the words I
24 used, but essentially we were making them more current
25 or updating them in terms of terminology. This was



1 something which was requested during this period when
2 we were dealing with these documents.

3 Q. I will get to that in a moment,
4 and I will ask you to amplify those comments,
5 Mr. Walker. To pick up for the purposes of the record
6 and the Board, am I correct if we go over to page 9-33
7 and 9-34, and leading up to those pages, you were again
8 doing an inventory of what might be required on Site F
9 and on page 9-33, section 9.6.7, the last paragraph of
10 that section and over on page 9-34, you had recommended
11 an amendment to the regional plan should be requested
12 and in your opinion the Halton regional staff should
13 designate the site for sanitary landfill and also
14 indicated in the amendment would be the rehabilitation
15 and after-use plans for the site and that Halton
16 regional staff feel that a regional Official Plan
17 Amendment could clarify the use of land for the future?

18 A. Yes.

19 Q. Really the same wording as under
20 Site D, a clarification amendment.

21 A. That is correct.

22 Q. Then, I am going to show you
23 copies of proposed amendments 12a and 12b. Could you
24 identify those for us as documents which were prepared
25 by you and your company?



1 A. They look like it, Mr. McQuaid,
2 and if you assure me these are the ones that went to
3 the public meetings, I will take your word for it. I
4 won't read them all.

5 Q. We photostated the proposed
6 amendments which went to the public meeting as you
7 indicated?

8 A. Yes, sir.

9 MR. McQUAID: Could I ask those be
10 marked as the next exhibits?

11 MR. LANCASTER: Proposed Official Plan
12 Amendment 12a will be B-354 and 12b will be B-355.

13 ---EXHIBIT NO. B-354: Proposed Amendment No. 12a
14 to Official Plan for Halton
Planning Area, December 1985

15 ---EXHIBIT NO. B-355: Proposed Amendment No. 12b
16 to Official Plan for Halton
17 Planning Area, December 1985

18 MR. McQUAID: Q. Just to pick up the
19 historical context; your recommendation in your 2C
20 report, H-51, that was dated June, 1985 and these
21 proposed amendments, as we can see from the title
22 pages, they are dated December, 1985 in both cases. Am
23 I correct there was a public meeting which took place
24 with respect to these amendments in February of 1986?

25 A. Yes.



1 Q. So, we have your recommendation in
2 June which led to instructions to prepare regional
3 Official Plan Amendments which were published in
4 December of 1985 and then, if I understand the process
5 correctly, they were distributed to the public agencies
6 under the Planning Act and there was actually a formal
7 planning meeting, or public meeting held on February
8 12, 1986. Is that correct?

9 A. Yes.

10 Q. Looking at page 2 of either of
11 these, but let's look at 12a for the moment...

12 A. Mr. McQuaid, could I make one
13 point of clarification? I don't think anything turns
14 on it, but there was a cover page for each of these
15 documents and if it is important to anybody I have got
16 the cover page.

17 Q. If you would like to put the cover
18 pages in, they were dark green and dark yellow and they
19 didn't photostat.

20 A. I have a better photocopier.
21 That is what ...

22 Q. Oh, you mean that?

23 A. Yes.

24 Q. Okay. If you want to supply us
25 with a copy at the break we will get that and put it on



1 the front.

2 A. Sir, I don't want to do anything
3 you don't ...

4 Q. The problem is that the colouring
5 I guess on our Xerox did not allow it to copy?

6 A. I will do whatever you want me to
7 do.

8 Q. Now, looking, if we could, at page
9 2 ...

10 A. 12a?

11 Q. Yes. 12a is for which site?

12 A. This is for Burlington.

13 Q. Site F?

14 A. Site F.

15 Q. And B-355, 12b is for Site D?

16 A. Yes.

17 Q. If you look at page 2, the
18 preamble in both, I think with the exception of
19 changing for lot and concession numbers or sites, that
20 the text is identical. I think the main thing I wanted
21 to ask you to confirm for the Board is that there was a
22 sort of two-fold purpose of the amendment and the first
23 paragraph indicates it was:

24 "To update Solid Waste Management
25 policies to reflect the intentions of



1 the Regional Council following the
2 completion of the Environmental
3 Assessment of the Landfill Component of
4 Halton's Solid Waste Management System."
5 The second purpose was:
6 "...to revise policies in the Official
7 Plan for the Halton Planning
8 Area to permit the development of a
9 Sanitary Landfill Site ..."

10 and depending on whichever one you read, either the
11 City of Burlington or the Town of Milton?

12 A. Yes.

13 Q. So it had this two-fold purpose?

14 A. Yes.

15 Q. Then, as you brought to our
16 attention, if we go over -- I suppose we should look at
17 the background quickly, page 3. There we see a summary
18 of the solid waste management system which applied to
19 the date of December, 1985?

20 A. Yes. There is one title missing
21 on 2b, the term "Background" is missing, but it should
22 be there.

23 Q. Then I would ask you to go over to
24 the top of page 5 in both documents and there is an
25 identical paragraph in both which reads:



1 "In order to implement the proposed
2 Sanitary Landfill Site, an amendment to
3 the Regional Plan is considered
4 appropriate to specify the location of
5 the proposed landfill facility, and to
6 reflect the new position of Regional
7 Council with respect to the waste
8 management system as a whole."

9 A. Yes.

10 Q. To pick up on that two-fold
11 purpose, if I could ask you to confirm, the second
12 purpose as noted on page 2 was to revise the policies
13 in the Official Plan to permit the development, but I
14 guess back in the text of H-51 you had commented on the
15 desirability helped by Halton regional staff to clarify
16 the use of lands. Do I understand from that ...

17 A. In the future.

18 Q. In the future?

19 A. Yes.

20 Q. The purpose of that clarification,
21 if I can put it that way, would be the general purpose
22 that we see in Official Plans and that is just to
23 locate it on a map so that people know, depending on
24 what their intentions are in the area, they are likely
25 to know what is happening in that area?



1 A. Yes. If they hadn't lived through
2 the past whatever number of years it is, and some time
3 in the future it would be a good idea to identify it.

4 Q. I note, I think, in both cases
5 back in H-51 that you had reported that Halton regional
6 staff felt that the regional Official Plan Amendment
7 would clarify the use of lands in the future, and was
8 that also your view?

9 A. I thought the clarification would
10 help in the future, yes.

11 Q. Could you in your own words say
12 why you felt it would help. What was it that would be
13 achieved by such clarification?

14 A. It is a matter of identifying a
15 land use to ensure that in future people knew what
16 sorts of operations were there. The idea was not to
17 identify it precisely, but just to show the
18 conceptualized location of it on the regional concept
19 plan.

20 This was based on the principle of
21 clarification and there wasn't a need to locate it at a
22 regional planning level because the regional plan
23 doesn't go to such specifics, as a rule. There are
24 certain parts of the regional Official Plan which do go
25 into more specifics, but they are done on a much wider



1 basis and, for instance, the waterfront plans are all
2 done in much more detail to identify the fact that
3 these are basically a regional issue.

4 Q. You have said it was not
5 necessary. Do I take it then that you are saying that
6 this clarification in your view was something you were
7 recommending as advisable but not absolutely necessary?

8 A. Yes.

9 Q. This aspect of these proposed
10 amendments, the clarification, was that in your view
11 independent of the other purpose which was the updating
12 of the overall policies?

13 A. I thought the clarification was
14 something which could proceed and the updating of the
15 policies came along subsequently and we were asked to
16 review all of those policies in terms of the work being
17 done, and that is essentially where the bulk of the
18 amendment came from.

19 Q. That is what I was going to say.
20 The answer is yes, they really are independent?

21 A. Yes, I think they are independent.
22 They deal with the whole solid waste system which is
23 part of the waste management policies of the OP.

24 Q. Looking at the text itself of
25 these two proposed amendments, if we go over to page 7



1 in both cases, there we see a new section you were
2 proposing, a section 3P, solid waste management, and
3 this, as I understand it -- these were being added as
4 part of, I guess, the first purpose on page 2, is to
5 update. Is that correct?

6 A. Yes.

7 Q. Similarly, going over to page 8,
8 Mr. Walker, ...

9 A. There had been no goal in the
10 plan, no statement of goals, so this was being added,
11 if you will.

12 Q. Similarly the objectives, were
13 they being added to?

14 A. As I recall, yes. I could check
15 it if it was important, but I believe that both of
16 those were being added.

17 Q. Then, at page 8, we see a series
18 of policies, and I was going to ask you to
19 differentiate between those which were for the
20 clarification purpose as opposed to those of updating.
21 I don't think it is as tough as it might sound. If I
22 take you over to page 9 in both cases, I would refer
23 you to D3.9 and if you take a moment and look in both
24 exhibit B-355 and B-354, I think you will see really
25 that that is the one which identified for clarification



1 purposes, or addresses specifically by text the
2 designation of these sites?

3 A. That is the one that designates
4 the sites. My grimace was that you were going to ask
5 me to ask me to compare the original text with this and
6 I would need a minute or two to do that.

7 Q. No.

8 A. You are right, D3.9 does identify
9 the site.

10 Q. And the remainder of those -- of
11 the remainder of those policies beginning with D3 and
12 then a subparagraph number behind them, as I understand
13 it, is really the updating of the solid waste
14 management policies in the Official Plan as we see it
15 currently enacted by the municipality?

16 A. Yes.

17 Q. Then continuing over in the two
18 exhibits and if we go to page 10 in both cases, you
19 were recommending as I read it at item 5:

20 "...The Regional Concept, is amended by
21 adding a symbol denoting the location of
22 a Sanitary Landfill Site to the north of
23 Lower Base Line in the Town of Milton
24 ..."

25 in the case of Site D, or D-355, and in the King



1 Road/North Service Road area in the case of B-354?

2 A. Yes.

3 Q. There is a map attached to that
4 and there is a snowflake -- is that a snowflake or a
5 star? I call that a snowflake?

6 A. We are getting close to it.

7 Q. What did we call that?

8 A. It is apropos. It is a conceptual
9 asterisk.

10 Q. It looks like an old fashioned
11 plumbing handle. I have one like that in my house.

12 A. So do I.

13 Q. In any event, in the area of each
14 of the two sites you were recommending that that
15 asterisk be inserted in the regional concept map; is
16 that correct?

17 A. Yes.

18 Q. Now, while we have these documents
19 in front of us and open at these pages, I did note as I
20 was going through it, that there was certainly
21 reference being made to the second phase. There was a
22 two-phase system of solid waste management, if we look
23 at page 8 in both cases, and the first phase of which
24 was to be a landfill-oriented phase, and I would refer
25 you to D3.6a paragraphs, if I understand it correctly?



1 A. Yes.

2 Q. There are four of them numbered on
3 page 8 in both cases as D3.6a and that is the first
4 phase which is landfill-oriented; is that fair?

5 A. Yes.

6 Q. The second phase beginning at
7 D3.6b commences with the operation of an energy from
8 waste facility?

9 A. Yes.

10 Q. But there is no indication of a
11 date for the energy from waste facility when you were
12 drafting this document. Could you tell me why that
13 was?

14 A. Well, this wasn't intended from
15 the standpoint of dates to put it in. In my opinion,
16 it is something that if the amendments had proceeded
17 and it was a matter of issue, then it could have been
18 put in from my standpoint. I was delineating the
19 nature of the solid waste system that was being
20 proposed.

21 Q. But you would agree that the 1996
22 date is a key assumption, as we understand it?

23 A. I think it is.

24 Q. Was it a key assumption back then?
25 Was it not also a key assumption back then?



1 A. Obviously throughout, the timing
2 of the EFW aspects was a key assumption and everything
3 didn't revolve around it, but certainly it was
4 important in the overall system.

5 Q. Are you able to tell me was 1996
6 not considered as the date when you were doing this
7 also?

8 A. It was from the standpoint of the
9 size and capacity of the landfill facility and in terms
10 of the timing, yes.

11 Q. In fact, didn't you address that
12 issue in one of the objectives back on page 7, one of
13 the objectives you drafted 3P.03, which was:

14 "To ensure that adequate capacity is
15 maintained for the landfilling of solid
16 waste within Halton to meet future
17 requirements."

18 A. Yes, sir.

19 Q. You are recommending that that
20 actually be legislated within the regional Official
21 Plan, weren't you?

22 A. The Official Plan doesn't
23 legislate anything. It is an objective to make sure
24 that adequate capacity is maintained for the
25 landfilling of solid wastes within Halton.



1 Q. That it be adopted and approved
2 under the Planning Act within the Region of Halton
3 Official Plan?

4 A. Could you put it -- I am having a
5 bit of trouble.

6 Q. When you used the terminology you
7 wanted it in the Official Plan under the Planning Act,
8 didn't you?

9 A. The whole concept of the solid
10 waste system was something which was already in the
11 Official Plan, and this was an update narrowing it
12 down, if you will, in terms of the scope in the
13 Official Plan, the solid waste management policies
14 which allowed for addition elements, and this was a
15 narrowing down of it to conform with what the
16 environmental assessment process to date had given.

17 Q. Perhaps I can ask you to turn to
18 H-87, to the regional Official Plan?

19 A. Sure.

20 Q. To the waste management policies,
21 and D-3 is page 69 in my copy and I don't know if it is
22 the same in yours or not, Mr. Walker?

23 A. Yes.

24 Q. Just so we can give the Board the
25 framework of the Official Plan, if I just go through it



1 quickly with you, but if I look at Part I, that is an
2 introduction going over to page 12 and at page 13 we
3 see Part II, goals and objectives, and these were some
4 of the goals and objectives which you were going to add
5 to in the proposed amendments, and those goals and
6 objectives are set out running over to Part III which
7 actually gets into the growth management, as I
8 understand it, and that begins at page 23?

9 A. That is correct.

10 Q. We have a series of goals and
11 objectives set out there, and then a growth management
12 policy Part III and in Part III we see the fold-out map
13 No. 1, the coloured map called "The Regional Concept."
14 Is that correct?

15 A. Yes.

16 Q. Looking at the regional concept we
17 see there in the legend that many, and I don't know if
18 it is all, but many of the major policies are
19 summarized in Map 1. You see the Parkway Belt, the
20 Niagara Escarpment ...

21 A. Yes.

22 Q. ... the urban area and waterfront
23 area and then a designation of hamlets?

24 A. Yes. It only deals under Part III
25 with growth management policies, and it deals really



1 with sub-section B, major regional and provincial
2 components when you are looking under regional policy
3 areas and the Parkway Belt, Niagara Escarpment, the
4 combined urban and hamlets, and what would otherwise be
5 classed as section B3 settlement and then waterfront
6 would be B4. So, on the legend, if you will, of the
7 regional concept map 1 there are four major elements
8 and they are the four listed under subsection B.

9 Q. I think you are a bit ahead of me.
10 I am just looking further on in the Official Plan then
11 and I am looking over at page 33. Is that where we
12 look at these major regional and provincial components?

13 A. I was simplifying it for my
14 purposes and looking at the table of contents with the
15 map folded out underneath. I was comparing the major
16 section headings with the section headings on the map.

17 Q. Okay. I see, and I think I
18 understand what is being done. As we look at page 33
19 we see B1 is a major regional or provincial component,
20 and that is described at page 33 and going over to page
21 34 and we see -- sorry, B2 is Niagara Escarpment so
22 there is Parkway Belt, B2, Niagara Escarpment, B3 is
23 settlement on page 34 and then at page 38 we see B4,
24 waterfront and there is a discussion of waterfront
25 policies going right over to page 50 and then we see



1 some population numbers and policies in section C1.

2 A. Yes. You are outside the major
3 regional/provincial components at that time.

4 Q. I wanted to be sure I understood.
5 Are you saying that Map 1, the regional concept, is
6 summarizing the major regional and provincial policies
7 and not all the others?

8 A. It is setting out the major
9 regional/provincial components as they are set out,
10 yes.

11 Q. Then, under section C, page 50, I
12 would ask you to look at that, and that will deal with
13 certain guidelines for growth and we see sub-headings
14 of population, C1, and C2 is economic development, C3
15 is housing, and at page 57 you go into support
16 services?

17 A. Yes.

18 Q. Under support services...

19 A. Section D.

20 Q. Section D, right. We are getting
21 into further sub-refinements and sub-categories and we
22 see at page 57 transportation, D1, and there is a Map
23 No. 2 which shows the functional classification plan of
24 the major roads?

25 A. Correct.



1 Q. So, if we wanted to find out what
2 the major regional roads are that are proposed by the
3 Region of Halton over the planning period, we go to
4 this map and this sub-section of Part III. Do I
5 understand that correctly?

6 A. It illustrates the functional
7 classification of the major roads, but there is one
8 subtlety. You said -- actually the Region can't
9 propose provincial highways.

10 Q. What I am trying to get at is we
11 don't go back go to the regional context plan to see
12 what the Region will do for roads over the planning
13 period, but rather we go to this sub-section D1 of
14 support services and look at Map 2?

15 A. The regional concept map.

16 Q. Over at page 67 we go into another
17 support service, sanitary sewage disposal and water
18 supply?

19 A. Yes. Sub-section D2.

20 Q. We see the policies then for that
21 service continuing over to D3 on page 69 where the
22 solid waste management policies are found?

23 A. That is correct.

24 Q. Now, just to complete the context
25 for the Board of how the regional Official Plan is



1 constructed, let's continue past that and we will come
2 back to D3 shortly, but go over to page 73 please, Part
3 IV, and you see resource management policies and we see
4 a heading -- first of all, A is agriculture on page 73
5 and running through to page 77, a series of policies
6 dealing with agriculture?

7 A. Correct.

8 Q. At page 77 we have forestry?

9 A. Yes.

10 Q. And that continues over to page
11 79?

12 A. Yes.

13 Q. Where we see mineral resources at
14 page 79?

15 A. Yes.

16 Q. This is summarized in a map -- the
17 mineral resources at least is summarized in a map, Map
18 4, found just behind page 80?

19 A. That is correct.

20 Q. Then, continuing on the resource
21 management section over at page 85, we have some
22 policies on energy, section D, policies on heritage,
23 which is sub-section E on page 86, and the hazard land
24 policies are sub-section F beginning at page 87, and
25 again we see a hazard land map, Map 5, found



1 immediately behind page 88?

2 A. Yes.

3 Q. Then, to complete the framework we
4 have the environmentally sensitive areas at page 91 and
5 there is a map of those after page 92 and then in H,
6 open space, an open space designation and an open space
7 concept found after page 96?

8 A. Yes.

9 Q. So that gives us the framework
10 then of the Official Plan which you were addressing
11 back in the period of 1985 and early 1986?

12 A. Yes.

13 Q. I am going back to the D3 policies

14 ...

15 MR. LANCASTER: Mr. McQuaid ...

16 MR. MCQUAID: I was going to say this
17 would be a very good point to break, sir.

18 MR. LANCASTER: Yes. Fifteen minutes.

19 ---Recess

20 MR. LANCASTER: Be seated, please. We
21 had best wait for Mr. Lederer.

22 DR. KINGHAM: It also gives us a chance
23 to get all our paperwork in order.

24 MR. LEDERER: Mr. Chairman, could I just
25 have a moment?



1 MR. LANCASTER: Mr. McQuaid?

2 MR. McQUAID: Thank you.

3 Q. Mr. Walker, I was going to ask you
4 to turn to page 69 in the regional Official Plan, H-87.
5 What I understand from looking at B-354 and B-355, your
6 two proposed amendments, were that you were basically
7 going to add I guess a new -- I shouldn't say add --
8 but you were going to delete D3.6 and add the policy's
9 two-phased system of solid waste management which we
10 see at pages 8 -- I guess at page 8 in both B-354 and
11 B-355 in lieu of what was -- in lieu of what we find in
12 this exhibit as it now stands?

13 A. Yes, sir.

14 Q. You were going to add a new D3.7,
15 8, 9, 10 and 11?

16 A. Yes.

17 Q. I said a new 11, but there is no
18 11 now. You were going to replace D3.7 to 10 inclusive
19 and add a new D3.11?

20 A. Yes.

21 Q. Then you were going to, as we
22 indicated, with an asterisk back on the regional
23 concept map?

24 A. Yes.

25 Q. Bearing in mind there has been a



1 lot of history in Milton's application or the old Site
2 F as to what approvals were needed of a planning and
3 other nature, you would certainly agree with me that
4 you would want to avoid any loose stitches here so
5 there is not a problem in the future in terms of not
6 amending some regional or Milton or even for that
7 matter Burlington or Parkway Plan. Is that not
8 correct? You want to get all the approvals that are
9 necessary in this hearing?

10 A. I think the Region would like to
11 get all the approvals that are necessary, yes.

12 Q. You clearly had recommended in
13 this report that there be a regional Official Plan
14 amendment?

15 A. For clarification, yes.

16 Q. Would the amendment that you were
17 seeking, especially that paragraph D3.9 in both cases
18 which begins:

19 "Notwithstanding any other policies of
20 this Plan, ..."

21 And which goes on to say you can locate, operate and if
22 necessary provide what you need for either site; would
23 that not completely forestall the possibility that
24 anybody in the future would question whether or not
25 some other regional policy needed to be amended before



1 the approval would really be legal under the regional
2 Planning Act?

3 A. I don't know if I could comment on
4 the legality, but within the context of the proposed
5 policies, the wording of D.9 I thought was appropriate.

6 Q. Could you tell the Board why it
7 would not be appropriate now?

8 A. Well, in strict terms it is not
9 necessary within the context of what was being done
10 here. It was going to the point of clarification and
11 therefore it was appropriate within that context. Now,
12 again it may be a legal problem, Mr. McQuaid, and I
13 don't think it is absolutely necessary, but in the
14 context of clarifying where the landfill was going to
15 be located, this is an appropriate clause.

16 Q. All right. I think we talked
17 earlier before the break about clarifying, and by that
18 I took it that you as a planner were recommending that
19 the general notion of telling people what might be
20 happening in the area was a good one?

21 A. For the future.

22 Q. For the future?

23 A. I don't think anyone currently
24 needed to know.

25 Q. For the future. As a matter of



1 fact, on Thursday you used a very strong adjective and
2 said it was reprehensible in writing this report down
3 in area F, in writing a report at the circulation
4 level, that they hadn't brought to people's attention
5 that the proposed Site F was going to be in the area.

6 A. I think that that report can be
7 faulted, both reports, because there now seem to be
8 two, but both reports could be faulted for not
9 identifying the land use. The fact it did get
10 identified by the Region in the circulation, and this
11 is still a current process, but in that time, I guess
12 in the early fall of 1986, landfill was still a current
13 topic of conversation, at least in Burlington and
14 Milton. It is in the press.

15 Q. I guess we are not bringing up to
16 retry whether that planner should or should not have
17 done it, but I would rather say that planners generally
18 want to have major facilities somewhere in the text or
19 on maps so that people making decisions in the future
20 will know about it?

21 A. There was a distinction drawn
22 between putting it into a plan for the future and
23 responding on a current application basis. My comments
24 were made on the basis of current applications and
25 responding to a land use which was part and parcel of



1 an ongoing process at that point in time.

2 Q. You are saying it was worse on
3 that application around Site F than it would be to put
4 it into a text or a map for the future?

5 A. That is a more immediate problem
6 because it is an ongoing application or a current
7 application within the process. It is possible that
8 when something is happening and you are still into a
9 process that the future designation won't be in place.

10 Q. I put my question to you and I
11 know you said there was a difference between the two,
12 but I gather it is reprehensible not to have done it
13 back in that circulation process and you think it is
14 more serious to do it back then than it is to put it
15 into the text or map now for the future, for the next
16 20 years.

17 A. I think that that report could be
18 faulted because it wasn't in there and it was a current
19 application and a current process. I think the
20 Official Plan for the Region of Halton should in some
21 way or another indicate where landfill is taking place.

22 Q. All right.

23 A. But that's in the future and in
24 the current context it is still on everyone's lips, so
25 to speak, although I guess it is settling down a bit



1 now.

2 Q. You would agree that it would be
3 prudent to clarify it for the future, for the next 20
4 years, and in some way you said it should be indicated
5 in some way?

6 A. Yes, I think it should be, once it
7 is all decided. We were faulted at the regional
8 Official Plan level for bringing forward those
9 amendments at that time when the decision had not been
10 made, and various of the parties around the two sites
11 felt that that was adding additional and notional
12 impact to the process, certain additional uncertainty,
13 if you will.

14 Q. I guess I am trying to get from
15 you that you said that it should indicate it and I
16 guess my question is why was it dropped, why did you
17 not continue the Official Plan policy, particularly
18 insofar as it clarified by either policy D3.9, as it
19 was proposed, first of all, by a textual indication?

20 A. The actual reason or the precise
21 reason as to why it was dropped, Mr. McQuaid, is not
22 known to me. After the public meetings we were
23 instructed to begin submissions, responses to the
24 submissions on the public meeting, and also at the end
25 of that work program, it would have required us to do



1 revised versions, if necessary, of the regional
2 Official Plan amendments.

3 I believe in December, and I think it
4 was in December, we received notice from the Region
5 that in fact this whole matter of designating the site
6 for the future would be part of the regional Official
7 Plan review and it was to be incorporated into that,
8 both amendments, both proposed amendments and the
9 results of the public meeting were to be forwarded to
10 the regional Official Plan review group and we were not
11 to proceed further with those. We were not in
12 attendance at that meeting, so I did not understand ...

13 Q. From your perspective it was not
14 based on your recommendation that it was stopped, but
15 rather you were told to stop?

16 A. That is correct, sir. They did
17 say in a letter that they would forward this
18 information to the Official Plan review, for the five
19 year review.

20 Q. Bearing in mind we have been
21 talking about clarifications which would give notice to
22 people, would clarification or some text such as D3.9
23 not also avoid the possibility of some questioning of
24 contradiction in the policies? It would give both
25 notice and, as a cautionary method, it would avoid any



1 possible conflicts between policies?

2 A. I don't think there is any
3 conflict between policies, but it would clarify that a
4 landfill was to be located in that general vicinity,
5 that being either one of the alternative sites at that
6 point in time.

7 Q. It took you and the Board some
8 time to go through the framework of the plan and I
9 bring to your attention, just going back into it, that
10 when we look at the resource management policies
11 portion of the plan, and that is Part IV ...

12 A. Yes?

13 Q. ...there are a series of specialty
14 maps, I guess I could call them; the mineral resources
15 map which goes with the mineral resource policies, the
16 hazard lands map which goes to the hazard land policies
17 and the environmentally sensitive areas for that one,
18 and a conceptual open space map for H, open space
19 policies?

20 A. Yes.

21 Q. Then under support services,
22 section D, Part III, there is a transportation map,
23 showing the major transportation facilities, both
24 provincial and regional, and there is a map showing
25 those roads?



1 A. Correct.

2 Q. Would you agree with me that under
3 solid waste management, at least within the framework,
4 it would not be inappropriate to take perhaps a map of
5 the Region and put an asterisk on that map showing,
6 either in the case of D or F, where the proposed
7 landfill site may be located?

8 A. You could do that for
9 clarification purposes if you wanted to, yes.

10 Q. The sort of map we would see, and
11 I am showing you a Regional Municipality of Halton map
12 and would you agree with me -- this is generally the
13 sort of thing you could envision. That would be
14 consistent with the framework we have just been
15 discussing. In this case the asterisk shows Milton but
16 the asterisk could be over in Burlington also, if some
17 other lawyer wanted it over there?

18 A. Yes, sir. It could be used. You
19 have used the same plumbing tap.

20 MR. LANCASTER: A hot and a cold.

21 MR. ESTRIN: Shall we put this in as Mr.
22 McQuaid's Christmas gift wish list?

23 MR. LANCASTER: I don't know really if
24 it's evidence.

25 MR. McQUAID: I would ask that it be



1 marked as the kind of map that could be found in policy
2 D3, solid waste management.

3 THE WITNESS: In terms of location, and
4 subject to the base map being different, it is exactly
5 like Map 1 of amendment 12b.

6 MR. McQUAID: Q. Right. I guess the
7 difference is in your proposed amendment 12a and 12b
8 you had contemplated that the designation would go back
9 on the regional concept map and I am really saying to
10 you that bearing in mind there are sub-maps for support
11 services and resource management policies, it could
12 equally be put on a map within sub-section D3?

13 A. Yes.

14 Q. Correct?

15 A. Yes. Is this now an exhibit?

16 MR. McQUAID: Yes, sir.

17 MR. LANCASTER: B-356.

18 ---EXHIBIT NO. B-356: Map

19 MR. McQUAID: Q. Looking at page 69
20 through to page 71, I refer you to D3.9 -- I am
21 sorry, paragraph D3.9 -- where it contemplates locating
22 sanitary landfills where feasible on lands less suited
23 to other purposes, and we can read that, but that
24 policy certainly seems to contemplate the location of
25 sanitary landfills. The question I put to you is



1 whether you know whether the policy contemplated they
2 should be specifically located by reference in the text
3 to lot and concessions or by reference on a map to a
4 location?

5 A. I don't believe, sir, they did.

6 Q. But you would agree with me that
7 if we were to incorporate a policy of the wording such
8 as in your proposed amendment 12b, now B-355, D3.9,
9 "Notwithstanding any other policies of the plan," that
10 would avoid any argument or issue over it in the
11 future?

12 A. Yes.

13 Q. And similarly if you produced a
14 map of the nature we have just been contemplating, that
15 would avoid any question in future of whether you
16 needed a map or, alternatively, it would give notice to
17 people over the 20-year period of the plan, just as the
18 text I suppose in a sense would also?

19 A. Yes, I believe for clarification
20 purposes it flags there is a landfill in that general
21 location. Not "should be" but "there will be".

22 Q. Standing there as a planner, would
23 you not recommend today there should be both a textual
24 and as well as possibly a map amendment to clarify this
25 situation?



1 A. Certainly I think over the long
2 term there should be clarification as to at least
3 generally where it is located, Mr. McQuaid.

4 Q. I wanted to ask you also about the
5 long term, and I am shifting gears a bit on you here
6 and I am leaving the Official Plan, but I wanted to
7 talk about the 20-year period of the Official Plan, the
8 20-year period of the facility, whether it is proposed
9 Site D or Site F. Were you involved in selecting a 20-
10 year horizon?

11 A. I was involved to the extent that
12 I was the project co-ordinator at the time, yes.

13 Q. Was there any discussion of a 15-
14 year horizon or a 25-year horizon? That is one
15 question, and I guess the second question is why did
16 you select 20?

17 A. There were some considerations as
18 to what period should be used but, generally speaking,
19 in principle, we believe that 20 years is probably the
20 farthest out you could predict at any one point in time
21 with any level of certainty from a planning standpoint.
22 There were various types of facilities, and sometimes
23 there are longer and sometimes shorter periods, but as
24 a rule I would say that 20 years is a fairly reasonable
25 projection period.



1 Q. However, we are talking about a
2 facility which is difficult to put in; correct? It is
3 difficult to locate?

4 A. As a use?

5 Q. As a use.

6 A. Yes.

7 Q. If you erred on the side of having
8 a facility there for a longer period of time, that
9 would be a good thing rather than a bad thing?

10 A. I think that the answer to that is
11 two-fold, Mr. McQuaid. Perhaps it would be, but it
12 would be very difficult to know that. The 20-year
13 period was appropriate because anything beyond that
14 would be difficult to predict and there would be more
15 uncertainties at the outer edge of the prediction of
16 the planning period.

17 In addition to that, the need to find a
18 facility which stretches over that planning period is
19 appropriate because I think if you go beyond that, it
20 lessens the need to look at other types of systems or
21 other components in the system, and I think that is
22 important because we are dealing with an evolving
23 series of methodologies here, how to handle solid
24 waste, and an evolving series of systems of how to
25 handle it in Halton or even Ontario, let alone in North



1 America.

2 A reasonable period is 20 and beyond
3 that it would be unreasonable and it wouldn't put
4 enough pressure on people to reduce the thing, or
5 re-look at the thing, to re-look at the solutions they
6 came up with. I frankly think that anything shorter
7 than 20 years I think is bordering on potentially
8 dangerous and is larger in the sense that there is not
9 enough of a challenge on the powers that be, the
10 government at all levels, to resolve a problem when
11 there is a problem with solid waste disposal.

12 Q. Are you aware of the planning
13 period that was being discussed and is being discussed
14 for the Region of Peel landfill site?

15 A. At one point in time I could
16 answer yes, but I can't say I am current on it.

17 Q. Did you understand at one point
18 they were looking at a 40-year plan?

19 A. That is correct, they did, yes.

20 Q. Would you say that that's wrong?

21 A. Yes, I would.

22 Q. Would you say 30 years is wrong?

23 A. I would say 20 years is right.

24 Q. Does it have to be just 20 and
25 that's the point?



1 A. Twenty is what you are looking at
2 in terms of the total system. To the extent the system
3 works, then 20 years is an appropriate period and to
4 the extent, as I said earlier, that for some reason the
5 system is not fully implemented, then you are already
6 foreshortening the period, but I believe also it is
7 important to keep up the good work, if you will, and
8 keep up looking at the methodology and looking at the
9 systems, because landfill cannot be the long-term
10 solution and there are more technological advances
11 coming every day. We, as the general public, and we as
12 professionals know more about technological break-
13 throughs every year as we go on.

14 So, I don't think it would be
15 appropriate. I know the 20-year period at any one
16 point in time for a landfill facility could stretch
17 beyond the snapshot of an Official Plan, because the
18 Official Plan sort of doesn't evolve on a yearly basis,
19 it evolves, for instance, generally speaking over a 5-
20 year review period, but the approach to 20 years is a
21 pretty good planning period.

22 Q. Do you know what the consequences
23 would be if the EFW plant was not constructed within
24 the planning period that is being proposed?

25 A. The consequences, sir, would



1 probably be an opinion that would have to be rendered
2 by a whole lot of people, but my initial impression,
3 which I have mentioned, is that first of all the
4 utilization of the landfill would be more intense in
5 the period wherein the EFW facility was to be operative
6 and therefore, as I put it, the life of the landfill
7 would be foreshortened.

8 Q. Do you know by how much?

9 A. No, sir. I believe you gave me
10 some figures, but I believe that Mr. Watson would be
11 the person who should answer to that.

12 Q. I wanted to turn with you to the
13 recommendations you made with respect to the amendment
14 to the Milton Official Plan?

15 A. Can I put the regional plan away?
16 I don't mind keeping it out it, it's just that I am a
17 bit cramped up here.

18 Q. Yes, I think you can. Do you have
19 it in H-326, is that what you are working from? That
20 is the December 17, 1985 letter to the Mayor and
21 Council.

22 A. I don't have it listed by that
23 number, but I do have that letter.

24 Q. I think you should turn that up if
25 you can, it is on your letterhead.



1 A. I have the letter.

2 Q. You have the letter?

3 A. I just don't have it as a separate
4 exhibit.

5 Q. I wanted to give the Board the
6 context so let's review it for a moment. Your evidence
7 I think you as answered questions to Mr. Lederer and to
8 Mr. Leitch particularly is to the effect that the
9 existing Milton Official Plan on the interpretation
10 which you explained to Mr. Lederer and Mr. Leitch would
11 or could allow the sanitary landfill at D. Is that
12 correct?

13 A. I think the principle of
14 landfilling in the agricultural designation at the
15 Official Plan level is implicit in the documents which
16 are there and certainly by-law 61-85 as a public use
17 would allow this at the zoning level.

18 Q. It is somewhat academic, that
19 interpretation in a sense, if in fact the proposed
20 amendment that you are putting forward were to be
21 enacted or directed to be enacted by the Board because
22 then you wouldn't have to worry about that -- you
23 wouldn't have to worry about that difference in
24 interpretation?

25 A. That is correct.



1 Q. The reason I bring it to your
2 attention is because we don't want to spend a lot of
3 time on a difference of interpretation between you and
4 Mr. Zsadanyi, if that's unnecessary. So, if the
5 amendment which is before the Board which you are
6 recommending, if that is approved, that would eliminate
7 any need we would have to be concerned with in terms of
8 a difference of opinion on the existing documentation?

9 A. That is correct.

10 Q. I hope you will call and the
11 transcripts will show that I did make the point that I
12 think I said it was a moot point because we have put
13 forward the recommendations for the Official Plan and
14 zoning by-law amendments. There will be some
15 adjustments to them depending on the total figure
16 agreed to by the Board at Site D and also the
17 restriction if the Board agreed to the after-use of
18 strictly agriculture. The reason I mentioned is
19 because I intended by reference to it to show that the
20 amendments as a whole and the use as a sanitary
21 landfill is not something which is silent in the
22 documents of Milton.

23 Q. I appreciate that. I am telling
24 you why I feel we should be bringing it to the Board's
25 attention rather than have this discovered later on in



1 the proceedings. I refer to your letter of December
2 17, 1985 and to page 2 of that under subsection IV,
3 argument and reasons for the amendment, and midway
4 through that paragraph is the sentence:

5 "Approval under the Planning Act is
6 required..."

7 MR. LEDERER: Which exhibit?

8 MR. McQUAID: Sorry, H-326:

9 "Approval under the Planning Act is
10 required because a sanitary landfill
11 facility is not permitted within the
12 zoning designation which applies to the
13 site and the same may be true of the
14 proposed after-use when this is finally
15 established."

16 And continuing, if you would, I would direct your
17 attention to the actual proposed amendment itself as it
18 is before the Board at page 5, and this is in the
19 proposed amendment.

20 DR. KINGHAM: Page 5 within the
21 amendment itself?

22 MR. McQUAID: Within the proposed
23 amendment itself, Dr. Kingham. That is correct.

24 Q. If you go over you will pick up
25 the draft amendment after the by-law and continuing



1 through to page 5 at the top and I refer you, and just
2 to give the Board and yourself the context, Mr. Walker,
3 but at page 3 we have the basis for the amendment?

4 A. Yes.

5 Q. We have the history of what has
6 been going on and you are explaining here in the
7 document, and I appreciate that these are not the
8 formal parts of the policies but they lay the
9 foundation for the policies as they later go on.

10 I refer you to the paragraph in the
11 middle of the page:

12 "The site which has been selected for
13 sanitary landfilling purposes through
14 the Environmental Protection Act and the
15 Environmental Assessment Act is
16 currently designated agriculture and
17 conservation and hazard lands in the
18 Official Plan for the Town of Milton.
19 These designations do not permit the
20 proposed sanitary landfilling use and
21 therefore an amendment to the Official
22 Plan is required to allow sanitary
23 landfilling as a permitted use and to
24 allow an appropriate after-use upon
25 completion of landfilling without



1 further amendment to the plan."

2 So, in your forwarding letter of December 17, 1985,
3 H-326, and in the amendment itself, the interpretation
4 which you have given Mr. Lederer and Mr. Leitch is not
5 helped, it is completely the opposite, you needed the
6 amendments which are now before the Board and I wanted
7 to ask you which was correct and why have you changed
8 your mind?

9 A. Well, it goes to the first part
10 you mentioned. If you refer to page 2 of Exhibit H-326
11 under sub (iv), argument and reasons for the amendment,
12 the seventh line up or actually beginning on the ninth
13 line in that paragraph it begins:

14 "Approval under the Planning Act is
15 required because a sanitary landfill
16 facility is not permitted within the
17 zoning and designation which applies to
18 the site..."

19 And da, da, da, da, da. At that time the by-law was
20 the old Oakville by-law and it quite clearly did not
21 allow this type of use at the zoning level. We were
22 looking to the by-law as an interpretation of what the
23 Official Plan policies would permit. If you look at
24 61-85, however, which is now the operative by-law, the
25 approved by-law, and therefore fitting the context of



1 the zoning which applies to the site, and that is the
2 approved zoning, then it has public uses within it and
3 the very terminology of the by-law does not prohibit
4 landfills and public uses in my opinion do include
5 landfills. The way the by-law is set up, and this is
6 now old news in terms of my interpretation, but it does
7 not preclude the utilization of the term public use to
8 define sanitary landfills as a general permissible use
9 wherever public uses as that termed is used in the by-
10 law 61-85 applies.

11 Now, this is my interpretation and if I
12 thought that it outweighed -- that it was something
13 that was conclusive enough, then I would have
14 recommended that the proposals before Milton be
15 withdrawn, but I don't think that this matter should
16 rest only on my interpretation because it is linked to
17 the new by-law which has come into place, but it
18 clearly indicates, or it should indicate anyway, that
19 if Site D is proposed or approved by the Board for
20 landfill, that the way the term sanitary landfill and
21 the use of a sanitary landfill is treated within the
22 Milton by-law should be tightened up a lot to ensure
23 that there is no conclusion possible that I am reaching
24 or no interpretations possible.

25 This comes from the structure of the by-



1 law which purports to implement and is supposed to
2 implement, at least in large part, the Official Plan.

3 Q. I realize that. Look at the words
4 there "and designation", but more specifically look at
5 page 5 of the proposed amendment as the basis, it is
6 absolutely unequivocal and it says:

7 "The site which has been selected ... is
8 currently designated agriculture and
9 conservation and hazard lands ... These
10 designations do not permit the proposed
11 sanitary landfilling use and therefore
12 an amendment is required ..."

13 A. I am not trying to deny the words
14 say that, but at the time the Official Plan and by-
15 law, when you take them together, gave that conclusion,
16 but I am saying that now that the by-law that applies
17 to the land and is approved to the land now has been
18 restructured and the method by which the municipality
19 had at its disposal to reflect what had earlier been
20 ordered on them has changed.

21 Q. Is this based on your
22 understanding that if a by-law permitted something,
23 then it is deemed to conform to the Official Plan and
24 therefore you feed back that interpretation to the
25 Official Plan and you are all right?



1 A. I think you could look to the by-
2 law to interpret the Official Plan and something that
3 is permitted in the by-law could not be something that
4 is precluded in the Official Plan.

5 Q. If in fact they changed the by-law
6 so it wasn't permitted, then you would have a real
7 dilemma because then you may not have what you wanted
8 back in the Official Plan?

9 A. That is correct and that is
10 essentially what has happened here now. The new by-law
11 and the way they have treated this particular land use
12 in that by-law compared to how they treated it earlier
13 is different and I look upon -- the point I was trying
14 to make is that the municipality has a choice when it
15 does a comprehensive by-law. It is not something like
16 it was before where there were inherited by-laws and
17 the one they inherited from Burlington was different
18 from the piece they inherited from Oakville and all of
19 these made up at the time Milton's zoning by-law for
20 the two areas of Site E and Site D. Now, they have had
21 a chance to do their own by-law and the way they have
22 treated this matter in their own by-law should be
23 treated or read as a reflection of how they want to
24 deal with that use.

25 That is looking to the letter of the



1 law, and obviously people can infer things and say a
2 by-law intends certain things, but I am just looking at
3 what the by-law says.

4 Q. Even when you had that situation
5 back then under the old Oakville by-law, you were
6 recommending that the amendment to the Official Plan be
7 required which had a notwithstanding clause in it to
8 make it absolutely clear that you could landfill in
9 spite of what agriculture and conservation and hazard
10 lands designations there were on the site?

11 A. Yes, and fitting the pattern that
12 Milton had at that time.

13 Q. When it comes down to it, that was
14 the interpretation you gave when you had a preferable
15 by-law?

16 A. A more preferable by-law?

17 Q. You are saying that the old
18 Oakville by-law allowed in your interpretation the
19 landfill without an amendment?

20 A. No.

21 Q. You didn't?

22 A. It is the converse. The old
23 Oakville by-law did not. The new Milton by-law I think
24 does.

25 Q. I see. The new Milton by-law



1 then, you say, does allow it. I am just asking you to
2 fix up what appears to be a contradiction in terms of
3 interpretation and I don't see why we have to be
4 concerned about it if it is academic. You are saying
5 there should be an Official Plan amendment and a zoning
6 by-law on Site D as you put forward before the Board?

7 A. Yes, and I said that in chief. My
8 term was it was a moot point, the distinction I was
9 drawing and the interpretation I was giving, and I said
10 it was really a moot point because the amendment for
11 the OP and the zoning by-law are still validly before
12 the Board.

13 Q. Isn't it less than a moot point
14 because you in your own drafting have said these
15 designations do not permit the proposed sanitary
16 landfilling and therefore an amendment is necessary, so
17 shouldn't we forget about the interpretation and go to
18 your proposed amendments and be done with it. We don't
19 need to argue with Milton whether their existing
20 Official Plan and zoning by-law will permit it or not,
21 because you are recommending they be changed and your
22 own text says you need the changes. Isn't that the
23 case?

24 A. I did at the time say that. I
25 still recommend the OP and the zoning by-law.



1 . MR. McQUAID: Okay. That's fine. Those
2 are all my questions, Mr. Chairman.

3 MR. LANCASTER: Ms. Vigod, I think
4 before we get to your cross-examination we would be
5 better to break for lunch. It is twenty-five after.
6 We will adjourn until 1:30.

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8 ---Luncheon Adjournment at 12:25 p.m.

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1 ---Upon resuming at 1:30 p.m.

2 MR. LANCASTER: Please be seated. Mr.
3 Estrin.

4 MR. ESTRIN: Mr. Chairman, with regard
5 to the order of witnesses. After further discussion it
6 would appear that the best course, and perhaps there is
7 no best course, but the best overall course might be to
8 not call Dr. Richardson because of the limited time and
9 my friends have some concerns and I understand that.

10 This week we would then -- that would
11 leave us with two witnesses we could bring in and
12 finish off clearly before the break next week and that
13 would be Mr. Zsandanyi, our planner in reply to some
14 aspects of Mr. Walker, and Mr. Hoffman on the
15 agricultural assessment. Mr. Leitch will be calling
16 both of those witnesses. Has asked the Board's
17 indulgence to not start Mr. Zsandanyi until Thursday
18 morning. I understand that Ms. Vigod may finish
19 tonight but she's not sure she will, so it looks like
20 we will be into tomorrow with Mr. Walker on cross-
21 examination and the Board's questions and re-
22 examination.

23 We might end before the end of tomorrow,
24 tomorrow being Tuesday, but that might give us a day's
25 break before we start with Mr. Zsandanyi and simply, as



1 I understand it from Mr. Leitch, having had inadequate
2 time to prepare Mr. Zsadanyi for this purpose and that
3 is the reason for the request. We would anticipate Mr.
4 Zsadanyi would be finished some time Monday I would
5 expect by everyone, but I can't predict that, and then
6 we would begin Mr. Hoffman and I am sure we would
7 finish him that week.

8 If that is satisfactory, then what would
9 happen after that is that in January when we resume we
10 would, and I am sure my friends would want to know this
11 and we should speak to that, but likely at that point
12 since Dr. Richardson has indicated he is not available
13 and has certain problems in February, we would probably
14 want to start with him immediately when we come back in
15 January to make sure we don't run into a similar
16 problem again with him. So we would probably go into
17 the bird hazard evidence likely in January and then a
18 lay witness dealing with that topic, and there may be
19 another witness, and I am not sure at this time but if
20 there is there will be a witness statement given out
21 with respect to that topic. Then, we would go into
22 hydrogeology and then into planning, the process.

23 So, I think the only thing to be
24 resolved at the moment is whether or not the proposal
25 for how we finish off this week and next is



1 satisfactory.

2 MR. LANCASTER: The only thing that seems
3 to be a bit different is perhaps we might not be
4 sitting on Wednesday?

5 MR. ESTRIN: That would be the proposal
6 and the indulgence we are requesting, yes.

7 MR. LANCASTER: Yes, that would appear
8 to be possible, or permissible, let's say.

9 MR. ESTRIN: Thank you.

10 MR. LEDERER: I wonder, while I am not
11 objecting to what has been agreed to, but I want to
12 make one observation. I have always taken the position
13 and will take the position that we don't want to lose
14 any time and I don't want to be seen that we are happy
15 with this, but it appears to be all there is that can
16 be done in this particular situation.

17 It seems unfortunate since the
18 indication had been last week that Mr. Zsadanyi would
19 be called first, in any event, and it is only because
20 there is no option with the Christmas break that we
21 have agreed to go along with it, but our concern is
22 that this should be kept moving as quickly and as
23 expeditiously as it can.

24 MR. LANCASTER: I think any way you cut
25 it, if you don't want Dr. Richardson on before then



1 after, it's what we have to do, we have to allow some
2 leeway at this stage.

3 DR. KINGHAM: And you know from our
4 words on October 13th or so that we share your views on
5 having it move quickly.

6 MR. LEDERER: I understand.

7 DR. KINGHAM: As quickly as is
8 reasonably possible.

9 MR. LEDERER: I understand.

10 MS. VIGOD: Before I begin I will try
11 and set out the reports I will be referring to and I
12 have gone through those with Mr. Walker over the lunch
13 break. They will be H-52, the Final Work Program, May
14 1983; H-61, submission on Waste Needs of May, 1983; H-
15 65, the submissions at the 2A stage, October 1983; H-
16 59, submissions at the 2B stage, January 1984; H-54,
17 April 1984's Analysis of Submissions; H-10, the
18 Overview Analysis; H-11, the 2B Consolidation; H-13,
19 the Summary Report; H-14, the Green Book; H-72 and 73,
20 which are Submissions, April 1985; H-82, Public
21 Concerns; H-68, the Appendices 2B; H-58, Final
22 Evaluation Factors, 2B, and H-57, the final evaluation
23 factors, August, 1983 and as well I will be referring
24 to Exhibit E-109, the Government Review and B-353, the
25 OMB decision. I would say that that probably covers



1 off about 99 per cent of what I will be referring to.
2 Some will be very briefly, but I thought I would set
3 those out in advance.

4 DR. KINGHAM: Did you say H-65?

5 MS. VIGOD: Yes.

6 DR. KINGHAM: It might have been better
7 if you had told us which ones you weren't going to
8 refer to.

9 MS. VIGOD: Actually I was thinking of
10 that. It is really a variation on Mr. Garrod's list.

11 MR. LANCASTER: Quite a variation.

12 CROSS-EXAMINATION BY MS. VIGOD:

13 Q. I would like to start with a few
14 general questions. As you are aware, I represent the
15 West Burlington Citizens Groups and you are familiar
16 with my clients, I take it?

17 A. General speaking, yes and
18 specifically some in particular.

19 Q. You would confirm you have
20 received since 1983 various submissions from, first of
21 all, the group itself as the West Burlington Citizens
22 Group?

23 A. Yes.

24 Q. And also from myself as counsel to
25 the group, various submissions under our letterhead?



1 A. Yes. I believe there were two
2 from you.

3 Q. Also individuals in the groups
4 made their own presentations throughout the years?

5 A. Yes. At the time these
6 submissions took place, we may or may not have known
7 they were members, but we received a lot of submissions
8 from people in Burlington.

9 Q. Just for the record, in your
10 report there is some reference to the West Burlington
11 Ratepayers Association and others to the West
12 Burlington Citizens Group. Are you aware that these
13 references are usually to the same group?

14 A. I believe they are, yes.

15 Q. Is it correct that the West
16 Burlington Citizens Groups include individuals to the
17 north of the proposed Site F, to the south of the site,
18 to the east, in the Tyandaga Forestvale Community, and
19 to the west of the site?

20 A. I don't know where they all come
21 from.

22 Q. So, you did not in the course of
23 five or six years make any inquiries as to the
24 boundaries or nature of the groups?

25 A. No.



1 Q. You would be aware from various
2 addresses of individuals and also from the group that
3 they would take in people from these areas?

4 A. To tell you the truth, I
5 personally didn't check any addresses. So I may or may
6 not have been aware of that. I don't recall that.

7 Q. In terms...

8 A. They generally took the position
9 of the de-organized ratepayer group in the Burlington
10 area when it came to discussion of the process for the
11 alternate sites when they were going through the
12 candidate sites, et cetera.

13 Q. From the name, the West Burlington
14 Group, that would have indicated that it was a rather
15 wide area within Burlington that the citizens came
16 from?

17 A. Well, West Burlington doesn't say
18 too much as to what location, as Burlington as a
19 regional city is quite a large area and the west could
20 be the west half which would be north and south a lot
21 of Burlington. It appeared to us at the time that they
22 were heavily oriented towards the south especially and
23 perhaps some to the west, north of 403.

24 Q. I take it there is no South
25 Burlington or North Aldershot or South Aldershot



1 separate group you are aware of in the area?

2 A. No, not by name.

3 Q. I would suggest that for the group
4 that the railway lines is not a barrier to membership
5 in the West Burlington Citizens Group?

6 A. I don't think the railway line was
7 a barrier to membership. It just shows they may have
8 cast their net a very wide way -- very far away, or a
9 wide net for its members.

10 Q. We all know by now that this is
11 the first environmental assessment for the siting of a
12 landfill in Ontario. I would ask you if you have been
13 involved in the siting of any other landfills in
14 Ontario before?

15 A. Siting?

16 Q. Yes.

17 A. No, not from scratch.

18 Q. Have you attended any
19 Environmental Protection Act hearings in regard to
20 landfill proposals?

21 A. No.

22 Q. As we have discussed many times
23 the difference between, if you like, an EPA hearing and
24 an EA hearing, is it the one difference is the
25 definition of the environment, it is broader?



1 A. Under the EA Act it's a broader
2 definition, but that doesn't just go to hearings, but
3 to the whole process under those Acts.

4 Q. We have heard some discussion that
5 as well as the natural environment one must look at
6 impacts on air, land, water and social and economic
7 environments?

8 A. Yes.

9 Q. I take it that that definition
10 under the Act applies to many numerous undertakings
11 that may have environmental impacts?

12 A. Which Act?

13 Q. The Environmental Assessment Act?

14 A. Yes.

15 Q. In other words, it is a broad
16 definition going to all types of undertakings that may
17 fall under that Act?

18 A. Yes. "Broad" is an understatement
19 for the definition of environment under the
20 Environmental Assessment Act.

21 Q. You would agree there would be
22 different priority considerations for different
23 undertakings?

24 A. There might be.

25 Q. In other words, for example, in



1 the siting of a hydroelectric dam, the priority may be
2 a consideration of the changing ecology or flooding and
3 for incineration...

4 A. I don't think from that kind of
5 example I could give you an answer. It would depend
6 upon the circumstances on whether there was a
7 difference in the priority.

8 Q. But, for example, if we were
9 siting an incinerator, you would might expect
10 consideration of an airshed or air emissions to be a
11 priority issue?

12 A. It would be a priority issue, but
13 certainly under the Act there would be no distinction
14 so that you would make a decision whether or not there
15 were some differences and there may not be.

16 Q. As we said, the definition is not
17 broad enough and if you are dealing with a specific
18 undertaking, the undertaking would in some ways define
19 the type of priority issues you would characterize?

20 A. If you were -- I don't know
21 whether I could make that distinction, but I think
22 public health and safety in all of those things would
23 be important.

24 Q. But, I guess in terms of a
25 landfill as we have already discussed, you would agree



1 that public health and safety in terms of the
2 hydrogeology and hydrology and off-site migration of
3 leachate is a main priority?

4 A. It is the high priority in that
5 sort of thing, or at least that is what we believed it
6 to be.

7 Q. You also, I guess, would agree
8 that in the process we are under now before a Joint
9 Board, you would have to satisfy the Environmental
10 Protection Act requirements of Part V in order to get a
11 Certificate of Approval?

12 A. Yes.

13 Q. That would again require a
14 detailed consideration of the hydrogeology of the site
15 and the potential for off-site contamination of
16 groundwater and surface water. Is that fair?

17 A. I believe it is, but others have a
18 lot to say on that as well as I do. I believe it is.

19 Q. At this point I would like to turn
20 briefly to Exhibit H-59, the submissions on evaluation
21 factors at the Stage 2B, and if we could turn -- do you
22 have that?

23 A. I do.

24 Q. Turning to and starting at page
25 41 we see ...



1 A. Page 41?

2 Q. Do you have that? It's at the
3 bottom?

4 A. Am I looking at the same document
5 you are? Oh, I see.

6 Q. You will see the title is Ministry
7 of the Environment Review Criteria - Green Hat?

8 A. Yes.

9 Q. I take it on the following pages,
10 what we have is the Ministry of the Environment setting
11 out the type of information which should be
12 incorporated into an environmental assessment dealing
13 with waste management. Is that a general statement of
14 what follows?

15 A. That is what is said in the first
16 three lines.

17 Q. You are familiar with these review
18 comments?

19 A. Yes.

20 Q. If we look at page 47 and
21 following, under sub (d) there is a requirement to:

22 "...establish a minimum requirement for
23 acceptability of hydrogeologic
24 conditions to prevent the assessed
25 relative importance of the other



1 evaluation criteria from overwhelming
2 hydrogeologic conditions, i. e., a site
3 which is not accepted hydrogeologically
4 should not be selected as the preferred
5 alternative."

6 Do you agree with this approach, first of all?

7 A. Well, I think as a general
8 criterion it makes sense, and certainly if the site was
9 not hydrogeologically acceptable, then and at the end
10 result if it was not hydrogeologically acceptable, then
11 there would have to be something that would have to be
12 tremendously important to override that, because public
13 health and safety is so very importance.

14 Q. Just on the basis of this
15 criteria, would it appear that hydrogeology, if you
16 like, would be 51 per cent priority. Is that a way ...

17 A. That sounds like an old tune I
18 have heard before.

19 Q. Is this a way of ensuring that the
20 other criteria did not overwhelm it?

21 A. It says:

22 "... to prevent the assessed relative
23 importance of the other evaluation
24 criteria from overwhelming the
25 hydrogeological conditions,..."



1 and I don't think it has a percentage attached to it.

2 Q. But you agree with the principle?

3 A. It also doesn't give any
4 indication whether it is on the basis of engineering
5 acceptability or natural or anything like that. There
6 is no general guidance given for that.

7 Q. But the criteria of hydrogeology
8 and what that entails?

9 A. It is important.

10 Q. If we could turn to Exhibit
11 H-65...

12 A. Can I put this away?

13 Q. Yes.

14 A. It is a very practical reason I
15 ask. It is because my little podium will fall down if
16 I take all the books out.

17 Q. I would like to turn to page 25 in
18 that exhibit, H-65, and these are the submission
19 documents.

20 A. What page?

21 Q. Page 25. Again, were you
22 responsible for the writing of these study team
23 responses?

24 A. No. Depending on the specialty,
25 the respective expert would be responding to points of



1 a query or a whole query. We in our office put these
2 all together.

3 Q. Did you edit them at all?

4 A. I would have read them.

5 Q. I am looking at point 3, the study
6 team response, and it is a response to a submission by
7 the Tremaine-Britannia Citizens Group in which we see
8 the comment that:

9 "It is true that an inferior or, for
10 that matter, a poor hydrogeological site
11 can be engineered... However, if this
12 process of site solution was to be used,
13 then all areas of the Region would
14 become equally suitable. We also
15 premised the site selection process on
16 the principle of protection of the
17 natural environment as a first priority
18 item. Consequently, sites which can
19 provide natural protection to
20 groundwater sources were considered a
21 significant factor..."?

22 A. Yes.

23 Q. I believe I put this question to
24 Mr. Sobanski who, I think, referred this back to you?

25 A. I am not passing the baton.



1 Q. I think it was passed back to you
2 there. I take it that was again a principle which you
3 were operating under, and again, if you like, it would
4 be the sort of approach that you would not engineer...

5 A. The main premise we were acting
6 under, Ms. Vigod, was the natural attenuation backed up
7 by engineering where required, and that was the main
8 thrust of the assessment at this point in time.

9 Q. Mr. Walker, can we also agree
10 generally that most of the modern-day landfills are
11 situated in clay or glacial till and because of their
12 hydrogeological suitability and these sites in the main
13 are going to be located on agricultural land. Is that
14 a fair statement?

15 A. I couldn't agree because I don't
16 know.

17 Q. Were you aware though that
18 Environmental Assessment Boards and Joint Boards have
19 approved landfills in glacial till sites throughout the
20 late seventies and early 1980's as a general rule?

21 A. I am not aware.

22 Q. So you did not look into -- I
23 guess in your role as co-ordinator, you didn't look
24 into sort of the overall issues of siting of landfills?

25 A. No. I figured I would get to the



1 bottom of the issue before I was through. The issue of
2 the approach from the standpoint of whether or not the
3 engineer was one that was triggered initially by the
4 hydrogeologist and it was put forward in the work
5 program, their methodology was put forward in the work
6 programs.

7 Q. But you didn't sort of take an
8 overview approach of the types of either proposals
9 being placed before Boards or the trend in the siting
10 of landfills over the past period of time?

11 A. We were told by the
12 hydrogeologists that there were a number of landfills
13 in till areas or in areas of high overburden, but they
14 certainly did not preclude as a current or modern
15 method, if you will, that other areas could be
16 utilized. The attempt to go in that direction with the
17 main thrust of the assessment was to attempt to find if
18 there was a site or sites that had those
19 characteristics.

20 Q. I am sorry, what characteristics?

21 A. The overburden particularly.

22 Q. Okay. I would like to start back
23 at your 2A phase which, I understand, was your regional
24 screening or, if you like, screening of the region for
25 suitable sites?



1 A. Yes.

2 Q. As a general principle, do you
3 agree that the site selection process should be
4 logical, clear, and the criteria should be applied on
5 an equitable basis to all sites being considered?

6 A. I think what you do or what you
7 intend to do should be set out. If you intend to follow
8 that it should be stated and if you don't follow that
9 it should be explained why you don't. If that seemed
10 to be clear or unclear, logical or illogical, then so
11 be it.

12 Q. I take it you would want a site
13 selection process that other people in looking at could
14 reproduce the train of your thought or follow that
15 through?

16 A. I would like to have a process
17 throughout that those people who were attentive to it
18 could understand it and/or it could be explained from
19 one source or another why they were not able to
20 understand it. I would also expect that where they
21 weren't able to understand it, or there was something
22 wrong, they would bring it forward for discussion.

23 Q. Now, if we could turn to H-52,
24 your final work program of May, 1983, and I believe
25 page 1 and the beginning part, here you are going



1 through a bit of the history and note that the old Site
2 F was approved by the OMB in June of 1979?

3 A. Yes.

4 Q. I take it you reviewed that
5 decision before starting on your investigation?

6 A. No, I don't think I did actually.
7 I was more concerned with talking to the consultants.
8 I may have, but I forget. Mr. McQuaid did give me a
9 copy of the decision and I may have one in one of my
10 earlier files. It is not illogical I wouldn't have
11 looked at it, but then again, I can't recall having
12 done so.

13 Q. So when Mr. McQuaid brought that
14 forward the other day, that was to the best of your
15 recollection the first time...

16 A. I just can't recall if I saw it or
17 not. To me it was a new process, relatively speaking,
18 and by the time we got to this final work program, the
19 inherent problems with the old process and therefore
20 the site which was there were clear to us.

21 Q. Could you turn to page 17 in
22 Exhibit H-52?

23 A. What page?

24 Q. Page 17. Under your Phase 1
25 preparation of work program, if we go to the bottom of



1 2.1 there is a paragraph saying:

2 "In addition, a critical evaluation of
3 the review process leading to..."

4 A. I may have the wrong one. H-52?

5 Q. Yes. The May 1983 final work
6 program.

7 A. Okay, sorry. Page 17.

8 Q. Yes.

9 A. I apologize.

10 Q. 2.1 the last paragraph:

11 "In addition, a critical evaluation of
12 the review process leading to selection
13 of Site 'F' has been undertaken..."

14 and I take it you mean old Site F?

15 A. Yes.

16 Q. "...including available technical
17 studies, Council resolutions, and
18 decisions of administrative tribunals
19 such as the Ontario Municipal Board..."

20 A. Yes, and that implies that in fact
21 I did see it.

22 Q. And some sort of evaluation was
23 undertaken at that time?

24 A. Yes. It says "critical
25 evaluation."



1 Q. "Critical evaluation". Right. So
2 you remember now from refreshing your memory that at
3 that point in time the Milton and Milton Ratepayers
4 brought forward a site which encompasses Site F, I
5 guess today's Site F, as an alternative and this site
6 was not approved by the Board.

7 MR. ESTRIN: Just a moment. There was
8 no application before the Board in 1979 to approve any
9 site but one under the Environmental Protection Act
10 hearing. There was a suggestion made to that Board
11 that another site should be looked at, but the Board
12 had no power to approve because there was no
13 application.

14 MS. VIGOD: Q. They did not in fact
15 approve or, if you like, they rejected the submissions
16 that the alternative should be the landfill site and in
17 fact they approved old Site F, if you like.

18 A. The Board approved old Site F
19 under the Planning Act, yes, and whether they went so
20 far as to reject the other site, if you could point me
21 in the OMB decision to the rejection of it, I can
22 confirm one way or the other.

23 Q. Just for the record, at that point
24 in time, I guess let's call it the Burlington site,
25 that was known as Site A?



1 A. Yes.

2 Q. I would like to refer you to,
3 first of all, page 39 of Exhibit 353. Do you have
4 that?

5 A. I have it.

6 Q. First of all in the second -- to
7 set the context, the second paragraph states:

8 "The exact location of the landfill at
9 site 'A' seemed to move around a little.
10 At one time, the Town seemed to be
11 suggesting the lands to the west of the
12 Bayview Park Landfill known as the Natco
13 property, but this location was
14 abandoned perhaps because the valuable
15 shale it contained had not yet been
16 removed and perhaps for other reasons."

17 It goes on to say:

18 "The part of site 'A' that the Town
19 chose at the hearing to advance was the
20 property to the north of the Natco
21 property, ... referred to ... as the
22 'Goodings Site'."

23 We see here that one of the points advanced was that
24 Site A did not require the destruction of farmland. I
25 take it that you can confirm that Site A was generally



1 in the area of what would now be the proposal before
2 this Board?

3 A. It seems to be, yes. It is kind
4 of hard to tie down exactly, and it is floating in my
5 mind judging from the references here, but it seems to
6 be something west of Bayview.

7 Q. Which would be the present
8 proposed site?

9 A. Yes. I just say that because this
10 says the property to the north, the Goodings site, and
11 I don't know what that is.

12 Q. That might be part of the Azova
13 properties?

14 A. I don't know.

15 Q. Can we again look at the reference
16 to the shale. We can agree that the vast majority of
17 shale has still not been removed from the NSP lands?

18 A. I can't agree with that because I
19 don't know how much remains and in fact they are
20 currently mining it. I don't think anybody knows as of
21 today.

22 Q. If we could turn to page 40, you
23 will see, I guess in the second paragraph, there is a
24 reference to the farming aspect at F versus A and they
25 say or the Board says:



1 "Even if one concedes that there is
2 adverse impact on more people at 'F'
3 than 'A', something we do not feel is at
4 all established simply by showing that
5 more people live within say a mile of
6 site 'F' than site 'A', because it is
7 minimal, because it is temporary, we do
8 not feel it is worth taking the chance
9 on 'A'. Because 'chancy' site 'A'
10 surely is from the hydrogeological and
11 costs' point of view."

12 MR. LEDERER: Mr. Chairman, before
13 Mr. Walker answers that question. There is something
14 which is inappropriate in the way this is being done
15 and if I could indicate my difficulty. It really
16 arises in a sense from something that Mr. Estrin said
17 in his objection. He said only one site was proposed
18 and this was an EPA hearing. It was not an EPA
19 hearing. It was a hearing that only dealt with
20 planning matters. That was -- it is really as a result
21 of the kind of problems which confronted Halton where
22 we now have the Consolidated Hearings Act, but the site
23 was not approved in the sense you have heard detailed
24 hydrogeological evidence here. So, when you talk about
25 impact, you are talking about planning impacts which is



1 a different type of thing of a very different nature,
2 and perhaps it is more restricted and it is only one
3 element. To try and ask these questions as if there is
4 some kind of equality between the data you have before
5 you and the information before that Board is not
6 appropriate.

7 Mr. Estrin was wrong when he said it was
8 an Environmental Protection Act hearing, it was not,
9 but this discussions of impacts would suggest that we
10 are looking at exactly the same thing, but we aren't
11 looking at the same thing at all.

12 MS. VIGOD: Mr. Chairman, may I...

13 MR. ESTRIN: May I also, before Ms.

14 Vigod replies, say that Mr. Lederer is correct. It was
15 an OMB hearing dealing with Official Plan matters, but
16 the essential point is one, and before we go farther,
17 but one Ms. Vigod should have started the witness with.
18 She has referred him to page 39 and the point of trying
19 to draw the Board's attention really starts at the
20 bottom of page 38 and I would ask the Board to look at
21 that because it puts into context the whole discussion
22 of the notion of an alternative site and I would direct
23 your attention to the bottom of that page:

24 "It was also suggested that Milton had
25 the right to know that site 'F' was the



1 best location for a landfill in the
2 Region. Put another way, it was
3 suggested that the Region must show that
4 other sites in Halton could not be made
5 to meet its needs before Milton should
6 be obliged to accept site 'F'. With
7 greatest respect we cannot agree. We do
8 not think the legislature, when it gave
9 the Region the job of disposing of the
10 Region's garbage, placed upon it the
11 burden of proving that the site chosen
12 was the best site, or the only site that
13 could be found in Halton for that
14 purpose. Such a process could cost a
15 fortune and go on forever and even then
16 somebody would probably come forward
17 with a site that had not been proven
18 inferior to the selected site."

19 And this is the most important statement:

20 "We believe the job of the Board is to
21 hear the evidence for and against the
22 proposal, to hear the objections to the
23 proposal, to hear the argument for and
24 against, and then to approve or not
25 approve the site selected by the elected



1 representatives of the Region, the body
2 charged with disposing of the garbage."
3 There was clearly only the one site and the Board will
4 either accept it or reject it. While it was marginally
5 interested in the evidence about other sites, that
6 really was not the forte in the essence of that
7 particular hearing and I think we have to come to the
8 discussion of this decision in that light. The other
9 thing Ms. Vigod has so far failed to refer to is that
10 that application was for a site to last 8 years and not
11 20.

12 MS. VIGOD: To respond to both points,
13 first of all in response to Mr. Lederer's point, I am
14 sure we are all aware that the Ontario Municipal Board
15 in looking at planning matters also encompasses
16 environmental matters and in fact many of these, in
17 fact hydrogeology was a major -- there were major
18 witnesses called by all parties on hydrogeology and
19 certainly in determining this application that was in
20 fact a key matter brought before the Board. It
21 certainly is and has been within the OMB's purview and
22 they have in fact made those considerations in dealing
23 with landfill hearings. I think that issue was
24 squarely before the Board at that time. On Mr.
25 Estrin's...



1 MR. LANCASTER: Just one moment.

2 MR. LEDERER: I was just rising to
3 reply, but I think Ms. Vigod should finish.

4 MS. VIGOD: I think I should finish
5 first. We realize of course they were different
6 applications, but there were some findings made in this
7 Board's decision and also some evidence put forward
8 about the lands which now encompass proposed Site F
9 which, I think, are relevant to this Board and, as Mr.
10 Walker has indicated, in his final work program he did
11 review this decision and certainly these issues are
12 relevant to at least -- at least in terms of what
13 information was before him at the time the site
14 selection process started out. I think certainly the
15 questions within that context are relevant and I think
16 appropriate for Mr. Walker to address.

17 MR. LEDERER: If I may respond to the
18 point Ms. Vigod made with respect to my objection. It
19 may well be that hydrogeological evidence was led, but
20 the fact of the matter is that the number of holes
21 drilled and the intensive study undertaken for this
22 project was not undertaken at that time. There was some
23 information it is entirely true, but the proof of the
24 pudding is in the eating. At the end of this hearing,
25 the hearing in 1979, after the decision was



1 rendered the Region did not have the approvals it
2 needed to landfill in this area and that is why it had
3 to start all over again. The approval it needed was an
4 Environmental Protection Act approval, which was the
5 kind of detailed evidence you have before you now and
6 that kind of work had not been done. To treat this
7 decision as though it had been done is to try and make
8 this decision something it isn't. That kind of
9 information wasn't before the Board and it was
10 inappropriate.

11 Frankly, sir, it escapes me, as to how
12 a decision of another Board at another time based on a
13 different level of detail and based upon technologies I
14 am sure everybody would agree are now out of date,
15 should become evidence here. You have evidence before
16 you and we are asking you, everyone is asking you to
17 make the decision on the evidence you have heard and
18 not on somebody's interpretation of a decision made
19 some time ago.

20 In any event, the decision stands for
21 itself and says what it says and if anyone can gain
22 anything from it they can always argue from it in the
23 end, although in terms of substantive evidence I don't
24 see how it can help.

25 MR. LANCASTER: When the decision was



1 presented I had qualms about making it an exhibit
2 for that very reason, it was another Board and another
3 decision at an earlier time. It can be referred to,
4 but to the extent of the information in it and whether
5 it is applicable, I don't know just how far you can go
6 with it.

7 MS. VIGOD: I am just really just going
8 to ask a few more general questions and wasn't going to
9 the specific details, but in terms of some of the
10 issues that were before this Board regarding the
11 hydrogeology of proposed Site F. It is up to the
12 witness to say there has certainly been more detail and
13 that is before this Board, but at the time in his
14 process, when it was starting, this decision was a
15 factor he considered and I guess my question is was he
16 aware of some of the information put before this Board
17 that might be relevant to hydro- geology.

18 MR. LANCASTER: Well, I don't know how
19 that would help the Board really. The evidence we have
20 already heard in this regard. I am sure Mr. Walker has
21 considered this decision or read it.

22 MS. VIGOD: That is really what I am
23 asking in a bit more detailed way. He does refer to it
24 in his work program and said a critical evaluation had
25 been made and I would like to touch briefly on that.



1 MR. LANCASTER: Well, if you want to ask
2 him about that critical examination.

3 MS. VIGOD: I will be quite brief on
4 this point.

5 Q. I guess, Mr. Walker, to keep this
6 general, were you aware that there had been certain
7 evidence put forward on the hydrogeology and certainly
8 there had been some debate as to whether this was a
9 discharge or recharge area and that there also had been
10 some discussion about the need for a liner at proposed
11 -- what was then called A, Site A?

12 MR. LEDERER: With all due respect, now
13 we are not talking about the decision but the evidence
14 led in this proposal, that Mr. Walker not only read
15 this decision but sat in at the hearing. I gather
16 there were no transcripts, so now he must have sat in
17 at the hearing. With the greatest of respect, this is
18 not proper.

19 MS. VIGOD: I am talking about in terms
20 of the decision and there was reference to these issues
21 and I think that is entirely proper.

22 MR. LANCASTER: I suppose if Mr. Walker
23 is able to answer from firsthand knowledge.

24 MS. VIGOD: Q. In terms of your review
25 of this decision and your critical evaluation, were you



1 aware there had been some comments by the Board as to
2 the necessity of a liner at Site A?

3 A. I don't recall the issue of a
4 liner. When we talk about a critical evaluation, it
5 was as a review process and it involved a number of
6 different things and it says in there and therefore at
7 the time we had reviewed this decision. It also went,
8 however, to discussions with consultants who had been
9 involved in the hearing. What we were looking at, Ms.
10 Vigod, if you recall my evidence in chief, was to find
11 out how valid were the Dillon 11 sites, the sites that
12 had been brought forward as sites which could withstand
13 or could stand and be used as a basis to carry on into
14 an environmental assessment. It was from that
15 standpoint that we were undertaking our critical
16 review.

17 Q. But if we can just look at page 41
18 of the decision, the first major paragraph starting out
19 with " Mr. Beatty." There is a comment:

20 "But he agreed on cross-examination that
21 the 'Goodings site' was an area of local
22 recharge."

23 MR. ESTRIN: Let's be fair. Could you
24 kindly read the first sentence of that paragraph so the
25 Board understands the context, because Mr. Beatty was a



1 hydrogeologist retained by the Town of Milton in that
2 case.

3 MS. VIGOD: "...had not tested the
4 'Goodings Site' at all. But he agreed
5 on cross-examination that the 'Goodings
6 Site' was an area of local recharge. In
7 our view, that admission makes the
8 construction of a liner of some sort
9 absolutely necessary at the 'Goodings
10 Site'."

11 THE WITNESS: That's what the decision
12 says and I didn't talk to Mr. Beatty.

13 MS. VIGOD: Q. Were you aware that this
14 point had been brought up in the decision and did you
15 consider it or inform your hydrogeologist of this
16 decision?

17 A. If I say I read the OMB decision,
18 then I must have read that a liner had been discussed
19 and the matter of liners was brought up regularly
20 throughout the process and so our hydrogeologists were
21 not unaware of the principle or not of having a liner.

22 Q. Were they also -- by way of
23 background, were they provided with this decision?

24 A. Oh, God, I don't know. I know the
25 hydrogeologists were in contact at various points in



1 the early days with the hydrogeologists who had been
2 involved, but I don't know whether the issue of a liner
3 came up or not.

4 Q. If we could turn to page 46, and
5 this is my final question to you from this decision,
6 and again the first major paragraph where the Board
7 notes:

8 "It should also be borne in mind that up
9 until now all of the other three area
10 municipalities have shared the
11 responsibility in receiving the Region's
12 waste. It may now be time for the Town
13 of Milton to assume some of that
14 responsibility."

15 I guess my question is that this would obviously be a
16 reference to this issue of social equity, would it not?

17 A. I don't know if it was a reference
18 to social equity or not. It seems that this is based
19 on the information they had before them and this seems
20 to be a fairly general conclusion, but it certainly --
21 I don't recall from reading this that all
22 municipalities were present at the hearing and/or had
23 been involved in the process that led to this, the
24 hearing that took place.

25 As I understand it, it had been a fairly



1 quick review of the Region to come to some conclusions
2 and so I think that it was not my place to say whether
3 this Board had all the types of information before it
4 it needed to come to that conclusion. It seems to me
5 from what I know went into that hearing, that they
6 didn't.

7 Q. To some degree that is some
8 history of the regional municipalities, either location
9 of past disposal sites or history of landfilling would
10 have been placed before the Board in order for them to
11 make this comment and certainly they had information to
12 make the statement that up until now the other three
13 area municipalities have shared the responsibility?

14 A. No. You see that is where the
15 problem arises. Sharing. If it's in the same context
16 that the Region of Halton and others have had it or
17 within their context they have taken upon themselves to
18 have a landfill and it was all done in the same way as
19 was being discussed here, then that is one plane on
20 which to discuss this matter, but what they were
21 talking about was a historical accident and each of
22 these municipalities have been independent from a
23 region, and a region had been formed around them and
24 they have been reconstituted into four area
25 municipalities within which there were some dumps



1 and/or landfills located, and it was a historical
2 accident they were there.

3 The Region assumed control of those and
4 was using them and they were gradually closing down. I
5 don't think that's the context within which you would
6 make a comment about share and it is time for one to
7 take the other. That's not the way, in my opinion, to
8 decide on a location of a landfill. If you have the
9 right location there are a whole lot of different
10 aspects and it's the EPA level of aspect at this point
11 in time plus the Planning Act.

12 Q. To clarify that, the reference
13 that they shared responsibility in receiving the
14 Region's waste?

15 A. That's only at the latter part of
16 the history, if you will. Sure, after 1973, or
17 whenever the Region was formed, some time in the mid-
18 seventies, but the Region took control of those sites
19 and then each of those sites did contribute to the
20 disposal of the Region-wide waste.

21 Q. Was this reference or again this
22 decision brought to the attention of Dr. Schiff for her
23 consideration?

24 A. I can't say that. She was not
25 involved at the outset. Certainly the people at the



1 outset of the process would have been given that, but
2 that would only again be for context as to how -- the
3 validity of the process that had gone on before. After
4 that point, we were not referring, as I said before
5 now, we were not referring to an earlier decision
6 because that earlier decision could warp the results.

7 Q. What I guess then did your
8 critical evaluation encompass?

9 A. I think I have said that. We were
10 looking at the validity of the Dillon 11 sites which
11 had formed part of the terms of reference at the
12 request or suggestion -- at the agreement of the
13 Ministry of the Environment, and we were looking at it
14 as part of our Stage 1 work program because there was
15 some questions being raised among our group as well as
16 within the Region as to whether the Dillon 11 had been
17 chosen in a way that would be suitable to carry forward
18 from, Ms. Vigod, and had been the nature of our
19 original proposal. After we did some investigation, we
20 felt that they had not been chosen in the way that was
21 appropriate to carry on and that is why we went back to
22 the Region-wide screening.

23 Q. I would like to go back to Exhibit
24 H-52, the work program, and if we turn to page 22 there
25 is a discussion of the evaluation factors for the



1 social environment and I guess it was at this time you
2 set out really the public participation program?

3 A. Well, it was the start of it and
4 we set it out in general terms, yes, and it was the
5 beginning of it. Things evolved as other components
6 evolved as we went through, but basically it is the
7 framework.

8 Q. And you agree, I take it, that
9 public participation is a crucial component of the
10 social impact assessment and, I guess, the total
11 process?

12 A. Yes.

13 Q. Now, we see in the work program
14 the fact that the

15 "... study areas will be determined for
16 each of the potential sites,"

17 and that:

18 "Community concerns and issues will be
19 identified and will form the basis for
20 developing social impact indicators and
21 measures."

22 Am I correct that this really encompasses the fact
23 that the study team would be, if you like, going out to
24 the community to seek their opinions and issues in
25 regard to the landfill siting process and impact?



1 A. In one form or another, yes.

2 Q. If we look just at the back of
3 this report there is a series of comments in short form
4 and this is Addendum 2 and the pages aren't numbered,
5 but it is the fifth page in on that chart?

6 A. You are right at the very back of
7 the report?

8 Q. Yes, a series of charts and
9 actually it is in the middle of the report under the
10 page called Addendum 2?

11 A. The final work program?

12 Q. It is almost dead centre in the
13 report.

14 A. I have all my pages numbered.

15 May, 1983? H-52?

16 Q. There is a chart form that looks
17 like this?

18 DR. KINGHAM: Part of the problem is
19 that some of the addenda have appendices and you don't
20 know when you are in an appendix and stumble across an
21 addendum, whether it is an addendum to an appendix or
22 an appendix to addendum.

23 MS. VIGOD: Q. Beginning at the start
24 of the addendum and going five pages in, Addendum 2, a
25 series of charts entitled "Comments from External



1 Agencies."

2 A. The version I have, Ms. Vigod,
3 stops at WP29. This has been disassembled.

4 Q. My copy doesn't have a WP
5 reference. Perhaps I can show you what I am referring
6 to?

7 A. Up to this point in time I thought
8 they were in the same book. I have the table of
9 contents.

10 Q. Does it reflect the addendum?

11 A. It does, but I don't seem to have
12 it.

13 MS. VIGOD: Mr. Lederer could you help
14 the witness out?

15 MR. LEDERER: I have the charts.

16 DR. KINGHAM: Are you referring to the
17 page Mr. Pratt under "Agency" or Mr. Isles?

18 MS. VIGOD: Mr. Isles.

19 THE WITNESS: I have it.

20 MS. VIGOD: Q. Actually this is the
21 bottom of the fourth page in and the top of the fifth
22 page, comments by Mr. Isles?

23 A. Yes.

24 Q. At the bottom of the page there is
25 a comment again where we see that:



1 "Hydrogeological criteria must have a
2 minimum acceptable standard which all
3 sites must meet before being evaluated
4 against other criteria."

5 and that is really what we discussed earlier?

6 A. Yes.

7 Q. If we go on you will see there is
8 a comment on the next page too:

9 "Clarify the relationship of Site "A" to
10 other potential landfill site..."

11 and do you see that?

12 A. Yes.

13 Q. In your response you indicate that
14 "If the need for a landfill component is
15 confirmed... siting criteria will be
16 used to identify minimum
17 requirements..., The National Sewer
18 Pipe proposal will likely be considered
19 as one of the potential landfill
20 options."

21 I guess my question is at this point
22 when no final evaluation factors or criteria had been
23 chosen, why was the NSP site a likely option?

24 A. This was an extract -- I don't
25 know.



1 Q. Did you prepare these responses?

2 A. We would have prepared some of
3 them, depending upon the nature of the work, the nature
4 of the topic matter.

5 Q. But again, if you like, this was a
6 sort of general process or site-selection-related
7 question and would that have been your purview?

8 A. Yes. What we were referring to
9 was specific to the specific Site A at the time.

10 Q. I take it they were asking you, it
11 appears, to clarify the relationship of that site?

12 A. I don't recall why that was
13 mentioned except in relation to the fact that they were
14 mentioning something close to that at the time. It is
15 also referring back to Pratt.

16 Q. If there is anything that would
17 help you answer that, let me know?

18 A. I am just trying to get my head
19 around. As I said, I didn't have these charts in my
20 version. It appears with reference -- Pratt had
21 mentioned on the page before the concern about:

22 "Limited examination of the Dillon 11
23 sites... once the landfill 'needs' are
24 understood. If the 'needs' or evaluation
25 criteria are significantly different



1 than those understood by Dillon, in
2 1976, then additional alternatives will
3 have to be considered."

4 and Isles seems to bring the same point forward.

5 Q. That's right, but isn't as we have
6 just heard, certainly the team at that point was taking
7 the view that they were starting from square one and at
8 this point we see comments on a draft work program. To
9 go back to my question, why would the NSP site likely
10 be considered as one of the potential landfill options?

11 A. It says "proposal", but in fact it
12 was a pit and quarry and we were not ruling out looking
13 at pits and quarries at some point in the environmental
14 assessment. So the fact is that it is a National Sewer
15 Pipe proposal, but it was in fact a pit and as it
16 turned out there were 55 pits and quarries in the
17 Region looked at we were also saying, or to me it seems
18 to be saying that.

19 Q. At this point in time where, if
20 you like, we are at the program before the process
21 started ...

22 A. But we had been dealing, Ms.
23 Vigod, with the specific sites which had been
24 identified by Dillon at the time and so at the time of
25 the work program it was something which was being



1 discussed. It was raised by both Pratt and Isles and
2 it was being discussed in there.

3 Q. In other words, you are saying
4 that all the Dillon 11 would become part of this
5 proposal?

6 A. No, but first of all Pratt had
7 dealt with all of the Dillon 11 and Isles had zeroed in
8 on Site A and said he wanted the relationship to other
9 landfill sites and the environmental assessment or
10 other potential landfill sites because we were
11 intending to look at the pits and quarries. This is
12 with specific reference to that and we said it would be
13 considered, but that is part and parcel of the approach
14 to it at some point in the environmental assessment
15 process to look at the pits and quarries. I think the
16 term "proposal" is a bit misleading in there, but in
17 fact National Sewer Pipe had a pit and quarry in there.

18 Q. Now, obviously we will get to more
19 discussion on the topic of pits and quarries and how
20 that was brought into the process, but at this point in
21 time perhaps you could point me to something in this
22 work program where there is a reference specifically to
23 that pit and quarry consideration?

24 A. The next line down under Susan
25 Singh, Ag and Food, if you look at the second bullet:



1 "Use of quarries as landfill sites will
2 be considered in Stage 1 of Phase 2."

3 Q. So, at this point in time you had
4 not discussed the general criteria for what would be a
5 suitable site in terms of the hydrogeological factors
6 for either fill sites or pits and quarries?

7 A. This was just setting out the work
8 program. I think you will understand because you have
9 read these documents, but I am sure, and you will
10 understand that we had a lot, and we took a lot, of --
11 there was a lot of concern indicated throughout the
12 process about how the process had grown up into a much
13 larger operation than had originally been proposed.
14 What you are looking at is an attempt on our part to
15 try and come to grips with what had to be done versus
16 what had been in the terms of reference or the proposal
17 called and what had been in our original proposal. So,
18 that is the actual reference to these things at this
19 point in time and it was on the basis of trying to
20 resolve that.

21 Q. At this time, turning to the back
22 of this report, there is a number of, if you like,
23 reports on the public open house. This is again a
24 little further along in this volume?

25 A. The report on the public meetings



1 with regard to the Stage 1 report?

2 Q. Right. I want you to confirm that
3 at this point in time and this early in the process if
4 we look three pages into that report there is a note of
5 a speaker from the West Burlington Ratepayers
6 Association; do you see that?

7 A. Mr. Chumley.

8 DR. KINGHAM: How many pages?

9 THE WITNESS: It is on page 4, using
10 that report's numbering.

11 MS. VIGOD: Q. I hate to do this to
12 you, but there is an earlier part which also has public
13 comments which also refers to a representative of West
14 Burlington?

15 A. I am locked into Sid Chumley.

16 Q. Can you confirm ...

17 A. Interestingly, here is the
18 difference in names coming up. It is Mr. Chumley from
19 the West Burlington Ratepayers Association and then the
20 West Burlington Citizens Association is noted in the
21 second paragraph.

22 Q. We are all talking about one
23 group. First of all, if we deal with Sid Chumley's
24 comments that there is concern, and briefly obviously
25 gas and the fact that the site is on a hill and a



1 "Use of quarries as landfill sites will
2 be considered in Stage 1 of Phase 2."

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4 not discussed the general criteria for what would be a
5 suitable site in terms of the hydrogeological factors
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8 program. I think you will understand because you have
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13 larger operation than had originally been proposed.
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19 the West Burlington Ratepayers Association and then the
20 West Burlington Citizens Association is noted in the
21 second paragraph.

22 Q. We are all talking about one
23 group. First of all, if we deal with Sid Chumley's
24 comments that there is concern, and briefly obviously
25 gas and the fact that the site is on a hill and a



1 comment about locating a site in Aldershot. We have
2 seen that comment. Again, if we go -- if we turn back
3 a page on page 3, you will see a reference to a
4 taxpayer from the Aldershot area?

5 A. Yes.

6 Q. There is a comment I guess
7 referring to the fact that your draft report had
8 discussed NSP by name and you probably remember ...

9 A. That was in the traffic zones.

10 Q. There was an issue on that?

11 A. Right.

12 Q. I guess your response was that:
13 "As it applies to this study, there is
14 no NSP site at this time."

15 A. There wasn't one for some time to
16 come.

17 Q. Right.

18 A. Even then, it wasn't an NSP site.

19 Q. Then I believe you will see there
20 is a reference as to whether a deal had been made in
21 your response?

22 A. That comment kept coming up all
23 the way through.

24 Q. I guess where I was referring to
25 earlier, if you can go back about 10 or 15 pages into



1 the middle of the report, and I apologize as that is
2 very difficult without page numbers, but you will see
3 there is a series of comments where you have a speaker
4 and then comments and questions?

5 A. Yes. I am on the same page you
6 are.

7 DR. KINGHAM: I don't know what page
8 you are on?

9 MS. VIGOD: Somewhat further back.

10 DR. KINGHAM: Towards the back of the
11 book or the front of the book?

12 MS. VIGOD: Toward the front from where
13 we were.

14 DR. KINGHAM: Outside the page
15 numbering.

16 MS. GOLDING: Addendum 3.

17 MS. VIGOD: Q. Addendum 3, the third
18 page. Just to complete the public comments, there was
19 another representative of the West Burlington
20 Ratepayers Association, again making a comment?

21 A. That is correct. That was about
22 the timetable.

23 Q. Right. So, you are hearing loud
24 and clear from the citizens association back in the
25 beginning of '83?



1 A. I think I have already given you
2 that answer.

3 DR. KINGHAM: Just so we will
4 understand this when we read the record, the last thing
5 you referred to was the first in time in fact; is that
6 right, October, 1982?

7 THE WITNESS: October, 1982.

8 DR. KINGHAM: The second last thing
9 you referred to was next in time, May of 1983, at which
10 you said, Mr. Walker, that an NSP site or an answer was
11 given that there was no NSP site at that time, being in
12 1983, in May.

13 MS. VIGOD: The public meeting was held
14 on April 14, 1983.

15 DR. KINGHAM: Then the remarks to which
16 we referred at the outset when we went into this are
17 dated October 15, 1982. I am just trying to understand
18 the time of all of this.

19 MS. VIGOD: Q. Mr. Walker, am I
20 correct that these were comments initially on the draft
21 report which would have been available?

22 A. Yes. The October comments were in
23 response to the draft work program.

24 Q. Do you know when that would have
25 been circulated?



1 . A. I can give you that if you can
2 give me just a second. The draft work program was
3 received on September 8, 1982 by the Region and was
4 circulated and the public information centre, October
5 14, 1982. That is the public information centre on
6 that. Then, the final work program for Phase 1 was out
7 in November of 1982 and the information centres were
8 March 10, 1983 and then the SWM Committee meeting, a
9 public meeting was held on April 14, 1983.

10 Q. After that April 14, the final
11 work program actually then came out in May?

12 A. All right. The final work program
13 is in May. No. We are looking at May, 1983, final work
14 program, but there was a revised work program floating
15 around in November of 1982 because what has happened is
16 the Phase 2, Stage 1 waste needs and systems analysis
17 draft report was out in March of 1983.

18 DR. KINGHAM: I still have some
19 concern as to timing and rather than revisit this
20 another time as it is so difficult working our way
21 through this appendix; the remarks on October 15, 1982,
22 is that from your consulting team that produced those
23 remarks or are they your remarks? That was the first
24 thing we looked at, October 15, 1982.

25 THE WITNESS: This would have been --



1 in my opinion, this would have been the notes taken by
2 the public participation consultant at the time of the
3 meeting. I don't believe, and this seems to be almost
4 a verbatim note of what went on at the time, of the
5 public open house.

6 DR. KINGHAM: Who would make a remark
7 like:

8 "The National Sewer Pipe proposal will
9 likely be considered as one of the
10 potential landfill options."

11 THE WITNESS: That is in the chart of
12 May of 1983.

13 DR. KINGHAM: But it says, October 15,
14 1982?

15 MS. VIGOD: Q. I think Dr. Kingham is
16 asking about the remarks to the agency comments and not
17 the public meetings?

18 A. I see. The responses here I
19 believe -- the comments would have been sent out to
20 various specialists on the team and the comments would
21 normally be submitted back from the specialists to us
22 and we would put them together. As I say, I would have
23 read them, and there may even have been some editing.
24 I just can't recall that.

25 DR. KINGHAM: I hope you can appreciate



1 my difficulty. October 15, 1982 is when the remark is
2 that the NSP proposal will likely be considered as one
3 of the potential landfill options, and then the May
4 1983 comment is that:

5 "As it applies to this study, there is
6 no NSP site at this time,"

7 and how do I understand those two?

8 THE WITNESS: Let me try to explain it
9 and if it is not satisfactory I can go back and take
10 another shot at it.

11 At the time of the first comment,
12 October, 1982, we were going through this analysis of
13 whether we could continue with the Dillon 11 sites and
14 therefore there was specific references by Pratt, Isles
15 at least to sort this matter out. In October of 1982
16 it would have been clear that we would be looking at
17 some point in time at the possibility of quarries, and
18 that is indicated by the response to Susan Singh who
19 was a relatively senior person within the Agriculture
20 and Food Ministry. So, in my opinion that is what this
21 reference refers to. Because this was -- this was a
22 known pit and quarry and at the time and it would form
23 part of an analysis of pits and quarries.

24 The reference that you picked up in, I
25 guess it was May or something like that, was a



1 reference to the fact that by this time we were into
2 our waste needs and systems analysis report, and in
3 that report as part of the generic discussion of
4 haulage and costs of haulage, there were zones set
5 aside and one of the zones was the location of the NSP
6 area and it was actually labelled NSP.

7 It is a glitch from the standpoint that
8 we should have labelled it "x y z" node rather than
9 NSP, and from that standpoint we also had the old Site
10 F as one area from which we should be calculating times
11 and costs or zonal analysis, and that is why the minute
12 it was labelled such it gave rise to comments like came
13 up on the taxpayer from Aldershot:

14 "Is the NSP site, which has a number of
15 limitations, a likely site since it has
16 been mentioned in the report?"

17 That is what was happening, it was happening at this
18 time and this was at the April 14, 1983 stage.

19 Our waste needs and systems graph had
20 been out in March and this was being picked up as part
21 of that in April. It was being picked up as part of
22 that analysis and -- I can try and go at it a different
23 way if that is not satisfactory.

24 DR. KINGHAM: I hear what you are
25 saying. That's fine.



1 MS. VIGOD: Q. Under that comment on
2 page 3 with the taxpayer of Aldershot, comment four is
3 from Bob Tait from Proctor & Redfern representing NSP.
4 I take it that representatives of Proctor & Redfern and
5 other various representatives also made submissions
6 throughout this process to you?

7 A. Representatives from ...?

8 Q. ...NSP.

9 A. I believe Mr. Neu on occasion did
10 as well.

11 Q. There is a reference to a
12 requested meeting between Walker, Wright and NSP to
13 explore the concerns NSP had and did such meetings take
14 place between you and Mr. Tait?

15 A. To my knowledge I can't recall
16 that a meeting specifically with regard to this would
17 have taken place, but we would have some indication
18 that it would. It would have taken place at the Region
19 if it was going to take place. I could check it if it
20 is important to you.

21 Q. I guess I am getting at were there
22 a number of meetings held between yourselves and NSP
23 throughout this process?

24 A. No, there were not. I recall
25 Mr. Tait being present at one meeting, but I don't



1 recall if it was a meeting called for him or for other
2 people.

3 Q. But you are saying that there was
4 a meeting that would follow this particular ...

5 A. I said I don't know. But I can
6 check if you want to know.

7 Q. Perhaps you could check that?

8 A. I'll try.

9 Q. All right. I would like to move
10 on to another report, H-61 which is -- again the May
11 1983 addendum to Stage 1 waste needs submissions?

12 A. I am sorry, what is the report?

13 Q. H-61, the submissions, the
14 addendum to Stage 1, May 1983.

15 MR. LANCASTER: Perhaps, Ms. Vigod, this
16 would be a good time to take a short break?

17 MS. VIGOD: Yes, Mr. Chairman.

18 ---Recess

19 MR. LANCASTER: Please be seated.

20 MS. VIGOD: Q. Mr. Walker, we will be
21 referring briefly to H-61?

22 A. I have that.

23 Q. If we go to the table of contents
24 which lists the submissions, you will see a submission
25 at 2.8, the West Burlington Citizens Group and also a



1 submission by Mr. Kreplin is also referred to.

2 MR. LEDERER: Which page?

3 MS. VIGOD: The table of contents.

4 MR. LEDERER: Kreplin?

5 MS. VIGOD: Mr. Kreplin and the West
6 Burlington Citizens Group submission.

7 THE WITNESS: Yes.

8 MS. VIGOD: Q. I would like to turn to
9 the submission by the West Burlington Citizens Group,
10 and again it is 2.8 and there aren't any page numbers
11 but referring to the first page of that submission?

12 A. Section 2.8 near the back, about
13 15 pages from the back roughly.

14 Q. First of all to set this in
15 context, these answers were made -- is a submission
16 made May the 4th or is that your answer date?

17 A. I believe that is their submission
18 date.

19 Q. I notice a number of different
20 dates throughout the document. These answers, I take
21 it, were prepared shortly thereafter because this
22 report itself is dated May, 1983?

23 A. Yes.

24 Q. Referring to the comment, I guess
25 the second comment 0.2 there is reference to the fact



1 that specific sites including the NSP site are named
2 and the terms of reference did not call for these
3 specific sites and you say that you believe that this
4 cannot help but create suspicion regarding objectivity
5 at the next stage.

6 Now, to clarify the point we were
7 discussing before, your response is, if I go down to
8 the second last two lines of A.2:

9 "...the Report will be revised to delete
10 specific references to the National
11 Sewer Pipe site. Instead the
12 hypothetical area of Site A will be used
13 for the purpose of calculating costs..."

14 A. Yes.

15 Q. You would agree there had been an
16 impression with the public that in fact the NSP site
17 was being looked at as a specific site?

18 A. That was the impression that they
19 were given, that they had believed that. On the other
20 hand, it was addressed and would have to go to a matter
21 of professional credibility whether they believed it or
22 not.

23 Q. Again, in this submissions
24 document, we see there are a number of submissions by
25 Proctor & Redfern?



1 A. There are two, I think.

2 Q. If we could turn to briefly page--
3 section 2.5 which is the Proctor & Redfern first
4 submission and it is page 13 of those submissions.

5 DR. KINGHAM: Page 13?

6 MS. VIGOD: Page 13 of section 2.5.

7 MR. LANCASTER: I have six pages.

8 THE WITNESS: There is a supplementary.

9 DR. KINGHAM: There is a 2.5.2,
10 supplementary to 2.5.

11 MS. VIGOD: Q. If we go back to the
12 first, 2.5, page 13, and again there is a reference to
13 the bottom of that page which is a question regarding
14 tipping fees and there is a reference to the fact that
15 NSP or references to NSP will be deleted?

16 A. This is referring to the same
17 report, is it not?

18 Q. I am just referring back to the
19 submissions. Your answer to submissions made by
20 Proctor & Redfern?

21 A. Then could you ask your question
22 again? I thought we were responding to the West
23 Burlington Group saying we would delete those
24 references and this is in the same report, is it not?

25 Q. Yes, and these are all responses



1 made to comments, I take it, on your draft waste needs
2 analysis report?

3 A. Yes.

4 Q. Just to finish off that point, I
5 guess the question is I am trying to get the
6 relationship between these May, 1983 submissions and
7 your final work program which is also dated May, 1983.
8 Have you some idea of which came first?

9 A. We had begun work on this in this
10 report prior to the final work program coming out.
11 There had been a revised work program and then we
12 started into Stage 1, Phase 1 and that is what these
13 were referring to. Now, I think what we were talking
14 about is in the following report, in other words, the
15 final version of the waste needs and systems analysis,
16 we would remove the references to NSP in that report.

17 Q. This also applied, I take it, to
18 the comments made on the work program as well that we
19 just went through?

20 A. They are consistent and I don't
21 know -- obviously it didn't get totally taken out of
22 the work program because those charts were done in
23 November of 1982, if I am not mistaken, and they didn't
24 get changed. In our opinion, we were already into the
25 work program by doing this Stage 1.



1 Q. My final question in relation to
2 some of the submissions the West Burlington Group made,
3 if we could go back to section 2.8, and the final page
4 of that submission, page 4, you will see there if I can
5 summarize it, Mr. Chumley is raising the point that
6 their immediate concern was in regard to the interim
7 period of landfilling and the consultant and there is a
8 comment that the consultant also honours that Halton at
9 Site A has one more year of operation under present
10 guidelines and then there is a fear that the operation
11 will come to the rescue with a timely solution, namely,
12 more landfill adjacent to the present site A.

13 I guess your response at this time is
14 that you are not really dealing with this interim
15 solution. Is that what you are saying?

16 A. Well, the answer to question 7,
17 the answer A.7 says:

18 "We have clearly identified two possible
19 options for the interim solution on page
20 160 in the Report. However, we have
21 made no attempt to identify locations
22 for the interim solution. The first is
23 to landfill for a relatively short
24 period of time or to export."

25 I think we were responding to Mr. Chumley's particular



1 concern about interim solutions in the sense that we
2 weren't looking for interim solutions, that was
3 something that was by and large beyond our mandate, and
4 is that not clear from the answer?

5 Q. For the record, the interim
6 solution then became the expansion, ultimately the
7 expansion hearing that took place in 1984?

8 A. Yes, and that was done by a
9 totally different consulting group.

10 Q. But at this point in time my
11 clients were obviously concerned about the interim
12 solution as well as the long-term process?

13 A. I think that that's clear, but
14 that is clear from an earlier comment that he made.
15 Maybe it was in the previous one. He was really
16 concerned about getting going on the whole process
17 because there was a very short period of time before
18 the existing landfill ran out of space that was
19 currently planned at that time.

20 Q. Part of my reason for asking these
21 questions is to follow along chronologically so we can
22 see what was happening at the time the submissions by
23 our clients were being made and what else was going on?

24 A. I will gladly help out to the
25 extent I can, Ms. Vigod, but I don't have the



1 chronology of the interim solution for landfilling with
2 me.

3 Q. Okay. Just in general terms. I
4 would like now to go on to your final evaluation
5 factors for Phase 2A, Exhibit H-57. I believe, just to
6 touch briefly on this, at this point in time you were
7 evaluating the Region, screening the Region and at this
8 point in time the high priority was to avoid
9 areas within the Region that would be adversely
10 affected and you were giving additional weight to the
11 physical factors, is that correct?

12 A. I was doing what?

13 Q. Putting additional weight on the
14 physical factors. Can we look at the top of page 7?

15 A. The main level of detail available
16 at that time was the physical factors, yes.

17 Q. Just to follow on, this is the
18 point in time where your rankings were unacceptable,
19 high, moderate and low and the unacceptable impact
20 areas would be the ones that were screened out?

21 A. Yes.

22 Q. If we look to, I believe page 15
23 we see under the heading of supplementary factors, the
24 bottom paragraph, I guess is the first detailed
25 discussion of landfilling in quarries. Do you see



1 .that?

2 A. Yes.

3 Q. First of all we see the statement:

4 "Exposed rock areas may be considered
5 generally unsuitable for solid waste
6 disposal."

7 Now, why is that?

8 A. Where are you? Oh, the first
9 line.

10 Q. Yes.

11 A. Yes. Because among other things
12 there would be no overburden available, but it would
13 also be a combination of other things.

14 Q. The second sentence:

15 "The creation of new quarries in Halton
16 specifically for solid waste disposal
17 would also not be considered."

18 A. Yes.

19 Q. What was the rationale for that?

20 A. We were not looking to justify a
21 new quarry operation on the basis of solid waste
22 disposal. If you recall, the Region itself had taken a
23 tougher stand on quarries than, for instance, the
24 Ministry of Natural Resources would have done or did
25 do. There were a number of the mineral resources



1 policies referred on the basis of lack of agreement
2 with what the Region was doing.

3 Q. Then I think we get to what I
4 understand is your rationale for pursuing quarries as
5 you state that:

6 "Some advantages of using quarries for
7 landfilling in Halton include
8 rehabilitation of damaged land and
9 avoidance of a potential conflict with
10 the use of good agricultural land."

11 A. Yes. The matter of quarries --
12 this is not the first time that quarries were being
13 introduced into our analysis.

14 Q. But this is, I guess, your first
15 sort of discussion of the philosophy and rationale?

16 A. No.

17 Q. I guess, Mr. Walker, I am not -- I
18 am just getting at something where there is a prose
19 paragraph discussing this and trying to get at the
20 rationale. I am not trying -- I mean, is there some
21 other prose paragraph? I am trying to get an
22 understanding?

23 A. Stage 1 had quite a discussion on
24 quarries, landfilling in quarries.

25 Q. But to get at the final evaluation



1 factors we have this discussion?

2 A. Right.

3 Q. Am I correct that my understanding
4 is that the reasons were that you hoped to rehabilitate
5 damaged land and avoid conflict with agricultural land?

6 A. That was some of them. It says
7 "some advantages of using quarries...".

8 Q. All right. You go on to say:
9 "The common disadvantage of using
10 quarries for landfilling is that such
11 areas may require extensive
12 engineering... If sufficient overburden
13 cover material is lacking locally, a
14 landfilling operation may not be
15 feasible."

16 A. It may not be feasible, yes.

17 Q. Then you go on to say:
18 "Operating quarries would be judged
19 undesirable for sanitary landfill."

20 A. Yes.

21 Q. Is the NSP quarry an operating
22 quarry?

23 A. It hasn't been, but apparently it
24 is now. It is licensed and under the Ministry, they
25 would consider it as, if not operating, potentially



1 operating, I guess.

2 Q. We have discussed it but is a
3 licensed quarry and we have heard through Ms. Cronk,
4 that it is operating intermittently. So, would that
5 have -- would that have made your judgment or would
6 that have been judged undesirable?

7 A. No. "Unacceptable" was the
8 terminology we were using.

9 Q. But it is undesirable but not
10 unacceptable?

11 A. It is not unacceptable, it was
12 just considered to be undesirable. It goes on and it
13 is explained in the rest of that paragraph, Ms. Vigod.

14 Q. Because of the conflict between an
15 active quarry and a landfill, is that fair?

16 A. Yes, and an active quarry that is
17 extracting must be closely co-ordinated with the
18 landfill process and its environmental control
19 facilities.

20 Q. Then the bottom point that the
21 philosophy for siting a landfill is different from the
22 objective of natural attenuation and you would be
23 considering on a site-specific basis?

24 A. Yes. Again in the context of the
25 Stage 1 report that discussed the differences, the two



1 different approaches to landfilling, because they were
2 looking for a site for landfill.

3 Q. At this time I am just going
4 through your evaluation factors and then we will get
5 into your actual report, but I am just trying to
6 understand where it is coming from?

7 A. I am not trying to do anything
8 better than respond to your questions, but I think that
9 it is important to understand that although the process
10 was evolving in response to various specific aspects at
11 each stage, there is a context to the process, I
12 believe, and I believe each stage follows from the
13 other. It didn't come out of the blue and the quarry
14 did not come out of the blue at Stage 2A.

15 Q. I am trying to understand in the
16 context in which you put your 2A report in and this
17 report giving the final evaluation factors is the
18 report I turn to for that?

19 A. Yes, but the point is that the
20 discussion in this report flows from the discussion in
21 Stage 1.

22 Q. I understand that.

23 A. Okay.

24 Q. If we go on to the biophysical
25 factors we have the fact that you are going to rate as



1 unacceptable those areas which cut either criterion 2
2 or criterion 6 of the factors listed on pages 17 and
3 18?

4 A. Yes. That was referring at the
5 regional level to the Region's results for ESA's.

6 Q. And they would be used to classify
7 all areas of the region?

8 A. At this level of analysis, yes.

9 Q. Okay. All right. I think I would
10 like to turn now to Exhibit H-10, your overview report
11 from 2A. At this point in time you were working on or
12 I guess the Region had approved a 7.2 million cubic
13 yard capacity at that point in time, June of 1983?

14 A. Yes.

15 Q. I guess at the beginning of this
16 report, section 2 restates the evaluation factors, some
17 of which we went through from H-57?

18 A. We didn't go through some of them.
19 Sorry, we went through some of them, right.

20 Q. This carries it on and as we see
21 on page 7, you state that the purpose of the overview
22 stage was to screen out areas that would be unsuitable
23 for landfilling from a physical, economic, social and
24 cultural...

25 A. Where are you?



1 Q. The top of page 7?

2 A. Yes.

3 Q. My understanding from your
4 evidence is that hydrogeology was the first level of
5 screening and the other factors were then overlaid?

6 A. I think that it was labelled as
7 hydrogeology but I believe -- all I have to do is find
8 the map. On Map 6. I had it around here somewhere.
9 Map 6 was made up of a number of things and you will
10 remember on the left-hand side of the map there was a
11 series of overlays or different screens this had gone
12 through and it was labelled hydrogeology but, as I
13 recall, it was more than that.

14 Q. First of all, if we look at page
15 9, we see in the middle of that page, if you look at
16 page 9:

17 "In the case of the physical factors the
18 low impact areas were screened out
19 basically initially on hydrogeology
20 favourable factors, leaving preliminary
21 areas that could be screened further
22 using other factors. The various
23 factors were then overlaid on the areas
24 of low impact..."

25 And if we turn to the back of this report, that in fact



1 is where we see your number of overlay maps?

2 A. Yes.

3 Q. Entitled "Hydrogeological Factors,
4 Overlay Maps"?

5 DR. KINGHAM: Are you referring to the
6 maps around page 114, or the ones right at the back?

7 THE WITNESS: Right at the back.

8 MS. VIGOD: Q. Appendix 3 I believe.
9 Actually if we look at both the map following 114 which
10 is Figure 6, I believe that is what you are looking
11 for?

12 A. Yes.

13 Q. We see under there in small print,
14 maps of soil attenuation, overburden thickness
15 and Niagara Escarpment, et cetera?

16 A. Yes.

17 Q. Those are individually found at
18 the back of the report?

19 A. Yes.

20 Q. And my understanding is that Site
21 F, of course, did not enter into the map at that point
22 in time?

23 A. I beg your pardon?

24 Q. At this level of screening, it
25 would have screened out Site F?



1 A. No.

2 Q. My understanding from ...

3 A. I see what you are getting at.

4 Yes, it would.

5 Q. I believe that my understanding
6 from Mr. Sobanski was that that was so?

7 A. Yes, it would.

8 Q. So, for example, the details of
9 attenuation capacity, overburden capacity, et cetera,
10 would have screened out Site F and otherwise Site F and
11 the other pits and quarries came in separately?

12 A. I think there is a little bit --
13 you are using some words -- maybe if you want me to
14 agree with something like that you should take me
15 through, for instance, overburden thickness, and tell
16 me was Site F out on that because you used attenuation
17 and words like that.

18 Q. If we look at, for example, the
19 overburden thickness we see the rating there of 0 to 5
20 metres would have been high potential; do you see that?

21 A. I do.

22 Q. And certainly at this point in
23 time the figure -- earlier 80 per cent of proposed Site
24 F may have very little or no overburden was the figure
25 used?



1 A. 80 per cent of Site F as it is
2 currently before the Board?

3 Q. Certainly, at least that was the
4 figure at Stage 2C and it has been refined to somewhere
5 around 70 per cent I believe the evidence is?

6 A. I don't know what the percentage
7 is referred to, but you could pick out generally
8 speaking the location of Site F on that overburden
9 thickness map and it would show about half high impact
10 and half moderate impact by that particular criterion.

11 Q. I guess at this point in time in
12 doing the hydrogeological mapping, was Mr. Sobanski the
13 one who was providing you with this information?

14 A. Yes.

15 Q. I believe rather than take you
16 through these points I believe his evidence was that
17 Site F would have been screened out having these
18 factors apply to it?

19 A. From the standpoint of what he is
20 talking about, but when I asked to go through the maps
21 individually it was to give you an answer as to whether
22 it was screened out from an attenuation standpoint and
23 you used some other words and I could find no reference
24 on some of these maps to that sort of terminology. I
25 was reliant upon Sobanski.



1 Q. If we look at Figure 6, we have a
2 map of the areas hydrogeologically favourable and I
3 believe his evidence was that Site F would have been
4 cut out on these factors?

5 A. From the standpoint of these areas
6 which were deemed by him to be low impacts were the
7 elements that were assessed there.

8 Q. All right. Then, Site F entered
9 into it when you began to look at quarries?

10 A. The pits and quarries entered into
11 it when we started to look at quarries, yes, and Site F
12 came out of the process of looking a quarries.

13 Q. My understanding from the
14 screening process is set out at page 51, and here we
15 have again the Ministry's position is stated out that
16 the screening process should establish a minimum
17 criteria for hydrogeological and geological factors,
18 and again this would eliminate the potential for a very
19 poorly located site from becoming a high scoring site?

20 A. Yes. Where are you reading from?

21 Q. The bottom of page 51.

22 A. Yes?

23 Q. I guess my point is that would you
24 agree that Site F would not have been chosen unless
25 the pits and quarries were considered?



1 A. The possibility is that it would
2 not have re-entered the screening process except for
3 the determination to look at pits and quarries as
4 alternatives for the natural attenuation type of
5 facilities. Remember that this was not a guarantee
6 because this was at a regional level of screening and
7 if some other determination came up for any site in the
8 Region, something that came up that would require a
9 look at it at a more detailed level, then we would have
10 to assess whether reiteration was necessary to see
11 whether the validity of looking at all of those types
12 of sites was valid or not before we proceeded to the
13 next section.

14 Q. Mr. Walker, I am not sure if there
15 is a blow-up of this map, but this is a map from
16 Mr. Hiraishi's report, H-42, the site features and land
17 use map, and I would like you if you could to put this
18 up?

19 A. I can unfold it.

20 Q. This is land use and site
21 features?

22 A. Just a moment. This is a map
23 entitled Hydrology Consultants authorship for Halton,
24 "Halton Environmental Protection Act Study, Site F,
25 Burlington, Site Features and Land Use, March, 1987"



1 and I guess this is part of some exhibit -- H-42 you
2 say?

3 Q. That's right. First of all,
4 would you confirm or can you confirm that the total
5 number of hectares on the site plan presently before
6 the Board is approximately 96 hectares?

7 A. It is not on here, but it is
8 approximately that.

9 Q. Right. At this point in time we
10 are talking about a proposal to landfill 49 or 50
11 hectares, and is that my up-to-date understanding?
12 That would be in the area outlined on the western half
13 of the site?

14 A. I don't recall the exact figures.
15 This is the fill area (indicating) you mean?

16 Q. Yes.

17 A. I have no reason to doubt what you
18 are saying but I would have to confirm that for you.

19 Q. The reason I brought forward this
20 map is that it marks so nicely on the part that is
21 licensed as a quarry. Could you perhaps just outline
22 that in red for the Board?

23 A. With this marking will this become
24 a separate exhibit? Not everybody has that red line
25 marked on it.



1 Q. Perhaps -- I wasn't intending to,
2 but we could make it an exhibit.

3 MR. LANCASTER: That will be Exhibit
4 WB-357.

5 ---EXHIBIT NO. WB-357: Map from H-42

6 MS. VIGOD: Q. Can you confirm, and I
7 believe we have had this evidence before, but the
8 licensed quarry is approximately 30 hectares?

9 A. Roughly that, as I recall it, yes.

10 Q. First of all, you would agree that
11 the remaining 66 hectares of the site plan is not
12 licensed as a quarry?

13 A. No.

14 Q. All right.

15 A. I do confirm that, sorry.

16 Q. And in fact of the area to be
17 landfilled, if we take the 50 hectare number, that 20
18 hectares of that portion again are not licensed as a
19 pit and quarry?

20 A. Your figures are correct, yes.

21 Q. If we look to the north of the
22 area marked in red, I take it that that is where we
23 have the Azova property there?

24 A. Yes, it is marked.

25 Q. I take it from other evidence



1 before the Board that there is a certain amount of
2 Class 1 and other class agricultural land in that area?

3 A. There is some, yes.

4 Q. In fact that is where the deepest
5 level of till is located. Are you aware of that?

6 A. That is the deepest overburden,
7 yes.

8 Q. Okay. If we look to the south of
9 the licensed quarry on that map, on Exhibit WB-357,
10 would you confirm that that is the area where we have
11 the oak/hickory forest with the rare plants and
12 vegetation that will be destroyed by the landfill?

13 A. It is in the south part of the
14 site, yes.

15 Q. If we can see, and I am not sure
16 because that drawing does not have it, but a number of
17 the operating cells are obviously in the area to the
18 south?

19 A. I think there are four down in
20 here, in the south part (indicating).

21 Q. In fact we have heard evidence
22 that the area to the south of the licensed quarry in
23 fact contains the most significant part of the
24 oak/hickory forest that might have been saved if one of
25 the other options for landfill had been pursued?



1 A. Yes. That is Miss Hellas' report
2 you are referring to?

3 Q. Yes. Mr. Walker, I would suggest
4 that rather than rehabilitating damaged lands you are
5 in fact going to destroy significant oak/hickory forest
6 and an area of rare plants and in fact your criteria
7 for looking at pits and quarries does not apply in fact
8 to any of the area outside that licensed quarry?

9 A. Are you looking for me to respond
10 to that question?

11 Q. Yes.

12 A. The criteria referred to were
13 criteria used at the Stage 2A analysis, the overall
14 regional screening, and under that screening this site
15 was one of the candidate areas that came out of that
16 process. As a result of that, I think this is a
17 fundamental principle of the screening process, there
18 are additional information added on at the lower
19 levels, and by lower I am referring to H-O. As you
20 move into the lower part of the triangle there is more
21 detail being added and you are using what you have when
22 you come out.

23 We excluded E.S.A.'s identified by the
24 Region and the province, by the Conservation Authority,
25 the province, in Stage 2A and this is not one of them



1 and it still is not one of them, one of the criteria
2 for E.S.A.'s which includes the oak/hickory forest.

3 Q. I am going to get to your
4 biophysical screen in a moment, but what I am getting
5 back to is your initial, if you like, your first
6 priority hydrogeology screen, and I put it to you that
7 on the basis of applying the factors such as overburden
8 and other factors, we have heard evidence that, if you
9 like, Site F would not have cut the mustard and it came
10 in as a pit and quarry site. What I am suggesting to
11 you is that outside of that licensed 30-hectare area,
12 the rest of the site is not pit and quarry, is it?

13 A. Yes, it is.

14 Q. It is not licensed?

15 A. It is not licensed as an
16 extractive area. It is certainly identified at the
17 regional level as an area of resource and it also is,
18 under the current MARP situation, it is clearly an
19 existing pit and quarry by definition and they include
20 both licensed and unlicensed areas.

21 Q. But in terms of your stated
22 purpose of rehabilitating, if you like, pits and
23 quarries, cuts into damaged land, in that respect, I
24 realize you did a number of your reports in 1984 but I
25 feel it is a bit Orwellian. Are we talking about



1 destroying something to then plant a new forest. How
2 are we rehabilitating lands?

3 A. You have jumped clearly from 1983
4 to now and to the distinguishing level of details which
5 you are giving me and this, for instance, comes from
6 now and the work we did which excluded areas of the
7 Region at the 2A level which was done in 1983 and '84.

8 Q. Let's go back to '83 and '84?

9 A. Yes.

10 Q. The purpose of using the map was
11 it was a clear indication of where the licensed quarry
12 was?

13 A. It also has a lot more information
14 and it is down to a specific site.

15 Q. I am not asking about the other
16 information on that particular exhibit, but I am trying
17 to get at the information available to you at this time
18 which included, I put it to you, certainly the NSP
19 application. Did you review that?

20 A. In the 1982 application?

21 Q. Yes.

22 A. That was not being considered and
23 you brought forward why it could not be considered, it
24 was too sensitive to considered even if we had decided
25 to do that.



1 Q. I don't mean considered as far as
2 an application before this Board or any other Board,
3 but in terms of the information that was contained?

4 A. No. I think it has come out in
5 both chief and in cross-examination that we were
6 responding to concerns in that respect and we were not
7 utilizing the level of details that were available from
8 the NSP application and notwithstanding that the City
9 of Burlington had agreed in principle to the use being
10 in this area and subject to certain things being done.
11 We were not utilizing the 1982 report at this time and
12 we clearly were telling people we were not doing that,
13 and it was a concern because we identified it as a
14 theoretical point for haul and we were really
15 sensitized to it as well.

16 Q. Are you telling me that you were
17 ignoring the fact or did you tour the site at this
18 time?

19 A. Mr. Sobanski did a tour of all the
20 pits and quarries at the 2A assessment to determine
21 whether any of them should withstand or could withstand
22 the cut at the 2A level.

23 Q. Just on that point, let's go to
24 page -- following in this section, page 53 and on where
25 we see a description of the quarries being considered



1 at this point?

2 A. Yes.

3 Q. If we look at, for example, Canada
4 Brick on page 54, we see it is an estimated area of 12
5 to 16 hectares and 15 metres deep sided on the west,
6 north and south and zero metres on the east. The
7 Nelson Quarry has a description of the hectares and
8 depth of that quarry and et cetera and if we go through
9 those 6 or 7 quarries ...

10 A. Yes, seven.

11 Q. ...we have an area description and
12 the depth of cut description at that point in time. I
13 would suggest to you that those described in fact the
14 licensed quarry areas and show at that point in time
15 that those were certainly mined out and, if you like,
16 at considerable depths?

17 A. Oh, no, it showed different
18 aspects for each of those different pits and quarries.
19 It showed what was there and what the analyst, in this
20 case Mr. Sobanski, found.

21 Q. My question in terms of the NSP,
22 and I note in terms of the quarry certainly there is a
23 licensed quarry, but there is no description of the
24 oak/hickory forest and the fact that there is an area
25 within -- that was not a pit and quarry at that time?



1 A. We weren't looking at that level.
2 At the level of 2A, the information which was being
3 utilized for delineation of oak/hickory forests and
4 natural features of that nature was the information
5 which was available and which was stated and it was the
6 sorts of things, the E.S.A.'s that that had been
7 promulgated by the Region at this point in time.

8 Q. First of all, Mr. Walker, you have
9 confirmed that those were criteria that you applied to
10 natural areas and you were not limiting yourselves to
11 those 37 E.S.A.'s?

12 A. A mistake. That is exactly what
13 we were doing. It was a regional level of information
14 which was available.

15 Q. This is going to take ... I don't
16 seem to have this very clear. If you turn to page 59
17 for a moment of that report, you will see the
18 definition of the biophysical features?

19 A. Yes.

20 Q. And you will see:
21 "In its 'environmentally sensitive area
22 study', the Region presented the
23 selection criteria used, and the
24 guidelines for the interpretation of
25 these criteria. Since the selection



1 criteria and the guidelines are well
2 argued, and since the majority of the
3 biophysical features indicated on the
4 overlap map are E.S.A.'s, it was
5 determined that the selection criteria
6 would be used to defining the
7 biophysical features for the General
8 Overview Analysis."

9 I understood, and in fact I had some discussion with Ms.
10 Hellas on that point, but these were the selection
11 criteria for mapping the region and those criteria
12 were to be applied to mapping the region and certainly
13 was not limited to those 37 E.S.A.'s. If we turn the
14 page to the next page of text, we see a reference to
15 similar criteria used by the Credit Valley Conservation
16 Authority?

17 A. Yes.

18 Q. And the discussion is that these
19 are in fact good criteria that should be applied to
20 screening the region?

21 A. Yes, and they had already been
22 used to determine the E.S.A.'s.

23 Q. That is all right, but the
24 criteria was to be used to map out the region and
25 there might be, as we have seen at Site F, the area to



1 the south of the quarry would not have met these
2 criteria?

3 A. She would have to determine at
4 this level of analysis whether they would have done
5 that or not, but the information that was available at
6 a region-wide level of information was the information
7 which was used and her analysis did not screen out the
8 Site F area on a biophysical basis.

9 Q. Was she in fact -- I guess we can
10 sort of -- I guess I am jumping ahead or we are jumping
11 ahead now, but in this biophysical -- if you go back to
12 page 54, and it is actually in your landfilling
13 section, you will see reference -- do you have page 54
14 at the top of the page?

15 A. Referring to National Sewer Pipe.

16 Q. The last sentence in that
17 paragraph reads:

18 "There are no known biophysical
19 constraints in the area proposed for
20 landfilling."

21 A. Correct.

22 Q. I put that question to Miss Hellas
23 as to how she reached that conclusion and her answer,
24 and I could refer you to the transcript if you like,
25 but she didn't write this, she didn't prepare it, there



1 is a chart at the back and if we turn to Table 45 at
2 the back of this report -- and do you see Table 45?

3 A. Yes.

4 Q. If you look at the biophysical
5 factors and the comment under low, no impact; do you
6 see that?

7 A. Yes.

8 Q. Miss Hellas' evidence was that she
9 did not prepare that chart and she did not know who
10 did, and I would like to know if you prepared this
11 chart?

12 A. No. I may have actually drawn the
13 boundaries, but the information was provided by
14 Mr. Sobanski.

15 Q. Mr. Sobanski?

16 A. As far as I know, pits and quarry
17 candidate areas. I don't know otherwise where it would
18 come from. He did the analysis on the pits and quarries
19 for Stage 2A.

20 Q. Including the biophysical factors?

21 A. Well, his determination of that
22 would be determined on the basis of information he had
23 from Miss Hellas, presumably, because if you look at
24 her -- the mapping she did for this stage, you will see
25 the significant biological features and where she was



1 screening at the 2A level the unacceptable out, it did
2 not exclude Site F and at the 2A level that was the
3 information we were dealing with.

4 Q. Did you provide Miss Hellas at
5 this point with a copy of the study done for NSP by
6 Proctor & Redfern which showed that certain areas to
7 the south would have met a number of the criteria in
8 the E.S.A...?

9 A. To my knowledge, Ms. Vigod, I did
10 not provide her with one. She may have had one, but
11 she would not be allowed to refer to in making this
12 report because we did not have that level of
13 information for all of the other parts of the Region.
14 So, she would not have been allowed by me to have
15 referred to that detailed information. She would have
16 to take a level of detail that was common to the Region
17 in order to make her report at this level.

18 Q. Mr. Walker, in relation to the
19 biophysical aspect, and we will be seeing this when we
20 get to the next stage, 2B, there is a reference to the
21 fact that in terms of biophysical you went back and you
22 considered whether any of the sites would meet the
23 screening criteria in 2A and they would then be
24 screened out as unacceptable?

25 A. At the level of information



1 throughout this as a principle, we had to be bound by
2 the similar level of detail available for the level we
3 were assessing, whether it was the region or the
4 candidate areas or otherwise. Otherwise we would still
5 be looking at one of those earlier stages in terms of
6 screening. We do not and did not have the resources
7 nor the time to indicate that the region, for instance,
8 could be covered at the same level of biological
9 information, to use that topic, as was available on the
10 National Sewer Pipe property.

11 Q. Can you tell me what information
12 you did consider at that point?

13 A. I am sure you have asked her and I
14 don't know exactly what she did. I know she was
15 intending to utilize the E.S.A. information for the
16 region and that is why in my opinion she came up with
17 the map she did.

18 Q. Are you familiar with the fact
19 that the Halton Region Conservation Authority on
20 December 16, 1982 in its Exhibit B-106 before this
21 Board passed a resolution that they wanted the area
22 known as Site F to be an environmentally sensitive
23 area?

24 A. What date?

25 Q. December 16, 1982.



1 MR. LEDERER: To the best of my
2 recollection certainly the Proctor & Redfern report was
3 referred to by Miss Hellas in her evidence and I think
4 she provided the same information Mr. Walker has now
5 repeated. But it seems to me at some stage there is a
6 distinction between process and substance, the details
7 of the work which any of these particular experts have
8 done including the experts who was speaking to the
9 substance of their own work and I am not sure we aren't
10 crossing that line. I don't recall whether this
11 document was put to Miss Hellas, I just don't remember,
12 but certainly if it was to go to anybody it should have
13 been her and I don't know if Mr. Walker is able to
14 answer the question or not.

15 MS. VIGOD: The reason I am bringing it
16 up with Mr. Walker, and I believe the transcript page
17 is page 978 where I was asking about how this no impact
18 level got in the charts and into the report and she did
19 refer, if you like, at the time back to somebody, to
20 you, and stated that she did not prepare those charts.
21 That is what gave rise to my initial questions. As
22 well, I think it is important to understand what kind
23 of level of information was given to the consultants as
24 the process continued and I think these are appropriate
25 questions for Mr. Walker.



1 MR. LEDERER: The preparation of the
2 chart -- this is two separate issues. The preparation
3 of the chart has been discussed and Mr. Walker has
4 provided his answer and his answer related to
5 Mr. Sobanski and the working relationship he would have
6 had with Miss Hellas. On the question of the detail of
7 what data was considered, Mr. Walker, it seems, has
8 given his best answer and if he has more to say, by all
9 means, but the person to which you put that
10 information, what did you consider, surely it was
11 Miss Hellas and the matter of the Proctor & Redfern
12 report was discussed with her and she said precisely to
13 the best of my recollection what Mr. Walker has
14 repeated. It is not the same issue and Ms. Vigod, with
15 all due respect, has not related them.

16 MS. VIGOD: The issue I think for
17 Mr. Walker is as co-ordinator when information became
18 available through whatever source, and he was the
19 person as I understood it who was, if you like, under
20 contract and responsible for the co-ordination of this
21 report and at one point in time reports then got passed
22 on to consultants and I think it is quite relevant to
23 Mr. Walker and as well the question of what Miss Hellas
24 reviewed at what point and how it had been canvassed.

25 MR. LEDERER: What both Mr. Walker and



1 Miss Hellas have said is that the Proctor & Redfern
2 report was not used and the reason it was not used was
3 because there had to be a principle followed which was
4 we have to have a consistent level of detail with
5 respect to each site, otherwise we would have to do the
6 most detailed work we have for any given site for all
7 sites which at this level would have meant doing the
8 Proctor & Redfern study for the entire region.

9 As Mr. Walker has just said, the
10 resources and time weren't available. With all due
11 respect, if the process calls for that, and calls for
12 Proctor & Redfern across the whole region, we are into
13 the kind of process no one has realized and no one has
14 assumed under the Environmental Assessment Act. It is
15 simply inappropriate to keep going at this. She has
16 the answer and let's get on with it and not keep
17 repeating the substance of what Miss Hellas did.

18 MS. VIGOD: I believe my very last
19 question before Mr. Lederer stood up was whether he was
20 aware of Exhibit B-106, the Resolution of the Halton
21 Region Conservation Authority of December 16, 1982, so
22 I have left the discussion of the Proctor & Redfern
23 report and I guess I would like an answer to that
24 question.

25 Q. I hear you, your answer as to the



1 fact that the Proctor & Redfern report was not referred
2 to, but I am asking you if the resolution of the Halton
3 Region Conservation Authority considered by you and
4 given to Miss Hellas?

5 A. I don't know why the resolution
6 would necessarily be considered by me. She was
7 responsible for that. I have to be reliant on her to
8 map at the level of information that we were requiring
9 consultants to use, that is something that was
10 available at the regional level, and I think she did it
11 on pages 61, the map which shows the significant
12 biological features, page 62, the listings, and if she
13 decided from her analysis that the lands that are
14 currently Site F were not significant biological
15 features, in other words to be screened, then I don't
16 recall, but a search of our files may show that we knew
17 of the resolution, but that would normally be her
18 responsibility to identify -- we know she did talk to
19 the Conservation Authority.

20 Q. Mr. Walker, what I heard you say a
21 minute ago was that Mr. Sobanski was the one who toured
22 around and may have been the one to make that comment
23 on the biophysical aspect?

24 A. But he wouldn't do it on his own.

25 Q. My understanding was from the



1 evidence, and I will check the transcript tonight, but
2 it was that Miss Hellas said that she did not evaluate
3 the pits and quarries at this point in time. Is that
4 your understanding?

5 A. Yes. It is entirely possible she
6 may not have evaluated the pits and quarries at this
7 particular time. She did a region-wide screening from
8 the standpoint of her criteria.

9 MS. VIGOD: Okay. Perhaps, Mr.
10 Chairman, I was going to suggest that perhaps we might
11 break at this point rather than my continue this, as I
12 could check on that overnight.

13 DR. KINGHAM: Just before you do that,
14 I want to make sure I have understood, Mr. Walker. You
15 said Mr. Sobanski filled out Table 45, but do you mean
16 he filled out all the tables from 38 to 51 or all the
17 pits and quarries from 45 to 51?

18 THE WITNESS: He did the assessment of
19 the quarries and the actual putting together of the
20 table may have been something we did in our office
21 because we were usually looking after the overall co-
22 ordination of the reports, but I myself did no analysis
23 of the pits and quarries in 2A.

24 DR. KINGHAM: You would have done Tables
25 38 through to 44?



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Walker, cr ex
(Vigod)

1 THE WITNESS: Based on the information
2 we had.

3 DR. KINGHAM: From the consultants and
4 Mr. Sobanski would have done 45 to 51 based on
5 information from the consultants?

6 THE WITNESS: We may have put the table
7 itself together, but it was based on information he
8 would have provided.

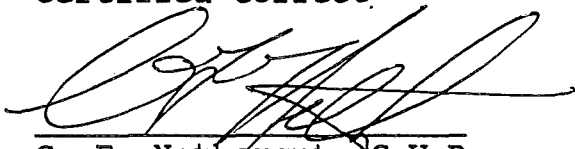
9 MR. LANCASTER: We will adjourn then and
10 tomorrow will be ten o'clock.

11 MS. VIGOD: Ten o'clock?

12 MR. LANCASTER: Ten o'clock.

13 ---Adjournment at 4:22 p.m.

14 Certified Correct

15 
16 C. F. Nethercut, C.V.R.

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18 (Page 15600 follows)
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