



1 That was basically the end of IIA. In IIB the task was
2 look at those sub-areas and reduce those to candidate si
3 sites that would be suitable for landfilling and again t
4 detailed evaluation factors and the process of
5 selection to get down and that report was filed in
6 March of this year, the sites, in naming six
7 candidate sites in Halton. The next stage they
8 have begun is what is the preferred site stage,
9 Stage IIC and they are now to choose a preferred
10 site. In the Stage IIB process when they were
11 looking in the overview analysis, looking at the
12 candidate areas to get down to the candidate sites,
13 one question raised in the Region was should we
14 have a one-site approach; should we have a multi-
15 site approach to that landfill component and so
16 there is an analysis done by the consultants with re-
17 spect to comparing on an impact basis using the
18 environment and the Environmental Assessment Act
19 and to compare a multi-site versus a single site,
20 and Council has really this past month finally made
21 a decision based on that analysis that there shall
22 be a single-site approach for Halton and it shall
23 be one of those six candidate sites.

24 Q. Before you pass by the six
25 candidate sites, are any of those six candidate sites



1 located in this municipality, the City of Burlington?

2 A. There is one candidate site
3 of the six located in Burlington and it is the lands
4 to the east, immediate east of the existing Burlington
5 Landfill Site. There are two sites in Milton and
6 three sites in Oakville.

7 THE CHAIRMAN: Including Site F, I take
8 it?

9 MR. PERLIN: Including the old Site F
10 which is now called under the new process Site E.
11 The new Site F is the one in Burlington which is
12 next to the existing Burlington Landfill Site, which
13 added a bit of confusion. I should add that
14 throughout this process the continuous approach
15 was to put out the draft reports first, request
16 comment and make final reports thereafter allowing
17 true input to the process before reports were
18 finalized and decisions made and thus the process
19 took longer, and has taken longer and we have a
20 mailing list of some 1,400 people to which the
21 documentation has gone to this date, and whether
22 it will start to reduce now that we have come down
23 a bit to six from the other areas will remain to be
24 seen, but it has taken longer than originally
25 was anticipated.



1 A. We will come to that.

2 Q. Could you indicate to the Board
3 with respect to the environmental assessment with the
4 landfill component and the energy from waste com-
5 ponent, when you think an alternative to landfill
6 in Burlington will be available to the Region of
7 Halton? What is your own, and I think we will
8 have to have a personal estimate here as you have
9 some qualifications in that area?

10 A. I wouldn't say so as the
11 estimates haven't been very good in the past. I can't
12 say there will be an alternative to landfill
13 in Burlington.

14 Q. To the Burlington Landfill Site
15 and the question is when do you foresee that the
16 Region will be able to close down the Burlington
17 Landfill Site, keeping in mind that it is a condition
18 of the exemption under the Environmental Assessment
19 Act that you do so when alternative capacity is
20 available to the Region?

21 A. The commitment of the Region
22 and by Regional Council resolution and indeed by
23 the Environmental Assessment Act exemption is
24 there won't be any inland landfilling once a new alter-
25 native landfill is found and in any case the applicatio



1 which I understand has been submitted to this Board
2 unless it was changed in the last couple of weeks, is tha
3 it can only go until, if I understand correctly, some
4 time, in 1987 and we have engineered that landfill to
5 the extent we can and that is it. So, we can't go
6 any longer than that and whether we can be any sooner
7 than I believe it was May of 1987 will require --
8 we have a major hearing coming up obviously next
9 year and I am assured of that now, and then there
10 are the appeals that can take place, but in any
11 case ...

12 Q. Thirteen of them?

13 A. We have been through so many
14 court cases with so many unique and creative ways
15 of indicating that what we have done in the past
16 is not in accordance with the laws of the province
17 and there are more creative ways I understand which
18 have been created since we were in the process, and
19 I really cannot say to this Board other than we
20 have made or this Council has made its commitment
21 and in fact the advice of our professionals to us
22 as staff and to Council has been that that is it
23 for this site.

24 MR. JEFFERY: What do you expect
25 would happen if you don't have an alternative site

NC

1 in 1987? Suppose it is just not available? Would
2 you be coming back for further extension here?

3 MR. PERLIN: It would be my opinion
4 we would not be back for extension to this location
5 and we have engineered this site to what is
6 environmentally safe and suitable. That is my
7 opinion and I believe that Council will stick to
8 that commitment. It had a questionable interim
9 expansion which we will be getting to shortly I
10 guess in Oakville about whether that interim expan-
11 sion that took place in Oakville, and I will address
12 that in more detail I guess in a little while,
13 whether it should have taken place but Council made
14 the commitment that if it did take place in 1980
15 there would be no further and Council did not go
16 back to look again at Oakville because Council
17 respected the commitment that that is the last that
18 should be done in the way of landfilling at the
19 Oakville site and really respected the opinion from
20 its consultants and did not go back this time;

21 MR. JEFFERY: Just one question; have
22 we heard evidence that it would be impossible to
23 further extend this site from a hydrogeological
24 standpoint?

25 MR. HODGSON: No, Mr. Chairman, we



1 have not.

2 MR. JEFFERY: Will we ever hear
3 evidence like that at this hearing?

4 MR. HODGSON: Mr. Brown may accept
5 that invitation and provide some, but I had not
6 intended to specifically address that issue.

7 MR. JEFFERY: In other words, Mr. Perlin
8 is indicating that in his opinion this site is
9 engineered if this application is approved?

10 MR. HODGSON: And he is qualified
11 to give -- is not qualified to give expert or
12 opinion evidence to this Board but on that subject
13 he might be able to give some opinion evidence, on
14 that matter.

15 MR. JEFFERY: I wondered if that was
16 his lay opinion and I wondered if we had any expert
17 opinion on that question because it is quite important
18 as to whether or not this could turn out to be a
19 further interim application.

20 MR. HODGSON: I could consult with
21 Mr. Perlin and Mr. Wells and Mr. Leech and advise
22 this Board as to what the view is and perhaps I could
23 seek instructions to bring Mr. Leech or Mr. Wells
24 back to address that issue.

25 THE CHAIRMAN: I don't know if



1 Mr. Jeffery is touching on this, his question is
2 from the viewpoint of whether it is feasible to
3 extend it and will there be a commitment not to
4 extend it or is that given?

5 MR. HODGSON: Mr. Perlin will have
6 to address that.

7 MR. PERLIN: I am talking about
8 within the existing Burlington Landfill Site.
9 One of the questions we have never been able to make
10 a promise to or any commitment about are the lands
11 immediately to the east in which if one checks the
12 files of the environmental assessment, at least the
13 Ministry of the Environment one, you will see there
14 is an application by a private owner for a landfill
15 on what is commonly referred to as the National Sewer
16 Pipe lands to the east. That particular site, as I
17 said earlier, is also a site as part or is considered
18 one of the six candidate sites for a landfill com-
19 ponent in Halton, so I cannot say that when the
20 member talks about expanding, of course it depends
21 on your interpretation of the word "expand". What
22 has been indicated to staff, Regional staff and that
23 is all I can say and Regional consultants, is that this
24 it, this is all that can be obtained from the
25 Burlington Landfill as it now is. Now, that comes



1 from the consultants we have retained, M.M. Dillon,
2 and I can't tell you whether some other consulting
3 firm could be retained and come in with some different
4 opinion. I can't make a comment such as that. All
5 I can say is that Council has indicated that that is
6 its commitment, this Council, this Council cannot
7 bind future councils, but I have indicated to you
8 that in the case of Oakville which was a previous
9 council this Council respected the previous council's
10 commitment and we have gone after what we can. Now,
11 what would happen in 1987; I don't know what will
12 happen in 1987 and as to where we would go. It is
13 all speculation as to what we could do and where we
14 could go. Perhaps I might ask the Ministry of
15 the Environment.

16 MR. HODGSON: Q. Mr. Perlin, we have
17 talked at length about the long-term waste management
18 strategy of the Region as it has evolved since you
19 joined the Region or really as it has evolved from
20 1974 to date. Going back to the 1st of January,
21 1978 when you became affiliated with the Region,
22 could you discuss the short-term waste management
23 strategy of the Region within the context of the
24 long term and specifically at that time how many
25 sites were operating, what was the life at that time



1 Walker, Wright designation as Site F?

2 A. They include all the Azova lands
3 and all the National Sewer Pipe lands over to King
4 Road and I guess up to about the Hydro corridor.
5 Yes, up to the Hydro corridor across the top here.

6 Q. In your evidence you said
7 that in your opinion, I believe, the Burlington site
8 has been engineered to handle the waste which is
9 the subject of this application. Is it your opinion
10 that the Burlington site can handle no more waste
11 after the waste that is being applied for now is
12 located on the site?

13 THE CHAIRMAN: I think we have had
14 that before and he is not an expert in this.

15 MR. BROWN: Q. Mr. Perlin, if I
16 could just follow up from Mr. Eisen's question during
17 your examination-in-chief, has there been a regional
18 commitment that there will be no more interim appli-
19 cations for filling in the Burlington site?

20 MR. HODGSON: Before we get too far
21 into that area, it is my understanding of the law
22 firstly that the commitment would have to come from
23 the Council for the Region of Halton and, secondly,
24 this Council could not bind the next council. This
25 Council was elected in November of 1983 and will go



1 out of office in November of 1986. I don't know
2 how helpful evidence in this area really would be
3 to this Board.

4 THE CHAIRMAN: I think it is a legiti-
5 mate question. It has been touched upon in chief
6 and I think it is quite legitimate.

7 MR. PERLIN: Resolution -- I could
8 refer you, Mr. Brown, and the Board to page U-100 in
9 Volume 3, in February when the application was finally
10 authorized, the formal authorization was given to
11 the documentation prepared then by Dillon, "THAT the
12 City of Burlington be requested to reconsider its
13 opposition to the proposed 4-Phases landfill continuation
14 /at the regional landfill site in Burlington, and
15 enter into a site plan agreement with the Regional
16 Municipality of Halton which would cover the usual
17 site plan matters similar to the past agreement
18 covering the original expansion to the site in 1980,
19 but also confirming that only as many of the proposed
20 4. Phases as are necessary will be utilized until
21 commencement of operation of the long-term landfill
22 component for Halton." Basically it would be my
23 indication that this Council is indicating that this
24 is the program for Halton and this is it at this
25 particular site and they are prepared to enter into



1 an agreement that would not only fix it at the four
2 phases but say that we would attempt to go to the
3 new site as soon as the new site is found and is
4 operable.

5 THE CHAIRMAN: But you are giving
6 your own advice and I think the question is has
7 Council taken a stand. Is that not so?

8 MR. BROWN: Q.Yes. I would like to
9 know what the facts are as to resolutions enacted
10 by Council.

11 MR. PERLIN: A. As I have indicated, Council
12 speaks through its resolutions and that is what
13 Council has said and that is basically what I have
14 to say.

15 MR. JEFFERY: Is this the only one
16 on that topic?

17 MR. PERLIN: No. If I could have a
18 few minutes I think I have in my own binder the
19 December 7 resolution because I do believe that
20 Council went further on the record, but I might be
21 incorrect. If I could just look for that.

22 MR. HODGSON: While Mr. Perlin is
23 looking, perhaps I could remind the Board and my
24 friend that the Minister of the Environment has
25 spoken on this subject and one of the early exhibits,



1 and I don't have the number at my fingertips, was
2 an order made by the Minister under the Environmental
3 Assessment Act exempting the Region from the
4 requirement of proceeding on this application under
5 the Environmental Assessment Act and the single and
6 only term and condition of that order was that
7 landfilling at the Burlington site would have to
8 come to an end when an alternative site was available
9 to the Region. I understand you want to know from
10 the Region's side what has happened, but I just wanted
11 to indicate that on the Minister's side the Region
12 doesn't have a whole lot of flexibility.

13 MR. JEFFERY: What happens even on
14 the Ministry's condition if an alternative is not
15 available and you are at the end of the capacity
16 of this site as approved, if this extension is
17 approved by this Board? In other words, as I under-
18 stand what the Ministry is saying, they are saying
19 you have to go to another site as soon as another
20 one is approved but if one is not approved by the
21 time you get to the end of the capacity here does
22 that on the Ministry's condition in your opinion
23 preclude a further application to extend further
24 at this site because a new one isn't ready yet?

25 MR. HODGSON: I don't have an answer



1 to that, Mr. Chairman.

2 MR. TIDBALL: Perhaps I could deal
3 with that matter briefly. With respect, the
4 exemption order signed by the Minister simply deals
5 with the applicability of the Environmental Assessment
6 Act to this particular site and all the exemption
7 merely says is that the exemption expires at a time
8 or at some point in the future when another site is
9 ready, but I don't think it ever really touches on
10 the matter although it does in a round-about way.

11 MR. PERLIN: Again I am not sure I
12 can be any more helpful to the Board other than to
13 indicate that in adopting the continuation option,
14 in the option adopted by Council and which unfor-
15 tunately is one of the resolutions missing in here'
16 the continuation of landfilling at the existing Burlington
17 Landfill Site up to four phases, Phases A, B, C and
18 D on a phase-by-phase basis in accordance with the
19 '83 M.M. Dillon report on the continuation of landfilling
20 at the Burlington Landfill Site utilizing only as
21 many of the phases as are necessary until the
22 commencement of operation of the long-term landfill component
23 for Halton. All I can indicate to the Board is
24 the advice of Dillon and I have to say to you that
25 that is the advice of Dillon but I also indicated



1 earlier in my evidence, and I don't know of any other
2 engineering firms and/or consulting firms who would
3 come to this Board to indicate something more
4 could be done but that was the material presented
5 to Council and the basis of the four phases. The
6 instructions were as one can see from the interim
7 plan, Mr. Eisen, that we have until June of 1988.

8 THE CHAIRMAN: I think the issue here
9 is what stand has Council taken with regard to this
10 site after 1987. I think that that is what we are
11 asking.

12 MR. HODGSON: I understand the
13 difficulty, but I think the short answer is that
14 the consultants have told the Region that they have
15 produced the maximum capacity out of this site with
16 this application and while no one has put their mind
17 to the question "what if", the assumption has been
18 that if they don't get finished by May of 1987 they
19 will have to go elsewhere. Is that a fair statement?

20 MR. PERLIN: That is a fair statement.

21 MR. BROWN: Q. Mr. Perlin, would
22 it be your recommendation to Regional Council that
23 if a decision is not made on the other applications
24 at the time that the capacity of this application
25 is used up, that Regional Council look somewhere else



1 than in Burlington, or at the Burlington site for
2 a further interim site?

3 MR. PERLIN: A. Other than the
4 existing Burlington site?

5 Q. Yes.

6 A. We would have to look elsewhere
7 and that would be my recommendation to Regional
8 Council and I can't see it changing and us continuing
9 at the existing Burlington site.

10 Q. Mr. Perlin, at the outset of
11 the hearing Mr. Elstone, I guess by way of introduc-
12 tory argument, advised the Board there had been a
13 commitment made by, I believe, yourself at the hearing
14 for the Phase 2 expansion of the Burlington site
15 that there would be no more expansions at the
16 Burlington site after Phase 2 was filled. Have
17 you any recollection of having made that commitment
18 or any information to offer the Board as to whether
19 or not you made that commitment?

20 A. There was no commitment made
21 by myself at that hearing that there would be no
22 further expansions. At that hearing it was very
23 clear that we did not expect to have to come back
24 here and that is just so. We did not expect;
25 sincerely we did not expect to have to be here and



1 when we met in April, 1980 we had Cabinet approval
2 for a landfill site that would handle the Region's
3 needs for at least at that particular point ten
4 years. We have always done our landfill in terms
5 of capacity and don't really talk in terms of years
6 and sometimes it is easier to talk generally in
7 terms of years but if you look at the Site F resolu-
8 tions you will see two million tons which then would
9 have been good for anywhere from eight to ten years
10 and we had environmental applications set and ready
11 to be submitted and we had no knowledge of a June
12 3rd, 1980, which was two months later, recommendation
13 from the Cabinet coming down to make environmental
14 assessment applicable. So, we sincerely believed,
15 and having gone through a hearing in which we had
16 considered alternatives, Mr. Brown, at an Ontario
17 Municipal Board hearing, we had looked at alternatives
18 that this Board would be convinced to look at that
19 particular Site F strictly on its own merits and
20 not repeat the Ontario Municipal Board process of
21 looking at alternatives again. We had very good
22 hopes that we would not be back to this Board again.

23 THE CHAIRMAN: I wonder if I could
24 ask you to just answer the question directly as the
25 question really was whether there was any commitment,

(NC)

1 and I have forgotten the words, on the part of the
2 Region that that would be the last application and
3 it would not go on beyond that. Apparently the
4 answer is ...

5 MR. PERLIN: No.

6 THE CHAIRMAN: So there was not?

7 MR. PERLIN: There was no commitment
8 and no intention.

9 MR. BROWN: Q. Have you the transcripts
10 of the 1980 hearing?

11 MR. PERLIN: A. Yes.

12 Q. Did you review the transcripts
13 to ascertain whether or not a commitment was made?

14 A. I reviewed the transcripts and
15 I made no commitment.

16 Q. Turning briefly to the
17 Burlington conditions, Mr. Perlin, you did not enter
18 into evidence I believe the Regional Council resolu-
19 tion dealing with the conditions Burlington requested;
20 is that correct?

21 A. No. I read from the resolution
22 per se that approved Schedule A to the CAO report
23 which contains those plus the modifications made as
24 amended by Council.

25 Q. I wonder if you could identify



1 condition in any Certificate of Approval that may
2 be issued, should the application be granted?

3 MR. PERLIN: A. Perhaps Mr. Woodburn
4 could speak to that operation.

5 MR. WOODBURN: A. I would be prepared
6 to recommend that to Regional Council, in accordance
7 with the recommendations prepared by Gartner Lee.

8 MR. TIMBERG: Mr. Chairman, I have no
9 further questions.

10 THE CHAIRMAN: Mr. Mulkewich?

11 MR. MULKEWICH: Yes, I do have a
12 couple of questions, thank you, Mr. Chairman.

13 CROSS-EXAMINATION BY MR. MULKEWICH:

14 Q. Earlier in your testimony I
15 believe in response to one of the questions put to
16 you you indicated that when you used the word "site"
17 you were applying a very narrow definition to it and
18 you have also indicated in past testimony that you
19 have attended many meetings with residents and such
20 people. Is it not fair to say that a great many
21 people who live in the area have a very different
22 definition of "site" than one which you have given
23 to this Board at this hearing and let me explain that?
24 In other words, "site" does not simply apply to the
25 boundaries of the land owned by the Region of Halton?



1 MR. PERLIN: A. I think that that is
2 fair. Many people use "site" when I use "location"
3 and there is a difficulty in the expressions used.
4 I have tried to narrow the site to specific areas
5 and then "location" would be the larger area.

6 Q. So in your contacts with the
7 Region you have certainly heard many people refer
8 to site involving that entire area from Falcon Creek
9 or even from Waterdown Road to King Road including
10 the land owned by the Region and NSP, Azova and
11 Bayview Park as all one site?

12 A. Yes, I have heard that.

13 Q. Is it not also fair in your
14 testimony earlier when you indicated the reasons why
15 the Region at that point was seeking to have the
16 Minister of the Environment exempt this particular
17 undertaking from any hearings, not only the EAA but
18 you indicated there was some concern with the NSP
19 land being next door, that this would be taken as
20 a trial hearing and therefore in that testimony very
21 clearly connected the relevance of the narrow inter-
22 pretation in the land adjacent; is that a fair
23 statement?

24 A. I don't know if I connected
25 the relevance, but I was asked what were some of the



1 considerations as far as the recommendation and why
2 staff would make a recommendation that no hearing
3 be held and I indicated that that was one of our
4 considerations, that this hearing could then possibly
5 turn into a test run on the entire environmental assessment
6 and some of the candidate areas and sites involved
7 in that process.

8 Q. Earlier you also mentioned
9 in your recitation of the history of garbage in Halton,
10 and Site F in particular, that at the OMB hearings
11 evidence was led with regard to alternatives and
12 that alternatives were suggested. Might you indicate
13 what the alternatives were and who suggested them and
14 what the outcome was with respect to those alternatives?
15 I think the alternative involved this area directly
16 and I think the Board should be aware of that.

17 THE CHAIRMAN: Yes, but we are not here,
18 as I see it, to discuss alternatives at this point.

19 MR. MULKEWICH: I appreciate that, but
20 we are here to discuss the area and the question I
21 am asking relates to the fact that my understanding
22 is that the adjacent area was referred to as an
23 alternative to Site F.

24 THE CHAIRMAN: We are just looking at
25 the area that is part of the application and we are

(NC)

1 not looking at the wider concept that some citizens
2 might have. Is that not so, Mr. Mulkewich? We the
3 Board are interested in and only considering the
4 area owned by the Region.

5 MR. MULKEWICH: I appreciate that and
6 I think many citizens do but they also see this as
7 an integral part...

8 THE CHAIRMAN: I don't think that is
9 an issue before us at all. We are looking at the
10 site as owned, owned by the Region.

11 MR. MULKEWICH: I appreciate that and
12 the guideline may be something to be followed up at
13 another time in another way.

14 Q. Another question, Mr. Perlin;
15 with respect to your recitation of the history as
16 well you mentioned there was in fact an agreement
17 and in fact I think you termed it as that, the Ministry
18 of the Environment had entered into an agreement on
19 resource recovery and I think you mentioned 1974 and
20 the Dillon study was in fact a study on resource
21 recovery and yet in the history you indicated it
22 is only in the last year we have gone into an EFW
23 study so that in ten years when the first commitment
24 was made, something has happened and what happened
25 to that commitment at that point?



1 was some work and a lull there in the period '78-79,
2 and again a lull after the Kilborn report because
3 of waiting to see what was going to happen with
4 the St. Lawrence Cement Plant and we are again
5 looking at energy from waste.

6 MR. MULKEWICH: I think those are all
7 my questions at this time.

8 THE CHAIRMAN: Mr. Elstone?

9 MR. ELSTONE: Yes, Mr. Chairman.

10 CROSS-EXAMINATION BY MR. ELSTONE:

11 Q. Mr. Perlin, what do you mean
12 there was no commitment made to the residents or
13 the people of Burlington referring to the last time
14 this issue came before a board?

15 THE CHAIRMAN: You mean the 1980
16 hearing?

17 MR. ELSTONE: Yes.

18 Q. What do you mean by "commitment"?

19 MR. PERLIN: A. What I meant by
20 "commitment" was that there was no promise that there
21 would never be any further expansion of that site
22 because at that particular time National Sewer Pipe
23 Limited had already made a proposal and it had in
24 August of 1979 to the Region for a private location
25 right next to the Region and here we were appearing



1. before the Board and looking to expand our present
2 boundaries. We did not own the lands which were
3 Phase II at the time, but to expand the site on to
4 those new lands. We were cognizant of the National
5 Sewer Pipe application and we had indicated then,
6 even though we were still looking at Site F, that
7 we would be prepared to investigate the National
8 Sewer Pipe proposal for a private site if they
9 wished to make their application and so at that
10 time in 1980 we didn't know what was going to happen
11 with the National Sewer Pipe application.

12 Q. Mr. Perlin, isn't it true that
13 in the hearings of 1980 that National Sewer Pipe did
14 not enter into it because it was not being dealt with
15 and it was referred to here as a small expansion and
16 it had nothing to do with the previous hearings?

17 A. National Sewer Pipe was
18 represented at that hearing. They were there and
19 had legal counsel who was observing that particular
20 hearing and they had the opportunity ...

21 Q. That wasn't the issue. The
22 issue at that time, or isn't it true that the issue
23 at that time was a small expansion?

24 A. That is correct, Phase II...

25 Q. Let's go back to the commitment.



1 When you say that the Region through you, and you
2 were the person who was acting as their counsel;
3 are you saying there was no commitment made to the
4 people at that time, there would not be a further
5 request for an expansion?

6 A. There was no commitment made
7 in that regard and comments at the hearing were
8 that obviously there would have to be a further
9 approval process and here we are on the further
10 approval process. In fairness, Mr. Elstone, as I
11 indicated to the Board before, we did not expect to
12 have to be back here at all and we had no intention
13 of being back in front of this Board pleading a
14 case for further continuation of that landfill in
15 the context of April, 1980.

16 Q. What you are saying then,
17 Mr. Perlin, is that you had no intention of coming
18 back at that time?

19 THE CHAIRMAN: He talked about a
20 commitment, voicing a commitment at that time which
21 is a little different from "intention".

22 MR. ELSTONE: Yes, Mr. Chairman.

23 THE CHAIRMAN: If you want to ask
24 about the intention, go ahead but that is not what
25 he was talking about before.



1 MR. ELSTONE: Q. Mr. Perlin, on the
2 whole application and the proceedings involved in
3 that application, did you not give forth to the people
4 of the area, the people of Burlington, et cetera,
5 that there would be no further application?

6 MR. PERLIN: A. Our intention at
7 that time was that there would be no further need
8 to continue landfilling at the Burlington Landfill
9 Site after that particular interim program because
10 we had confirmation of Site F approval and we had
11 the hopes then that Site F would be in operation
12 within the very foreseeable future.

13 Q. Mr. Perlin ...

14 A. We could not give a commitment
15 there would be no landfilling in the area, in any case

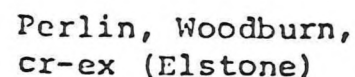
16 Q. I am not talking about the area
17 but I am talking about the property owned by the
18 Region at that time.

19 A. Right. There was no commitment
20 with respect to the property owned by the Region at
21 that time.

22 Q. On page 15 of these proceedings
23 it says:

24 "You will note that I have continued.

25 THE CHAIRMAN: What volume is that an



25 A. Well, having had discussions



1 with you, Mr. Elstone, I know you have taken that
2 to have meant that.

3 Q. Mr. Perlin, in your professional
4 viewpoint, not mine.

5 A. In my professional viewpoint ...

6 Q. In your professional viewpoint
7 could you not expect that people would take that as
8 being the Region's commitment that there would be no
9 further request?

10 A. As I indicated to you, there
11 was no intention at that time to be back in front
12 of this Board seeking further continuation because
13 we thought we had a long-term site that simply needed
14 one further approval.

15 THE CHAIRMAN: I don't know how
16 pertinent the question is, but what is being asked is
17 do you think that that phase "small expansion" could
18 be construed by some members of the public as meaning
19 that is all and nothing further in future and that
20 is the question. It seems to me your answer is
21 either yes, no or I don't know, but something.

22 MR. PERLIN: No.

23 MR. ELSTONE: I am not sure I understand.

24 THE CHAIRMAN: He says he doesn't see
25 how anyone could construe "small expansion" to mean



1 a commitment not to go further in the future.

2 MR. ELSTONE: Q. That wasn't only
3 used once but many times.

4 MR. JEFFERY: Was it used in that
5 context, Mr. Elstone?

6 MR. ELSTONE: It was used in many
7 contexts.

8 MR. HODGSON: Perhaps you could read
9 to the Board the whole paragraph within which you
10 took out the phrase "small expansion".

11 MR. ELSTONE: It would take days to
12 read all this, Mr. Hodgson. On page 16 it says:

13 "The project about which we speak this
14 morning is a short term project."

15 Q. It says there "short term".

16 MR. PERLIN: A. Yes.

17 Q. "... a interim project which
18 is to provide a "bridge," if I may call
19 it that, between the existing sites which
20 as I said before ..."

21 Et cetera, et cetera, and referring to it only being
22 a bridge and small and this comes up so many times
23 and so repetitiously. Don't you think that would
24 add weight to the fact as the Chairman has said
25 that somebody might misconstrue ...



1 THE CHAIRMAN: I didn't say that.
2 I asked if it could be construed that way.

3 MR. ELSTONE: Q. Somebody might mis-
4 construe it as a commitment on the Region's part
5 that there wouldn't be any further and it was just
6 a bridge and "that is all we are asking for, a bridge,
7 a small expansion". Don't you think that could be
8 misconstrued by some people, maybe an ignorant farmer
9 or somebody next door?

10 MR. PERLIN: A. Really, Mr. Elstone,
11 in the context of April, 1980, there was no intention
12 to be back in front of this Board and therefore to
13 construe it -- at what time? If one was construing
14 in 1980 that it was a commitment, I don't know what
15 you would have construed at that particular point
16 but what we clearly indicated was that what we were
17 seeking at that time was Phase II to allow us to
18 have time and remember at that time if you read the
19 whole transcript and the whole of the section you
20 have covered, even the Oakville interim had not
21 been approved as of April, 1980 and we didn't know
22 where we were going with the Oakville. The Site F
23 as I indicated throughout the evidence today was
24 coming to an Environmental Assessment Board under
25 the Environmental Protection Act. Our hope was that



1 we would not be back in front of this Board and I
2 think that that is very clear, we had hoped we
3 would not be back in front of this Board with respect
4 to that site at that time.

5 Q. Do you recall about last
6 June we had a very pleasant meeting with a number
7 of the residents adjoining the landfill site at my
8 home?

9 A. Yes, it was very enjoyable.

10 Q. Do you recall that you said
11 something along these lines; "I know we promised
12 we wouldn't be back and asking for any expansion,..."
13 and I am not sure of your exact words but something
14 similar to that?

15 A. I don't recall that. If I
16 said that, then I was mistaken.

17 Q. You don't recall that?

18 A. No.

19 Q. Do you recall saying something
20 like that which might be misconstrued by the neighbours?

21 A. I have made it clear to those
22 involved we have met with that we had no intention
23 and we are very sorry we are back talking to you
24 again and we are. As Regional staff I know that
25 to be the case and I am sure Council feels the same.



1 Q. Have you reviewed this document
2 or had somebody reviewed this document in your
3 department who would be reporting back to you;
4 recently, within the last month or so?

5 A. I have gone through the trans-
6 cripts.

7 Q. You have?

8 A. Yes.

9 Q. Going through it yourself, do
10 you recall anywhere that somebody might misconstrue
11 it and there was a commitment on the part of the
12 Region ...

13 THE CHAIRMAN: He has answered that
14 already.

15 MR. ELSTONE: I am dealing with this.

16 THE CHAIRMAN: He has said he has gone
17 through it and I think he said he found nothing that
18 would indicate he gave a commitment that the Region
19 would not go further with this at a future time.

20 MR. JEFFERY: One further question.
21 Suppose he had. Suppose he had indicated that the
22 Region would not be back but the circumstances have
23 now changed and Council did not make a resolution to
24 that affect and as we know the Region speaks through
25 Council, but suppose that Mr. Perlin personally, and



1 I am not suggesting you did, Mr. Perlin, but had made
2 this statement "I promise we won't be back once we
3 get this 1980 expansion"; but the circumstances as
4 we have heard have changed substantially with regard
5 to the Region's expectations on Site F and vis-à-vis
6 this application in front of us right now, what
7 difference does it make?

8 MR. ELSTONE: I think it makes a hell
9 of a lot of difference because if someone makes a
10 commitment such as a region they should live up to it.

11 MR. JEFFERY: Not a commitment through
12 Council speaking through a resolution and if one of
13 their staff had indicated that at that time they
14 wouldn't be back, at least that was the way they
15 thought at that time, but circumstances had now changed.

16 MR. ELSTONE: An honourable commit-
17 ment is a commitment and a statement is a statement
18 and you live up to them no matter what it will cost
19 you. If you are in business and make a commitment
20 to a customer or a promise or give the customer
21 the impression that he has been misconstrued you
22 will live up to it.

23 THE CHAIRMAN: Mr. Elstone ...

24 MR. ELSTONE: That is our society.

25 THE CHAIRMAN: I assume you made



1 submissions at the 1980 hearing?

2 MR. ELSTONE: Yes, sir.

3 THE CHAIRMAN: I assume that you took
4 this witness' remarks to amount to a commitment not
5 to go further with the site after that small expansion
6 was granted; is that correct?

7 MR. ELSTONE: Yes, sir.

8 THE CHAIRMAN: Did you submit that one
9 of the conditions for approval be that there be no
10 further expansion?

11 MR. ELSTONE: No, sir, because I did
12 not think it was necessary because the chairman at
13 that time had said, and the indication was, the
14 evidence they would be giving would be a part of --
15 on the conditions that they would grant the licence.

16 THE CHAIRMAN: That is what you thought
17 would be done?

18 MR. ELSTONE: Yes, the same as there
19 are things given in these reports and if this Board
20 should recommend and the Ministry grant a licence,
21 these things that are brought out before here would
22 be a part of the conditions being accepted.

23 THE CHAIRMAN: All right, carry on,
24 Mr. Elstone.

25 MR. ELSTONE: Pardon?



1 as well. That is the map you have on the easel?

2 MR. BROWN: Yes, sir, that map.

3 THE CHAIRMAN: We will mark that as
4 Exhibit 83.

5 --- EXHIBIT NO. 83: City of Burlington map -
6 "Municipal Addresses"

7 THE CHAIRMAN: Dorothy Pocock?

8 DOROTHY POCOCK, (sworn):

9 THE WITNESS: West Burlington encom-
10 passes the former village of Aldershot. It is a
11 well-established area and many residents have lived
12 here for more than 30 years. It is a lovely
13 district, however, over the years a number of dumps
14 have been located here -- for the past 20, 30, 40
15 years and possibly even longer. Specifically, in
16 the area presently under consideration by this Board
17 there is already one site, closed in 1972, now a park,
18 which is the source of much concern over the leachate
19 coming from that site. We have the present site
20 which already has had one expansion, in 1980,
21 and is now faced with yet another. Leachate from
22 this site has, until recently, been denied by the
23 Region. If this is not enough, in addition we are
24 facing the prospect of yet another site adjacent
25 which the owner, NSP, would like to operate as a
private landfill site, as is more likely, as a



1 regional site as this site is now being considered
2 as one of the six potential candidates under the
3 environmental assessment currently being carried out
4 in the Region -- yet another 20 years.

5 This area not only should not receive
6 any more garbage, it should never have been used for
7 garbage in the first place because:

8 (1) of its location just below the
9 brow of the Niagara Escarpment;

10 (2) of its location in the Parkway
11 Belt West;

12 (3) its location on a steep slope of
13 land which continues down to Burlington Bay;

14 (4) because it is traversed by streams
15 that flow through the neighbourhood to the Bay; and

16 (5) because of its fractured shale base.

17 Contrary to many groups which have
18 fought the issue of landfill sites the residents
19 have not jumped on that bandwagon called NIMBY --
20 Not In My Backyard. We have received the garbage
21 which has been generated by everyone in this area
22 plus the rest of Burlington and as of January, 1983,
23 all of Halton. We are a responsible community on
24 our own, with no backing from government and we
25 initiated a recycling program in the early 1970's.



1 The above have not been presented in
2 any order of importance but I have heard the same
3 concerns repeated again and again and I therefore
4 feel a responsibility to bring these concerns before
5 the Board. All these people or most of them have
6 come to the conclusion that they don't want any more
7 dumping in the Aldershot area. We have had enough
8 dumping and I understand we have had 75 years of
9 dumping here in this area. We have had our fair
10 share and they want to give it a rest and let us
11 try and clean it up, clean up the legacy we are
12 leaving if we can. Most think that the answer to
13 the entire problem is eventually incineration or
14 energy from waste, even though it might have its
15 own peculiar problems. It is not a technical
16 report but it is the feeling of most of the people
17 I did talk to.

18 MR. JEFFERY: Would you like to file
19 that as an exhibit?

20 THE WITNESS: I don't know if you
21 could read it, I only prepared it on the chair.

22 MR. JEFFERY: Very well.

23 THE CHAIRMAN: Are there any questions
24 of Mrs. Anderson? All right. Thomas Williams?

25 MR. MULKEWICH: I think I saw him



1 Citizens used their own garages to collect
2 newspaper, glass and metal. Later the City provided
3 space at their Public Works Department on Brant Street.
4 Many like myself have continued to take these
5 materials to the depot over the years until the
6 City became involved in a program a couple of years
7 ago.

8 Our citizens group is like the
9 community itself -- low key -- interested in ensuring
10 that the quality of life is maintained. Issues have
11 tended to be similar to those in neighbourhoods
12 elsewhere, traffic, development, although a few
13 years ago we did actively lobby City Hall to ensure
14 that a swimming pool long promised to the area was,
15 in fact, located here and not elsewhere as was being
16 advocated.

17 When it became evident that the
18 Region was intent on using the West Burlington site
19 for all of its garbage and that the life of the
20 site at that time had only 18 months space left in
21 it, our citizens group became extremely concerned.
22 The Region appeared to be heading in only one
23 direction, expansion. In the time since January, 1983,
24 throughout all the meetings we have attended, both
25 City and Regional Solid Waste Management Committee and



1 Council meetings as well as public and private
2 meetings, the Region has never deviated from its
3 course -- expansion. It is interesting to note that
4 when the Region met with Oakville residents at the
5 time their landfill site was being expanded, the
6 Region gave them a promise that there would be no
7 further landfilling there. In 1980, at the time
8 of the previous environmental hearing for this site,
9 no such promise was given the adjacent residents.

10 Why? Were they already planning the next expansion?

11 In the 18 months following the provin-
12 cial decision that there must be an environmental
13 assessment for a long-term landfill site, everything
14 seemed to come to a standstill while the Region waited
15 to see if there was going to be funding for the
16 process. All this time they knew they were fast
17 running out of landfill space. In March, 1983, the
18 Region was warned by the Ministry of the Environment
19 not to ask for an exemption from any hearings on
20 the basis of urgency. The Region waited until
21 November and then did just that. Residents of this
22 area have just cause to feel that no matter what
23 our concerns are, the Region has made up its mind.
24 Call it pre-ordained, and there will be an expansion.

25 There are other reasons why West



1 maintenance building southwards as documented on S-3.
2 This would greatly reduce the damage to the view from
3 my home that would be caused by the elevations in
4 C as requested by the Region.

5 As noted on page N-9, an increase in
6 visible land area of 7.6 hectares due to the landfilling
7 is a significant intrusion in the view from one's
8 residence. I have already made reference to land
9 planting and after-care which hopefully, if the
10 expansion is granted, will help alleviate a lot of
11 the problems.

12 If the Board does see fit to allow
13 the elevations to go as high as requested by the
14 Region, compensation should be made to myself or
15 my family because of land value depreciation. The
16 amount of depreciation could easily be arrived at
17 by consultation with real estate agents.

18 In 1981 I bought this house with a view
19 and the best view of all residences in this part of
20 Burlington and only after checking with the Region
21 to see how high the dump would go. I was told what
22 the maximum elevations were going to be and that
23 the dump was scheduled to close in 1984.

24 During several meetings since last
25 summer, the Region has maintained that the garbage to



1 be deposited in the extension to the landfill site
2 is the maximum that will be deposited on this
3 property. We were led to assume that the expansion
4 would be cut short if the long-term site became
5 available before the extension was completed. Now,
6 after cross-examination, we find another engineering
7 firm may in fact find a way to increase the volume
8 of garbage, leading to another interim expansion
9 with its attendant tribunal.

10 We need an assurance that the present
11 hearing is the last hearing on this site and that the
12 commitment to close and not reopen this site will be
13 made binding and irrevocable.

14 Now, sir, I would also like to submit
15 into evidence documentation of procedures which are
16 being followed on occasion at the landfill site which,
17 according to Mr. Woodburn and also other documentation
18 we have, do contravene what is set out within the
19 system. This documentation, sir, will be left with
20 you and it is wholly self-explanatory.

21 THE CHAIRMAN: Does it contain
22 photographs?

23 THE WITNESS: It does.

24 THE CHAIRMAN: Did you take all those
25 photographs?



1 evidence before this Board.

2 THE WITNESS: Not at this hearing.

3 MR. JEFFERY: You should confine
4 yourself to the evidence before us and anything you
5 wish to add.

6 THE WITNESS: Very well, sir.

7 Witnesses who have come are not paid and they come
8 with their own knowledge and their own sincere beliefs.
9 They really want to help find the solutions.

10 To begin with, it is interesting to
11 note how a very small interim expansion could become
12 a huge, huge, permanent interim expansion. We the
13 neighbours feel we have been good neighbours trying
14 to work with the Region, but we have been led down
15 the garden path. We made the mistake of believing
16 that the site was only going to be a small interim
17 and now we are told that we have misconstrued this.
18 To us a commitment to a small interim use was a small
19 interim use. The Region it seems to me and my neighbours
20 and I am sure I am speaking for them, seem to care
21 less about being a good neighbour. They do not
22 manage the woodlot. They could care less about
23 the erosion and care less about the noise, care less
24 about the dogs running around there, care less about
25 the history of the area, care less about the abuses



1 detection.

2 Secondly, there is a proposal that
3 there be two-way radio communication between the scale
4 house, the spotter and equipment operators and
5 where trucks not known to the scale house operators,
6 for example, are entering this site, that the spotter
7 and so on can be alerted and increased vigilance
8 will take place.

9 Finally, there is to be improved
10 record keeping and in particular that the log system
11 will record those loads or portions of loads which
12 were not accepted for landfill and which were returned.

13 Now, I have dealt with the issue of
14 security at the site and the other matters in this
15 resolution and the report in my submission. Just
16 one or two comments on the evidence of the public.

17 You have heard the evidence from
18 the members of the public that they don't want
19 continued landfilling at the Burlington landfill site.
20 That makes it unanimous. The Region doesn't want
21 to continue landfilling at the Burlington landfill
22 site and neither do the local citizens. The Region,
23 however, has a statutory obligation to provide
24 landfill and if the Region wanted to go anywhere,
25 if it wanted to go anywhere else and did not want to



1 it is approximately 2 to 2-½ kilometres from the landfill
2 site to Lake Ontario and a little over a kilometre
3 from the landfill site to Plains Road and that should
4 give you, Mr. Chairman and Mr. Jeffery, an indication
5 of what the West Burlington community is, it is
6 primarily the community of Aldershot.

7 Before dealing with the evidence
8 given at the hearing and the specific concerns of the
9 West Burlington Citizens Group with respect to this
10 application, I think it is worthwhile to review just
11 very generally some of the evidence given at the
12 public session on May 29.

13 The public session is in my opinion
14 very important because it allows residents, whether
15 members of the citizens group or not, to express their
16 concerns in their own words and without coaching
17 and generally without interference from legal counsel.
18 Statements made at the public session provide the
19 setting within which this application should be
20 considered. I submit, Mr. Chairman and Mr. Jeffery,
21 that there are four main points that can be drawn
22 from the submissions given at the public meeting and
23 the first three of these submissions are at the heart
24 of the decision taken by the West Burlington Citizens
25 Group some time ago to oppose further landfilling in



1 the West Burlington area. The first point I suggest that
2 can be drawn from that evidence is that the residents
3 of West Burlington can feel that they have done
4 their bit.

5 It is quite clear from the submissions
6 that were given, that landfill sites have operated in
7 this area for many, many years. Mrs. Anderson in
8 Exhibit 91 referred to 75 years of dumping.
9 Mr. Coome in Exhibit 90 referred to 68 years of
10 dumping. Mrs. Pocock in her Exhibit 84 referred
11 to 40 years or longer of dumping and whichever
12 number is correct the fact is that garbage has been
13 dumped in the West Burlington area for a considerable
14 number of years.

15 The results of this dumping are
16 still apparent and problems with the now completed Bayview
17 landfill site which is situated a short distance
18 to the east of the existing site, have been alluded
19 to during this hearing and apparently are of sufficient
20 concern to the City of Burlington that they have
21 referred to the Bayview park in one of their
22 conditions. I am specifically referring to their
23 Exhibit 67 which was filed, condition No. 5.

24 In the original portion of the
25 Burlington site, which is the subject of this



1 application and before this Board, is located directly
2 on fractured shale and this is hardly a suitable
3 environment for a landfill site and it has a leachate plume
4 of unknown magnitude. Reference has also been made
5 in this hearing to proposals by National Sewer Pipe
6 to landfill to the east of the existing site, between
7 the existing site and the abandoned Bayview Park site.

8 In my submission, Mr. Chairman, it
9 is hardly surprising therefore that the residents
10 of West Burlington are against further landfilling
11 in their area.

12 A second point that can be drawn
13 from the statements given at the public meeting, and
14 I draw this specifically from the submission of
15 Mrs. Pocock in Exhibit 84, is the concern of the
16 residents that this hearing should have been held
17 under the Environmental Assessment Act rather than
18 under the Environmental Protection Act.

19 An Environmental Assessment Act
20 hearing would have allowed the residents to lead
21 evidence on a wide variety of matters including
22 alternative means of disposing of the Region's garbage,
23 and some of these means and particularly the export
24 option have been referred to from time to time
25 during this hearing. The fact that there was no



1 by others, whether it is National Sewer Pipe or the
2 Region or the City or anyone else, that the citizens
3 group approves of landfilling in the West Burlington
4 area.

5 By all means they are still against
6 landfilling and their position still is, in the words
7 of Mrs. Pocock, "No more dumping in Aldershot."
8 That is still their general position.

9 So, we have it that Mr. Ridley is
10 indicating that this expansion can go ahead subject
11 to conditions. Before I deal with those conditions
12 that have been suggested by Mr. Ridley, I think it is
13 worthwhile to deal with the question of staging and
14 this is a matter that the Board asked me on Friday
15 to direct in my final submissions.

16 Mr. Ridley's evidence on this
17 question of staging is somewhat difficult to follow.
18 The Region has proposed that the expansion be carried
19 out in the order A, B, C and D as indicated in their
20 report. However, Mr. Wells in his evidence did
21 indicate that there was some possibility of varying
22 this order. Initially, Mr. Ridley seemed to imply
23 in his report that, subject to operational constraints
24 it would be preferably from a hydrogeologic point of
25 view to commence landfilling over an engineered