

CONSOLIDATED HEARINGS BOARD

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

— and —

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

— and —

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

— and —

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

— and —

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

— and —

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

— and —

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

— and —

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

— and —

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

— and —

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

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

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

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

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

— and —

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

— and —

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

— and —

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

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OFFICIAL REPORTERS

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I N D E X

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WITNESS:

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STAGL, Paul J., resumed:

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Examination-in-chief by Mr. Leitch (cont'd) 22655

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Cross-examination by Mr. Tidball 22661

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Cross-examination by Ms. Cronk 22701

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Cross-examination by Mr. Tzekas 22752

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BEFORE: H. H. Lancaster, Q.C. - Chairman

Dr. D.J. Kingham - Member



Hearing conducted at The Oakville
Granary Commercial Centre, 105 Robinson
Street, Oakville, Ontario, on Wednesday,
February 24, 1988.

VOLUME 95

APPEARANCES:

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



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APPEARANCES (Cont'd):

1	C. Stevenson	for Framgard Holdings,
2	P. Hancock	Fosseri Investments
3		Limited, Seriphos
4		Investments Limited and
5		Topic Investments
6	J.H. Olah	for the Halton Region
7		Conservation Authority

* * * * *

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Per: P.D. McQueen



Oakville, Ontario.
February 24, 1988.

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

MR. LANCASTER: Thank you. Please be seated.

MR. LEDERER: Good morning, Mr. Chairman.

Mr. Chairman, I merely wanted to indicate to you that with respect to these photographs and whether questions will arise from them, I was able fairly late yesterday evening to get hold of Mr. Wright, who you may recall the Region called to give evidence before you as an expert on visual matters and also to speak to Mr. Stagl. The result of which is we have arranged with Mr. Stagl's cooperation to have the computer disk that was relied on to generate these photographs, delivered to Mr. Wright today. Our hope is that Mr. Wright will be able to review them and if there are any questions that arise from them, and there may well be, and we will be in a position to deal with them tomorrow morning. We will not be in a position to deal with them today. Mr. Wright has teaching commitments today and on such short notice we were not able to bring him here today. It may well be nothing may come up, there certainly are questions being asked, but there may be answers that we can develop on our own



1 and not need to bother the Board with.

2 MR. LANCASTER: That's fine as far as
3 that goes. Ms. Cronk, do you have any problem with
4 that? You are likely to get on today.

5 MS. CRONK: I have no difficulty with
6 that, sir.

7 MR. LEDERER: I think I am the only one
8 who is showing any interest in the photographs.

9 PAUL J. STAGL, resumed:

10 EXAMINATION-IN-CHIEF BY MR. LEITCH (cont'd):

11 MR. LEITCH: I thought perhaps as they
12 are a matter of interest to some of us, that we would
13 deal with Mr. Stagl's last exhibit, which was M-537-0
14 which sets out the background to the work that was done
15 to develop the model.

16 Q. Mr. Stagl, could you do that and
17 in the course of that, could you also deal with the
18 question which was raised by Dr. Kingham in relation
19 to, as I understood it, distance intensity and colour
20 intensity?

21 A. Yes, sir. I might just start by
22 explaining the purpose of what we had done. My
23 interest in looking at the visual impact was really to
24 look at the built form in terms of the impact on
25 adjoining uses. To that extent we had a number of



1 choices that we have done on a number of occasions. We
2 could go out and fly the moons and test heights that
3 way from various distances and perspectives. We have
4 very elaborate computer modelling that could be done or
5 we had available to us a system which we use which is
6 slightly less elaborate in terms of modelling, more in
7 terms of testing the physical features such as height,
8 in order to quantify what the height would be.

9 The first thing that we had done is that
10 we had used the final contour plan as provided by Trow
11 in their background reports to provide us with the
12 contours of the landfill. We plotted that on an AutoCad
13 program, a three-dimensional AutoCad program which has
14 the feature of taking a plot and showing it three-
15 dimensionally from various perspectives. It doesn't
16 have the more sophisticated programs run on it. You
17 can do perspectives related to distance, related to
18 various angles and such. This one is a fairly simple
19 program but it is a three-dimensional program. So
20 the first element was to put the contour plan into
21 three dimensions. That gave us the basic relationships
22 of height. We established as a base contour an
23 elevation at the western, we took one point on the
24 western perimeter of the landfill. That gave us a base
25 elevation for each of the contours and each of the



1 contours was done in metres so the program showed the
2 height related to that base elevation.

3 The next element then was to try and
4 give it some vertical and horizontal scale relative to
5 the photographs. That was, again in the more
6 elaborate programs you can program that into the
7 computer relative to the photos. In this instance,
8 what we did was we related to the scale of the base
9 photograph where we would have taken, as an example, in
10 the field we would have found certain natural features,
11 a certain tree or a certain clump of trees, a hydro
12 pole or something of that nature. We quantified the
13 height of that. We found that feature then on the base
14 map here. We were able then to scale from that feature
15 back to where the photograph was taken. There were
16 essentially three locations where the photograph was
17 taken. That would give us then a perspective that if
18 we were standing in this location, which was
19 quantifiable, immediately adjacent to the house and we
20 picked out a feature, a clump of trees or in this
21 instance there were a number of features, this was on
22 the other side of Highway 25. There were a number of
23 features throughout the horizon that we could identify.
24 That then gave us the potential for a vertical scale.
25 It was a case of running various prints of the three-



1 dimensional contour until we got a vertical and a
2 horizontal scale that fit that feature.

3 We then on plotting it, we then went and
4 tested it again just looking back at some of those
5 features to see if that was accurate. That gave us a
6 fair indication of what the built form would look like
7 with some reasonable accuracy. As I say, it is not as
8 accurate as some of the more elaborate computer
9 programs that are available. It is just as accurate as
10 the balloon testing method, which we have done as well
11 with different projects.

12 The question of intensity, again because
13 the objective was principally one to establish the
14 built form, there is no question, use this one as an
15 example.

16 Q. When you say use this one, could
17 you indicate which?

18 A. 537B. Looking from the Highway
19 25 perspective, there is no question that as one
20 travels along in distance towards the horizon, the
21 intensity of colour, of perception, is changed from the
22 intensity of something that is immediately in front of
23 an individual. That can in fact be seen from the base
24 photograph that as you travel along towards the
25 horizon, the intensity certainly changed to the point



1 where the escarpment which is to the rear, on the
2 horizon of 537B is of a very light hazy colour.

3 The intention here though was not
4 necessarily to reflect the intensity or the accurate
5 visual impact. It was really to give me an indication
6 of what the built form would look like. To that extent,
7 again in 537B and 537A, give us this indication, more
8 of a horizon type. The impact there is not as great as
9 537C where the intensity would be a question. Here if
10 one wanted to look at, again this was shown more to
11 reflect what the landfill would look like without the
12 screening. The screening itself would cover a much
13 larger portion of it. The intensity, if one wanted to
14 look at that, one could take for example the colour
15 tone of the planting, the grass along the First Line
16 road and could then say, in putting in the full berm,
17 use that type of intensity, so that would be that
18 element of green along there.

19 DR. KINGHAM: You have drawn on all of
20 your photographs the landfill form as being brown in
21 its final outline. Of course the berm would be green?

22 THE WITNESS: In this case the berm
23 would be green.

24 DR. KINGHAM: The other point is that
25 for the photographs along First Line road, that is



1 537C, the height of the berm will be very sensitive to
2 where you are in relationship to the house from which
3 that photograph was taken, as to whether it blocks out
4 the entire field of view, or whether it is in fact
5 below the land form behind. If one is much further
6 away, the berm in perspective....

7 THE WITNESS: Of course this photograph
8 was taken, I will use Exhibit M-536. This again was
9 5400 First Line, which is this property here. This
10 was taken from the north-east corner of the house
11 standing about a foot away from the corner of the
12 house. It is at the front living room window scale,
13 if you will. You are quite correct, as you move back
14 from it into the backyard or further, the intensity
15 changes as does the perspective of course.

16 MR. LEITCH: Q. Now, Mr. Stagl, do I
17 understand that, I was going to say the art, but I
18 shouldn't say art, I suppose I should say the practice
19 of developing a built form using computer techniques is
20 called computer graphics?

21 A. It is part of what computer
22 graphics does, yes.

23 Q. I look at your curriculum vitae,
24 which was the first exhibit, Exhibit M-526, and you
25 have lectured in computer graphics, among other things,



1 at Ryerson Polytechnic Institute for the period 1974
2 through 1985?

3 A. I did, but the computer graphics
4 element, I wouldn't hold that out as an area of
5 expertise for myself, but the computer graphics was
6 something I had taught during the 70s. Computer
7 technology being what it is, it changes so rapidly I
8 have difficulty keeping up just with my personal
9 computer. There are people in my office substantially
10 more qualified than I am. It is an area I have some
11 familiarity with.

12 Q. The technique is in some degree of
13 use in the planning field?

14 A. Yes.

15 MR. LEITCH: Those are all my questions.

16 MS. CRONK: I think Mr. Tidball will
17 precede me, Mr. Chairman.

18 CROSS-EXAMINATION BY MR. TIDBALL:

19 Q. Good morning, Mr. Stagl, I'm with
20 the Ministry of the Environment and I wanted to start
21 this morning with your reference to the two Ministry
22 policies which you have included as appendices, I think
23 F and G to Exhibit M-536?

24 A. Yes, sir.

25 Q. If could start with policy 07-07,



1 which is Appendix F. I simply wanted you to confirm,
2 Mr. Stagl, so it is clear for the Board, that you are
3 not, I don't take your evidence to suggest that policy
4 07-07 has anything to do with site selection; is that
5 fair?

6 A. That is quite fair. I think I
7 tried to describe it yesterday, either of the
8 guidelines dealing either both -- both dealing with
9 compatibility; one dealing with rebuilds or existing
10 landfills.

11 Q. You are not suggesting, I take it
12 your are not suggesting that you can, that somehow
13 policy 07-07 of the Ministry would draw one to the
14 conclusion that one site would be preferred over the
15 other, standing on its own as a policy of the Ministry?

16 A. Certainly I think, as I described
17 yesterday, the intent of my review of the response,
18 that as a municipal planner, all the policies and
19 guidelines that are available to them, him or her, the
20 various policies that agencies or ministries look to
21 the municipalities. This is two of them, these are two
22 of them.

23 Q. I take, Mr. Stagl, that you are
24 using, you were using policy 07-07 to simply establish
25 an adverse impact area. It doesn't really matter what



1 we call it, of 500 metres?

2 A. Yes.

3 Q. Just one more question on that,
4 can you go to page 6 of the policy, which is numbered
5 conveniently 07-07-06. Paragraph 5.3 is entitled Land
6 Use Within 500 Metres of a Fill Area. I take it this
7 is the key paragraph and I think you quote at least
8 part of this paragraph in your report?

9 A. That is correct.

10 Q. It says simply that the MOE
11 considers the most significant adverse environmental
12 effects to be normally within 500 metres of the
13 perimeter of a fill area. I wonder if you could simply
14 confirm, Mr. Stagl, that if you read the entire
15 paragraph in context, in fact 500 metres, there is no
16 magic to 500 metres?

17 A. That is correct. I think as I
18 indicated yesterday, the Ministry looks to at least a
19 minimum distance of 30 metres, which is also indicated
20 on that page. A general guideline of 500 metres is
21 established as an indication of areas to assess,
22 whether there is influence or not. As indicated,
23 sometimes they are more, sometimes they are less.

24 Q. I wonder, for the purposes of the
25 record, if you would read the last sentence of



1 paragraph 5.3?

2 A. Certainly. It starts;

3 "The actual influence area (migration
4 ranges) for the considerations listed in
5 Sections 4.1 and 4.2 of this policy will
6 vary with the individual landfill or
7 dump."

8 Q. So what you have done essentially
9 is taken the 500 metres because that is a given number
10 and you have used that, if I might paraphrase you, to
11 try to quantify impacts in some areas surrounding
12 either Sites F or D?

13 A. Exactly. It is an acceptable
14 number or distance to establish an attempt to quantify.

15 Q. Could you turn then to policy 07-
16 03, which is the next one in Exhibit M-530, Appendix G?

17 A. Yes.

18 Q. I wanted to first of all, sorry,
19 could you go to Exhibit M-529, your discussion of this
20 policy and I think it starts at page 3-30?

21 A. Yes, sir.

22 Q. You make some reference here
23 to a draft provincial policy statement---

24 DR. KINGHAM: I'm sorry, we don't have
25 the page yet.



1 MR. TIDBALL: Q. Mr. Stagl, I just want
2 to clarify for the purposes of the record, you make
3 some references in the bottom paragraph on page 3-30 to
4 a draft provincial policy statement. It's a policy
5 statement on environmental land use compatibility. Can
6 you confirm it is still a draft, I don't believe it's
7 been circulated for public comment?

8 A. That is correct.

9 Q. I am not sure why you referred to
10 it here, but the fact of the matter is, we are dealing
11 with the existing policy as it now stands, which is 07-
12 03?

13 A. Yes.

14 Q. Again, Mr. Stagl, can you confirm
15 that you are not suggesting this policy somehow applies
16 to site selection?

17 A. That is correct.

18 Q. In reality, this policy is
19 directed to the establishment of buffer areas and
20 mitigation measures within those buffer areas to
21 prevent conflicts between incompatible uses?

22 A. That is correct. To that
23 extent it is a guideline, it's a guideline or a factor
24 to consider in balancing land uses. To that extent,
25 site selection. It doesn't directly affect site



1 selection.

2 Q. Now; Mr. Stagl, can I take you to
3 another area. Can you go to Table 1. Perhaps you
4 could put up the overhead you had from yesterday.

5 Start with the first page, please.

6 Now, Mr. Stagl, I am going to have some
7 general questions about this table a little bit later,
8 but I wanted to sort of start with looking at the
9 individual points you have got there and I am
10 specifically interested as we go through Mr. Stagl,
11 with what in fact your source for each of those points
12 are, and I have several other questions. If we could,
13 I would like to go through it and I don't think it
14 will take very long.

15 First of all, the first two impacts are
16 defined as short-term on-site impact and long-term on-
17 site impacts. Can you clarify for me what you see to
18 be the difference? What is the difference between
19 short-term and long-term in your view?

20 A. The short-term is, if you will,
21 the physical impact that immediately occurs. In this
22 instance, the influence of demolition of units,
23 displacement of units, that type of thing, whereas the
24 long-term, the long-term is really the policy element.
25 That is, there was an established policy framework,



1 agricultural, whatever the land use was. It is a
2 measurement of whether that intent can still be
3 achieved or whether, if it represents a departure and
4 could no longer be achieved.

5 Q. I had thought, Mr. Stagl, it might
6 have simply been impacts during the life of the site
7 versus impacts after the closure and on into infinity,
8 I suppose. That is not what we are talking about
9 here? It is not simply a point in time, I guess is
10 what I am getting at?

11 A. That is true.

12 Q. If we could look at the points
13 under short-term impacts. Firstly, your first point for
14 Site D is that there will be demolition of four
15 dwelling units and in brackets it says three associated
16 with farms. I don't know that anything turns on this,
17 Mr. Stagl, but I am wondering if you are aware that at
18 least to the best of my knowledge, the evidence before
19 the Board is that at least two of those units are not
20 proposed to be demolished by the Region. Does it
21 change what you have here?

22 A. It doesn't change the relativity
23 element. It potentially changes some of the numbers.
24 Whatever the most up-to-date evidence is.

25 Q. Does it matter to you in the



1 analysis that you are doing here that what is
2 happening, I gather is that two and perhaps three, I
3 don't know that we've had any evidence on the new
4 Martin house, but at least two of the houses will be
5 used for some other purposes for a period of time and
6 then presumably could revert to some other purposes,
7 does it matter for the purpose of this analysis?

8 A. I think as I indicated earlier,
9 what you are looking at is the relativity of the
10 impacts. It is not so much the quantity that concerns
11 me but there is an element that in one instance there
12 is perhaps twice as much impact if you look at a
13 quantified number. What I was looking at here is on an
14 overall balance. In the comparison I was doing, it is
15 the relativity of the two sites. Very simply the
16 conclusion of all of this was that there is more impact
17 on one than there is on the other.

18 Q. That is because there are no
19 dwelling units on Site F?

20 A. That is correct, yes.

21 Q. So we are comparing either two or
22 four to zero, it doesn't really matter?

23 A. The relativity is still the same.

24 Q. If you go down two points, there's
25 a point here that says loss of private airfield and



1 aircraft repair business. Mr. Stagl, to this point in
2 time, and this is no fault of anybody's other than the
3 fact we are going to get to this evidence in due
4 course, we don't yet have much evidence on the loss of
5 any private airfield, but I assume you are talking
6 about the Martin airfield here?

7 A. My understanding is the property
8 located at 5629 First Line Road has a private airfield
9 and a repair business associated with it.

10 Q. I gather from Mr. Garrod that we
11 are going to hearing from Mr. Martin and we'll get
12 direct evidence on that. Is that the source of your
13 information on that?

14 A. That is right, yes.

15 Q. Mr. Stagl, without having heard
16 from Mr. Martin, maybe, you may be guessing and tell me
17 if you are, but in your view, Mr. Stagl, is it
18 necessarily a loss? I was concerned with the use of
19 the word loss.

20 A. It is physically a loss of that
21 function.

22 Q. In that particular place?

23 A. In that particular place, yes.

24 Q. Without hearing from Mr. Martin,
25 we don't really know, but presumably it is conceivable



1 that such a use could be relocated?

2 A. Very possibly, yes. That doesn't
3 take again, again the relativity is that the impact
4 here is that that would be displaced; it would be a
5 loss from this location.

6 Q. Going to the other site, to the
7 Site F site, you have got loss of informal dirt bike
8 track. Again I am not sure of the quantity of
9 evidence we have heard about that. Are you talking
10 here about the dirt bike activities on lands now owned
11 by National Sewer Pipe?

12 A. That is correct.

13 Q. I wonder if you could just confirm
14 and perhaps we will be hearing from a witness from
15 National Sewer Pipe on this. Could you just confirm
16 that that activity is a trespassing type activity?

17 A. That is correct.

18 Q. In a sense, what you've got here
19 is some kind of an illegal use?

20 A. It is an informal dirt bike track
21 that has an element of trespassing, although I
22 understand there was some concern initially expressed
23 in the initial instance of the evaluation that that was
24 a loss of a recreational facility and I tend to agree
25 with it.



1 Q. Mr. Stagl are you aware of, do you
2 have any knowledge of any complaints concerning that
3 particular activity on that site?

4 A. To?

5 Q. Complaints, I don't mean specific
6 complaints to any particular body, but are you aware of
7 any complaints by neighbours with respect to that
8 recreational activity?

9 A. I am not aware of any specific
10 complaints, but it wouldn't surprise me if various
11 interests, owners would be concerned or displeased
12 about it.

13 Q. Finally, into short-term impacts,
14 actually the third point, the third and last point
15 under Site F, you referred to the shale quarry
16 operation and simply point that it and landfill can
17 occur simultaneously according to MNR. For the
18 record, Mr. Stagl, can you simply acknowledge the
19 Region's present proposal is not to extract surplus
20 shale?

21 A. Yes, that's my understanding.

22 Q. I am trying to get at what the
23 point is here. Is the point simply that you want to
24 acknowledge that extraction, if it were to occur, could
25 be done compatibly with landfilling?



1 A. That is correct.

2 Q. But the plan is not to do it; you
3 are simply pointing that out as a possibility?

4 A. That is correct.

5 Q. Moving down then, Mr. Stagl, to
6 long-term impacts, the point on long-term loss of
7 agricultural production capacity, you have got a long-
8 term loss of 29 to 37 per cent agricultural capacity.
9 Could you simply refer to me what the source of that
10 particular number is?

11 A. That information came to us from
12 Mr. Hoffman.

13 Q. On the Site F site, I wanted to
14 ask you about something that isn't there and I wondered
15 why it wasn't. It occurs to me, Mr. Stagl, that there
16 might very well be a point under Site F regarding the
17 long-term loss of a shale resource?

18 A. My understanding is that that
19 would not be the case.

20 Q. Why is that?

21 A. My understanding is that as a
22 resource, it would still be there. It could still
23 potentially be mined. My understanding is that the
24 inventory you have, the evidence you have of the
25 inventories is some nine hundred years. My advice is



1 that there is no limitation to going back to mining
2 that say five hundred years from now.

3 Q. I am talking about the area
4 specifically to be used for landfilling, Mr. Stagl.
5 Maybe this is an obvious point, but I assume that
6 common sense would say that once you bury it under how
7 many million tons of garbage, it is unlikely that such
8 a resource could be got back to?

9 A. I don't know. That garbage will
10 eventually turn into soil. Who knows what the value of
11 any shale will be five hundred years from now, but
12 certainly there is no indication that it would preclude
13 it.

14 Q. The second point under both Sites
15 D and F for long-term impact has to do with after-uses.
16 I was curious as to why you have chosen to talk about
17 some costs associated with after-use for Site D but not
18 for Site F?

19 A. Costs?

20 Q. In Site D you, both paragraphs
21 read fairly similarly in one sense, but then in Site D
22 you go on to say, you go on to talk about a long-term
23 fiscal subsidy. I wondered why you bothered to
24 mention the costs associated with that for Site D but
25 not for Site F?



1 A. The long-term use on Site F would,
2 as I understand it, be recreational. I am not certain
3 that, I haven't seen anything that would indicate there
4 would be any sort of substantive cost associated with a
5 recreational use other than normal maintenance, cutting
6 grass, et cetera.

7 Q. So is the cost we are talking
8 about here, we are talking about ongoing costs, not
9 development costs, is that right?

10 A. Yes.

11 Q. If think if you could put up the
12 next overhead, I think it is the next page on Table 1.
13 The next one is adjoining land uses and then in
14 brackets, except residential. On that point I assume
15 that the second paragraph under either should be under
16 residential uses, Mr. Stagl? I was trying to make
17 sense of this chart. In fact the heading entitled
18 Residential Uses in fact should be moved up one
19 paragraph?

20 A. That's right.

21 Q. The one point remaining under
22 Sites D and F. Under Site D you say here that the
23 landfill on Site D will not be compatible with
24 agricultural use. I am trying to understand that, Mr.
25 Stagl, in terms of your evidence. Are you referring



1 there to compatibility in a policy framework sense or
2 in terms of the types of concerns that you list in your
3 report and include as an appendix that come from the
4 farmers in the area of Site D?

5 A. In part both. They stem from,
6 that is policy. The policy framework, both regionally
7 and locally, that agriculture finds itself in, in this
8 Region, this municipality. It is for very strong
9 reinforcement of that industry, that resource.
10 Introducing a use of this nature is quite different
11 from the use that would normally occur in the
12 agricultural community, therefore there is an element
13 of disruption, so there is an element of non-
14 compatibility. Part of that is manifested in some of
15 the complaints, things that were listed in those
16 letters. It stems essentially from the policy
17 framework. That is the attempt to keep this in a
18 policy framework, a very strong, viable agricultural
19 community with a minimum of disruption.

20 Q. When you are talking about the
21 policy framework, you are talking essentially about the
22 Food Land Guidelines and the Regional Official Plan
23 which incorporates the same kind of provisions?

24 A. And the local....

25 Q. Yes. I was trying to relate that



1 to your evidence late yesterday, Mr. Stagl, and I took
2 from a few of the things that you said, that in your
3 view a landfill is not necessarily incompatible with
4 the agricultural uses in the vicinity of Site D. It
5 was just a matter, it wouldn't be something that would
6 be desirable, but it could be done.

7 A. That is correct. It is not, in
8 the context of the conclusions I was presenting, it
9 doesn't represent our best site conclusion, although as
10 a land use, it could be made to be operational. There
11 could be effects or elements put in place to minimize
12 the disruptions if it was, for whatever reason, the
13 final selection. It could be made to work, but it is
14 not in the first instance a desirable choice.

15 Q. Can you simply confirm, Mr. Stagl,
16 you have reviewed the government review and the
17 supplementary government review?

18 A. Of which.

19 Q. The government review, I'm sorry,
20 of Halton's environmental assessment and the
21 supplementary review, the blue documents 109 and 110?

22 A. Yes.

23 Q. We can go to it specifically if
24 you like, but it might be easier just to ask you. Can
25 you confirm that that is essentially the view of the



1 Ontario Ministry of Agriculture and Food in this
2 matter, that they would obviously prefer to see it at F
3 simply because there would be less agricultural land
4 loss but they are prepared to accept Site D as long as
5 certain conditions are met?

6 MS. CRONK: Excuse me, Mr. Chairman,
7 that's not how I read the letters on the record from
8 the Ministry of Agriculture. I suggest Mr. Tidball
9 puts these to the Board. Let us not have Mr. Tidball's
10 interpretation.

11 MR. TIDBALL: Certainly, Mr. Chairman, I
12 have no trouble with that.

13 Q. Mr. Stagl, do you have Exhibits
14 109 and 110. If you could go to Exhibit 109, it is
15 page 88 of the stamped on pages, the consecutive page
16 numbering. Exhibit 110, it is at page 40.

17 MR. LEDERER: Could we have these
18 numbers again?

19 MR. TIDBALL: It's page 88 of Exhibit
20 109 and page 40 of Exhibit 110.

21 Q. Mr. Stagl, have you had an
22 opportunity to read those two letters?

23 A. Yes.

24 Q. I wonder if we could deal with
25 Exhibit 110, the supplementary review, because I think



1 subject to, Ms. Cronk may want to go back to 109, but I
2 think what is found in the supplementary review is a
3 summary of what you might call the latest position of
4 the Ministry of Agriculture and Food.

5 A. This is on page 40?

6 Q. Yes, on page 40.

7 A. Yes.

8 Q. I am wondering, I come back to the
9 question and the question was is the view that you have
10 expressed, that there are things that could be done to
11 make Site D acceptable in the sense that it could,
12 would be acceptable from an agricultural perspective,
13 is that essentially how you read the view of OMAF to
14 be?

15 A. The way I would read their letters
16 and they are cross-referenced, as is the practice with
17 the Ministry, what they are saying is that their first
18 preference is for Site F for various reasons. They are
19 saying that subject to the environmental assessment,
20 Site D can be made acceptable subject to various
21 conditions, which I think is consistent with what I am
22 saying. I think in the initial instance, what they
23 are saying is that Site F is the preferred site and in
24 the context of that, satisfaction would have to be had
25 with F, satisfaction would have to be made with the



1 guidelines to take it to D and then what they are
2 saying is if it is D, then the conditions would have to
3 be looked at.

4 Q. I am a little bit confused about
5 that, Mr. Stagl. What do you mean when you say
6 something to do with satisfaction with guidelines with
7 respect to Site F, I don't fully understand?

8 A. What they are saying is they are
9 looking at this in the context of the Food Land
10 Guidelines. The Food Land Guidelines very expressly
11 state in the first instance they should go to marginal
12 non-agricultural or various types of lands. In the
13 event that it cannot go there, and an agricultural
14 resource must be used, there are then justifications
15 which must be satisfied in determining if the resource
16 can be moved and there is justification, if there is
17 need to move the resource. Once that occurs, if that
18 justification is there, of course the guidelines go
19 further on to detail elements of compatibility,
20 conditions. Their letters are quite consistent with
21 that approach, saying we have looked at it in the
22 context of the Food Land Guidelines. Our initial
23 preference is for Site F over Site D, and I think that
24 is reflective of what the guidelines were saying.

25 Assuming that there is justification for



1 moving from F to D, they are saying that D could be
2 acceptable, just re-affirming, as the guidelines do,
3 that conditions would have to be imposed.

4 Q. Thank you, Mr. Stagl. Thank you.
5 Back to Table 1. Could you go to the other side of
6 adjoining land uses for Site F and you note there the
7 landfill on the site would be compatible with certain
8 uses. I am wondering what your basis is for
9 concluding that a landfill would be compatible with
10 Bayview park?

11 A. There are two elements associated
12 with either Bayview Park or any one of the other uses.
13 Again, in the context of what I have said to you about
14 Site D, there is an element of policy, policy
15 compatibility is already there established, it is part
16 of the Parkway Belt. It functions for various goals
17 and objectives and uses that are to be located in
18 there, to be directed towards there and all those uses
19 generally are compatible.

20 In the first instance, within the
21 context of that policy framework, these are uses that
22 can live together and are compatible with a minimum of
23 disruption between the two.

24 The second element is that the use of
25 Bayview Park itself is in many respects a passive park



1 and the types of uses that are there, rifle activities,
2 model airplane flying, just the space itself being
3 available as opposed to an active use, such as parks,
4 ball diamonds and having organized groups and that kind
5 of thing coming in on a regular scheduled basis. That
6 type of use can be quite compatible with the use that
7 would occur during the time that the landfill is
8 operating. Those uses, those recreational uses could
9 continue and certainly would be compatible after the
10 fact, once the landfill is completed and the after-use
11 is put in place.

12 DR. KINGHAM: Are we to understand by
13 what you are saying that the intent of your use of the
14 word compatible in both of those cases refers more to
15 policy framework in a personal sense? To make that
16 clear, if you were growing alfalfa on the farm across
17 First Line Road at Site D, it is not necessarily
18 incompatible with having the landfill at Site D. The
19 landfill at Site D doesn't mean you can't grow alfalfa.
20 Conversely if you were having an outdoor recreational
21 activity at Bayview Park, it might be uncomfortable for
22 people to picnic beside the landfill, but in a policy
23 sense, it is not incompatible, is that how we
24 understand that?

25 THE WITNESS: I think it goes back to



1 the explanation I gave for Site D to start with. Where
2 it starts is with the policy context. You have the
3 agricultural policy in which the use would represent a
4 departure and a potential conflict. It manifests
5 itself in the physical features such as the complaints
6 of the people in the letters in the appendix from the
7 Tremaine-Britannia residents. It might manifest
8 itself in the growing of the alfalfa. There may be
9 some impact that nobody wants to grow or do some
10 commercial farming across the street.

11 In the case of Site F in the initial
12 instance, you have a policy framework that there is an
13 element of compatibility there to start with. It then
14 may manifest itself in the types of uses that then
15 occur. The rifle range or the model airplane flying
16 would not be incompatible with the use. The passive
17 elements of picnicking may become unfavourable for a
18 period of time that the landfill is actually operating,
19 but after the fact would come back and be compatible
20 with the after-use. So yes, it starts with the policy
21 framework. There are elements of physical
22 manifestations that relate to it. My view is that in
23 the sense of the policy are those potentially
24 compatible land uses?

25 MR. TIDBALL: Q. Could we move down then



1 to residential uses, and that is residential uses
2 within 500 metres. At Site D you have got seven
3 residences within 500 metres. If we counted up the
4 dots there on Exhibit M-536, is that the seven we would
5 find within the red line excluding the ones that are
6 on-site?

7 A. What I had indicated yesterday is
8 that there would be nine from what was the case when we
9 had counted up at some point. There is one that has
10 been added. There is one that we have obviously not
11 counted at the time, but they would be the nine on the
12 west side of First Line, being from 5440 First Line
13 down to 5244 on First Line on Exhibit M-536.

14 Q. The two residences you referred to
15 at Site F, and maybe you could put up Exhibit M-535.

16 A. M-535, those two residences are
17 shown as collectively having a municipal address of
18 1823 King Road. They appear to be on the same property;
19 in fact one of them looks to be more of a garage, but
20 there does appear to be a unit over it. Those are the
21 two that are immediately impacted or in the sense of
22 being within that influence area. They are also shown,
23 photographs as No. 4 and 6 on Exhibit M-535A. I also
24 indicated yesterday that there were three other
25 residences immediately adjoining that but not within



1 the 500 metre influence.

2 Q. In fact I think in your report,
3 Mr. Stagl, you go on to count up houses that might be
4 found in a 750 metre distance from the site; you did
5 that for both sites, I think?

6 A. We wanted to, given the
7 configuration, the setting of the area, we also took a
8 look at a larger area.

9 Q. It is that sort of radius, if you
10 will, that takes in the other houses at the jog in King
11 Road?

12 A. Exactly.

13 Q. Does it also take in the Elstone
14 house, that is the one that is just to the left of
15 those houses, the one that is all alone?

16 A. That one, yes. Probably 120
17 Mountain Brow Road.

18 Q. Similarly, just to make sure we
19 cover that point, if you go back to the Site D map,
20 M-536, there are some additional houses that come in if
21 you extent that red line out to 750 metres?

22 A. Yes, there are a whole series of
23 houses that potentially become involved, both on First
24 Line and Highway 25.

25 Q. In both of these cases you talk



1 about these residences being subjected to certain
2 impacts. Before we get into the specific impacts, Mr.
3 Stagl, can we agree that agricultural operations and
4 landfill operations, as land uses, as adjacent land
5 uses are less in conflict with each other than either
6 one of those is with residential?

7 A. In any specific context?

8 Q. No, in the general sense. In a
9 general sense, is it fair to say, Mr. Stagl, that
10 agriculture and landfill are better matched than
11 landfill and residential or agriculture and
12 residential?

13 A. I am not certain. Agriculture and
14 residential, there are elements of compatibility there
15 depending on the circumstance and the influence of each
16 other. There are guidelines set up to protect that.
17 Landfill and residential, there are certainly elements
18 of impact that are greater and would be, than there
19 would be agriculture and residential. Agriculture and
20 landfill would have, if you are looking at an overall
21 general balance, would have less of an impact than
22 landfill and residential. Again, certain elements of
23 those would vary, but on average there would probably
24 be that relationship, yes.

25 Q. I wanted to ask you about, you



1 list three or four impacts, depending on the size under
2 this general topic of impacts that are relative to
3 houses within 500 metres. I want to deal with them
4 specifically, but I first wanted to ask you about some
5 things that aren't there and I was curious as to why
6 they weren't there.

7 It strikes me there are potential
8 impacts of dust and odour; did you consider those?

9 A. There were those elements, yes.

10 Q. Is there a reason why you didn't
11 bother to list them or can we take anything from that?

12 A. Again, to look back, my intention
13 here was not to duplicate the environmental assessment
14 comparison that has been done and has been brought to
15 you. Rather, from my own perspective of looking at
16 various policy elements, trying to characterize some of
17 those in a physical comparison fashion. What I had
18 done was I tried to highlight some of the more
19 concerning matters, ones that would be reflective of a
20 concern. Again in a relative sense. There are other
21 impacts that are not included in here. The fact that
22 they are excluded, I would not look to that as a
23 significant thing.

24 Q. I wanted to ask you specifically
25 about where you were getting, what the source is for



1 the points you make about each of the impacts that you
2 do list? For example, Mr. Stagl, under noise for Site
3 D you have listed as significant noise impact and under
4 Site F, you have listed some noise impact. What is
5 your source for those particular qualitative judgments?

6 A. As I recall, they come out of the
7 environmental assessment documents, the various studies
8 that have been done by the proponents.

9 Q. The environmental assessment
10 itself or are you talking about the technical study
11 that was in fact done by....

12 A. The technical studies, yes.

13 Q. So, if we are talking about noise
14 in particular, Mr. Stagl, we are talking about the work
15 done by Mr. Coulter?

16 A. As I recall, yes.

17 Q. Did you read any of those
18 documents?

19 A. Not directly, no.

20 Q. Did someone in your staff review
21 them?

22 A. Someone on my staff.

23 Q. Similarly, visual, Mr. Stagl,
24 under Site D you have visual impact and under Site F
25 you have some degree of visual impact that may be



1 minimized by design changes Does that arise from Mr.
2 Wright's work or does that arise from your own computer
3 graphic work?

4 A. The relative comparison comes from
5 Mr. Wright's work, the conclusions he arrived at plus,
6 in part, my own assessment of the impact of the form.

7 Q. Just while we are on that, Mr.
8 Stagl, just a couple of questions about the computer
9 graphics. They don't pertain to the matter that Mr.
10 Lederer raised, but can I gather from the fact that you
11 didn't produce them, you didn't do the same kind of
12 thing for Site F?

13 A. That is correct.

14 Q. Is there a reason why you didn't?

15 A. The work that I had reviewed, that
16 had been done by Mr. Wright and satisfied myself, plus
17 my own site visits, I satisfied myself that the visual
18 impact there would be different than it would be on
19 Site D. Site D is something I wanted to look at in a
20 little more detail because of the proximity of various
21 residential units.

22 Q. I am wondering if there would be
23 any value to anyone here or to the Board of having done
24 that, Mr. Stagl?

25 A. There may be; there wasn't in my



1 mind.

2 Q. Going down that table then to the
3 last point you have got under Site D, potential
4 economic losses due to vermin and other factors. You
5 don't have that listed for Site F. What is the source
6 for that point for Site D?

7 A. These come from the various
8 technical background documents that have been done. The
9 relativity between the two sites, without meaning to go
10 out and duplicate everything, was that there was
11 slightly more impact on D than there was on F.

12 Q. Is it fair to say, Mr. Stagl, that
13 you were simply, for this and in fact the other points
14 on noise and visual, this is your own conclusion based
15 on the multitude of documents that you have read?

16 A. That is correct.

17 Q. Just to finish that off, if you go
18 over the page to the next, it's actually the next
19 overhead, page 3, you have got a point about, I assume
20 there's a grammatical error there, some potential
21 environmental disruption resulting from increased heavy
22 truck volumes and then you have got high impact, and
23 was that based on your work or Mr. McLeod's?

24 A. In the area of traffic that comes
25 again from the technical work. That was done by Mr.



1 McLeod, he was the individual. As well this is an
2 area that we had been asked to look at ourselves
3 initially and study. Some of that, my advice comes
4 from partners in IBI, who have reviewed that work and
5 given their own assessment of work that had to be done,
6 but essentially it comes from the technical report.

7 Q. Again in this case, as with the
8 others, this is your, these are your words based on
9 your, or the people that work for IBI, views of the
10 various documents?

11 A. That is right.

12 Q. In all of this, in the
13 consideration of these impacts, Mr. Stagl, did you take
14 into account the possibilities of mitigating the
15 impacts or in fact, eliminating them, I suppose?

16 A. There certainly is an element in
17 there in the sense of the technical work that was done.
18 Many of the individuals have addressed the
19 possibilities of mitigation, that is inherent.

20 Q. Is it inherent in these
21 qualitative points that we find listed in Table 1?

22 A. Yes.

23 Q. So the points that we listed here,
24 for example, where we see significant noise impact and
25 some noise impact, that is noise impact in a net sense.



1 In coming to that conclusion you have taken into
2 account the potential for mitigation?

3 A. That is correct.

4 Q. Now, if we can just finish off
5 Table 1, under groundwater the same question I had for
6 the others, Mr. Stagl, what is the source for your
7 summary?

8 A. This again would come from various
9 technical reports and in fact the one change that I
10 understand that has been brought forward through
11 various evidence is that on Site F, whereas I have
12 noted on the third bullet down a small number of well
13 water users with an existing municipal water supply
14 available. I understand that....but that would be one
15 change.

16 Q. I am sorry, could we come back to
17 that last point? It surprised me a little, Mr. Stagl.

18 A. My understanding had been that in
19 the evidence, I haven't sat through all the water or
20 hydrogeology. My understanding has been that there was
21 some evidence brought forward that there were no users,
22 no well water users within the Site F area.

23 Q. That is your understanding from
24 what you heard from other people?

25 A. That is correct.



1 Q. On that point, the point above it
2 where it says potential water supply effects at Site F,
3 I am confused as to what that refers to?

4 A. At this point I can't recall, I
5 would have to look up my notes.

6 Q. In any event, this is your summary
7 in a planning context of what the groundwater evidence
8 is before the Board?

9 A. That is correct.

10 Q. Finally to the bottom, impact of
11 vehicular traffic generated by the landfill. I took
12 that to be something of a double counting, a duplicate
13 of the point at the very top of the page, Mr. Stagl.
14 Is there some difference between the two points?

15 A. I think it could be viewed as a
16 summary. It could have been brought forward under the
17 residential uses within 500 metres and shown as a
18 moderate impact versus minimal impact.

19 Q. Those are all the questions I am
20 going to have on Table 1, Mr. Stagl. You can turn off
21 the overhead.

22 I just have a few more questions, Mr.
23 Stagl, and they relate in some sense to your conclusion
24 or opinion No. 6 from yesterday. I am trying to make
25 sure that I have this and I want to make sure that the



1 Board understands what you are saying. This is what I
2 have, Mr. Stagl, and can you tell me if I had it right.
3 I got your opinion to be that if everything else is the
4 same, if the two sites are the same down the line or
5 can be weighed equally on all the other factors, the
6 Board should approve Site F, because to do so would not
7 depart from the existing planning framework?

8 A. That is a fair reflection, yes.

9 Q. Would you put it any other way, I
10 want to be absolutely fair to you, sir?

11 A. I think, as I discussed with the
12 Board yesterday, in fact a question from the Board, all
13 things being equal, the circumstance that we have is
14 that you have one site that can be dealt with within
15 the context of the environmental assessment process.
16 It does not require a departure from established policy
17 framework pursuant to another set of guidelines,
18 statutes, public hearings, various other elements. If
19 you have a choice between the two, the recommendation
20 would be to go with the one that you can deal with,
21 that doesn't disrupt that framework.

22 Q. I wanted to explore the reasoning
23 for that, Mr. Stagl, because I guess I am not following
24 something. Is it simply a practical matter, is it a
25 practical concern that it is better, if everything else



1 is the same, it is better not to have to go in and
2 amend an Official Plan and a zoning bylaw?

3 A. I think it goes well beyond the
4 practical matter, it goes right into the heart of
5 substantiating or justifying. What we have is pursuant
6 to one Act, The Planning Act, we have the establishment
7 of a detailed policy framework at various levels,
8 provincial, regional, local, that establishes the
9 guidelines for development, the juxtaposition of land
10 uses, the expenditure of public monies, which follow a
11 very long and detailed public review and public hearing
12 process.

13 To depart from that in the normal course
14 of events requires substantial justification.
15 Policies in place, provincial guidelines, really look
16 to reinforcing that justification. Before one deals
17 very lightly with that framework, merit has to be shown
18 as to why that established policy should be changed or
19 should be departed with. The instance of dealing with
20 an environmental assessment, if you have the choice
21 between dealing with a site that doesn't depart from
22 that policy framework, and dealing with a site that
23 does require going through that justification, my
24 recommendation is that in the first instance you
25 maintain the policy framework that has been put in



1 place. That goes back to the question of all things
2 being equal.

3 Q. I suppose it comes down, Mr.
4 Stagl, to a question that all of us are going to have
5 to address at the end of the day and that is I suppose,
6 a critical question for this Board. Where does The
7 Planning Act process fit within the environmental
8 assessment process? I am wondering, I was looking at
9 that in terms of your sixth conclusion. I wondered why
10 it really mattered, since all of these documents are
11 before the Board. That is why I asked you the question
12 about the practicalities of it. Isn't that what this
13 Board, isn't this whole business of looking at the
14 planning framework, isn't that before this Board right
15 now?

16 A. I am not certain where that
17 observation departs from what I am saying. As a
18 practical matter, jurisdictionally, all these elements
19 may be before the Board to deal with, but as a
20 substantive matter, the intent, the thrust of the
21 Statutes, policies are still there and have to be dealt
22 with. I don't see where that is, that gets boiled
23 down to a practicality.

24 Q. Mr. Stagl, what is it you are
25 trying to do in your Table 1? Would you call that a



1 planning assessment?

2 A. I think it is, as I have
3 indicated, what I wanted to do in one was give a
4 representation of some of the elements that are more on
5 the physical side that reflect what some of the policy
6 elements were that I reviewed.

7 Q. I guess my concern, Mr. Stagl, is
8 what we all do with it at the end of the day. How does
9 it fit within the rest of the job that this Board has
10 to do. I looked at it and I said to myself, it looks
11 to me that this is a land use planning assessment of
12 what is going on at Sites D and F, similar to what Mr.
13 Walker did, although in a completely different way.
14 It is not an environmental assessment, is that fair?

15 A. That is a very fair statement. It
16 is not an environmental assessment.

17 Q. Can we agree that the table that
18 you prepared, and I will characterize it as a planning
19 assessment unless you correct me, Mr. Stagl, I guess.
20 Is it fair to say that that is a component that fits
21 within the environmental assessment process?

22 A. The planning assessment.

23 Q. The types, it doesn't matter what
24 we call it, the type of assessment you have put before
25 this Board in Table 1, can we agree that is a component



1 that fits into the overall environmental assessment
2 framework?

3 A. Certainly in terms of relative to
4 Table 1 being a comparison of relative matters, that to
5 my understanding is really the thrust of the
6 environmental assessment, of doing an evaluation, a
7 comparison evaluation of various undertakings. As I
8 say, to that extent, it is not an environmental
9 assessment. It is a comparison, there is some
10 consistency in that fashion.

11 Q. Yes, we can agree, can we, Mr.
12 Stagl, that the environmental assessment process is
13 broader based than the type of thing you have put up in
14 Table 1?

15 A. That is true.

16 Q. Finally, just the last couple of
17 questions, I suppose. Related to your conclusion, I
18 think it is conclusion No. 1, let me check, that the
19 process that had been gone through in this case was
20 reasonable. Mr. Stagl, I was interested in your
21 opinion on this subject, if in fact Site D were the
22 only site before the Board. That is, just to be
23 specific, that is that there was no choice of sites,
24 they had gone through the process and for some reason
25 Site F had fallen out or wasn't even included and Site



1 D was put before the Board. Would it still be your
2 view that the process was reasonable?

3 A. I don't know I would be in a
4 position to answer that. That assumes, includes a
5 number of assumptions on how Site D came forward. The
6 opinion I have given of the process, the reasonableness
7 of its nature related to Site F coming out as the
8 preferred site, as the conclusion of the overall
9 process. To speculate on D coming through, I really
10 don't know. I would have to review under what
11 circumstances.

12 DR. KINGHAM: That is a matter that we
13 would like to be clear on. When you stated your
14 conclusion, we understood that almost to be blind to
15 which of the six sites or which of the fifty-five sites
16 or which of a possible thousand sites came out, the
17 conclusion that the environmental assessment process
18 had been reasonable and reasonably applied?

19 THE WITNESS: I believe I had indicated
20 that the conclusion of it is something I found
21 satisfactory. The overall process that was pursued,
22 sieving it down from many, down to a dozen or so, down
23 to eventually a preferred, whatever that final
24 comparison was. That overall process was fair.
25 Bringing it down to the question, as I understand it



1 was, D would have come forward from F. That final
2 element of the review dealing with those six sites,
3 determining there was a preferred site, that is where I
4 understand the thrust of Mr. Tidball's question. I am
5 not certain if he says F would have popped out in Stage
6 1, Stage 2A, but presumably that somewhere in the final
7 stage, D would have come forward head of F. Then I
8 think it is speculative, but I think I would need to
9 look at under what circumstances that would occur. The
10 process by which the six got there is reasonable. The
11 process by which the six were then ranked without
12 duplicating the work was reasonable. I think that was
13 I was trying to say.

14 MR. TIDBALL: Q. Let me come back at it
15 another way, Mr. Stagl, because I am still interested
16 in your view on this. You have read all the environ-
17 mental assessment documents, have you?

18 A. In one form or another, at some
19 point, yes.

20 Q. You are aware are you that back in
21 the earlier stages of this process, back in Stage 2A,
22 2B, there was a decision by the Region's consultants to
23 include what have been called pits and quarry sites?

24 A. Yes.

25 Q. Site F having been one of those?



1 A. Yes.

2 Q. Taking that step has been
3 criticised by some members of the public, and in fact
4 one party at this hearing?

5 A. Yes.

6 Q. If, in fact, the Region had not
7 taken that tack and had not included pits and quarry
8 sites, and simply searched for what is called the till
9 site, a more classic site, looking for a certain depth
10 of glacial till, would you still consider the process
11 to be reasonable? I guess it's really getting at why
12 you consider it to be reasonable?

13 A. As I understand it, to my mind
14 there is a subtle distinction between what you have
15 posed to me versus before. Now what you are saying is
16 that having eliminated pits and quarries, the process
17 that was being pursued, was that reasonable as opposed
18 to previously we are saying that Site D would have come
19 out of that process. I don't know that Site D would
20 have come out of that process. That I would want to
21 assess in terms of how it would have gone forward in
22 terms of the pits and quarries element not being there.
23 In terms of -- then the second question, had that
24 element been not introduced, again it is somewhat
25 speculative. Without thinking about it to any great



1 extent, it strikes me still that the process was a
2 reasonable one. It was consistent, it had an element
3 of public review. It was very consistent, it may very
4 well be that what would have come forward minus that
5 element would still have been reasonable. Again,
6 without having to put my mind to that specifically to
7 review that, is a bit of a speculative answer.

8 MR. TIDBALL: Thank you. That's as far
9 as we can go on that, Mr. Stagl. Those are my
10 questions. Thank you, Mr. Chairman.

11 MR. LANCASTER: It's close enough to
12 11:00 and I think before we start, we will have the
13 break. Fifteen minutes.

14 --- Recess

15 MR. LANCASTER: Thank you. Please be
16 seated.

17 CROSS-EXAMINATION BY MS. CRONK:

18 MS. CRONK: Thank you, sir.

19 Q. Mr. Stagl, I propose to be very
20 brief. There are one or two matters arising from your
21 evidence I would like to pursue with you. Mr. Tidball
22 drew to your attention this morning, two letters that
23 had been received by the Region of Halton during the
24 environmental assessment study process from the
25 Ministry of Agriculture. I would like to show you a



1 third. I am going to give you a copy of Exhibit H-71.
2 I am directing your attention to page 279. That is a
3 letter dated March 8, 1985, perhaps we will wait just a
4 moment.

5 Mr. Stagl, my question to you was, the
6 letter that I have placed before you is dated March 8,
7 1985 and it's a letter from the Ministry of Agriculture
8 & Food, the Foodland Preservation Branch, to the Region
9 of Halton?

10 A. Yes.

11 Q. I direct your attention to the
12 reference at the heading of the letter, which indicates
13 that the letter concerns the draft Stage 2C reports,
14 No. 1?

15 A. That is correct.

16 Q. I direct your attention to the
17 third paragraph which reads:

18 "We regard...."

19 I think it should be with regard, it says, however:

20 "We regard to this draft summary report,
21 we support the recommendation of Site F
22 as the preferred alternative as it
23 clearly has the least impact on
24 agriculture."

25 Do you see that?



1 A. Yes.

2 Q. That, I suggest in point of time,
3 is the earliest written record before the Board of a
4 position being taken by the Ministry of Agriculture
5 with respect to the landfill investigations of the
6 Region?

7 A. Yes, as I recall it.

8 Q. Could I ask you in the same
9 document to go to page 275. Perhaps, so that we have
10 the chronology clear, the letter that you just looked
11 at was March 8, 1985. This letter is similarly
12 expressed to be from the Ministry of Agriculture & Food
13 addressed to the Region of Halton and it is dated March
14 26th, 1985; is that correct?

15 A. That is correct.

16 Q. It has been signed by Phyllis
17 E. McMaster, the agricultural representative for Halton
18 Region?

19 A. That's correct.

20 Q. Have you seen this letter before?

21 A. Yes.

22 Q. Could I ask you to refresh your
23 memory by looking at the first paragraph and I am going
24 to suggest to you that the letter from the regional
25 representative of the Ministry of Agriculture strongly



1 supports the selection of Site F as the site for a
2 landfill in the Region; is that a fair interpretation
3 of what is suggested in the letter?

4 A. That is fair, yes, giving in fact
5 more detail as to the rationale.

6 Q. In terms of the rationale, if we
7 could briefly look at that. In the first paragraph,
8 the Ministry indicates that the selection of Site F
9 would have the least impact on the agricultural
10 community in Halton; is that correct?

11 A. Yes.

12 Q. It then goes on to confirm that
13 Sites A, B, C, D and E -- that is all save F -- were
14 presently in agricultural production?

15 A. That is correct.

16 Q. Further, it was important that
17 these sites, that is A, B, C, D and E, be maintained in
18 agricultural production for future food production and
19 to ensure that farm families who rent properties on the
20 site can continue to carry on a viable farm operation.
21 That is the first point made?

22 A. Yes.

23 Q. Then I direct your attention to
24 the third paragraph, the second relates to the
25 suggestions regarding the wisdom of renting as opposed



1 to owning property and then in the third paragraph I
2 suggest another facet of the rationale for the Ministry
3 of Agriculture in support of Site F is set out and it
4 indicates another factor of importance to the
5 agricultural community, especially livestock farms, the
6 availability of clean and fresh water. Placing a
7 landfill site in an agriculturally productive area
8 could jeopardize the quality of water available to
9 farms. That is yet another reason?

10 A. That is correct.

11 Q. Turning to the next page, the
12 first paragraph on page 2, the author indicates that
13 she is in strong agreement with certain sub-factors set
14 out in Draft Technical Report No. 4 prepared by the
15 Region. Those were the factors used to evaluate the
16 site from an agricultural perspective and then she
17 continues, and I quote:

18 "Long-term agricultural viability,
19 quality of land for growing crops and
20 large blocks of contiguous farmland
21 located in Sites A, B, C, D and E are
22 priority items for ensuring agriculture
23 industry in Halton in the future."

24 That seems to be another point as
25 advanced in support of the endorsement of Site F?



1 A. That is correct.

2 Q. Finally, could you read the last
3 paragraph to the report:

4 A. "Many people in Halton rely on
5 agriculture production to earn a living.
6 In the past few years, the Region has
7 introduced policies and programs to
8 control non-agricultural growth on prime
9 agricultural land I would like to
10 encourage the Region to select Site F as
11 the final landfill location and preserve
12 the larger agricultural areas for
13 production of agricultural products and
14 to encourage and show the next
15 generation that there is a future for
16 farming in Halton."

17 That is the end of that quote.

18 Q. I suggest then, Mr. Stagl, that as
19 early as 1985, the Region of Halton was in receipt of
20 confirmation from the Foodland Preservation Branch of
21 the Ministry of Agriculture, as well as local
22 representatives of that Ministry in the Region that
23 Site F was clearly to be the preferred site?

24 A. That's correct.

25 Q. Then your attention was drawn to



1 the November 1st, '85 letter, and I don't think, Mr.
2 Chairman, there is need to go back to it, the point is
3 a very brief one, that Mr. Tidball put before you and I
4 am showing a copy, November 1, 1985. That is the first
5 letter that he showed you this morning, that is a
6 letter from the Director of the Foodland Preservation
7 Branch of the Ministry of Agriculture; is that so?

8 A. Yes.

9 Q. Mr. Donald Dunn?

10 A. Yes.

11 Q. It is in that letter that he
12 indicates with respect to the conclusions drawn
13 regarding the landfill investigations, that the
14 Ministry recommends Site F as the preferred alternative
15 for landfilling?

16 A. That's correct.

17 Q. He echoes the sentiments and
18 rationale suggested by Ms. McMaster, and that is it is
19 to be preferred as it clearly has the least impact on
20 agriculture?

21 A. That's correct.

22 Q. That's November, '85?

23 A. That's correct.

24 Q. That's the third time the Ministry
25 is putting that position to the Region?



1 A. Yes.

2 Q. Finally, the following year,
3 December, 1986, that is the December, 1986 letter
4 received by the Region, again from the Director of the
5 Foodland Preservation Branch, Donald Dunn, is that
6 correct?

7 A. Yes.

8 Q. I suggest, Mr. Stagl, there is
9 nothing in that letter to suggest that the Ministry of
10 Agriculture's position as to the preferred location for
11 landfilling had in any way changed; would you agree?

12 A. I would agree.

13 Q. Are you aware of any other
14 documentation from the Ministry of Agriculture to the
15 Region of Halton throughout this process endorsing or
16 specifying a preference as to landfill site apart from
17 those four documents?

18 A. I am not.

19 Q. Now, Mr. Stagl, there was a matter
20 that I raised with Mr. Walker when he gave evidence on
21 behalf of the Region and I would like to have your
22 opinion very briefly on the same subject if I might.
23 Could I ask you to turn to Exhibit M-535, the existing
24 land use graphic for Site F that you have produced, and
25 perhaps you could put that up if you would.



1 I see that you have the aerial
2 photographs previously marked as exhibits both with
3 respect to Sites D and F. Could you take out the Site
4 F one and perhaps just have that handy. Thank you.

5 I am going to direct your attention, Mr.
6 Stagl, and it may be more convenient in the first
7 instance to do it with reference to the aerial
8 photograph, but feel free to use either exhibit or any
9 other if you consider it appropriate. I am going to
10 invite you very briefly to go round the site with me if
11 you would. Can we start on the western boundary of Site
12 F as proposed by the Region? I suggest to you that
13 moving west from the site, clearly what we first
14 encounter is the Burlington landfill?

15 A. That is correct.

16 Q. Moving further west from that, we
17 encounter the Falcon Creek ravine?

18 A. That is correct.

19 Q. Perhaps you can put the aerial up
20 for the moment. It is perhaps clearer there. Could
21 you just point out to the Board again where the Falcon
22 Creek ravine is? You are circling an area to the west
23 of the Burlington landfill?

24 A. Yes.

25 Q. It's quite a large ravine, is it



1 not?

2 A. It is.

3 Q. And the area in between the
4 Burlington landfill and indeed the ravine, and part of
5 the ravine itself I suggest is an intensely wooded
6 area?

7 A. It is, yes.

8 Q. There is as well in that
9 intervening space, and open area that is wooded as well
10 that isn't part of the ravine?

11 A. That is correct.

12 Q. Those three factors, I suggest,
13 moving west from the site, the Burlington landfill, the
14 ravine and the wooded areas in effect provide, on a
15 practical level, a physical form of buffering of the
16 site from any developed areas further to the west.
17 Would you agree?

18 A. The settlement area to the west,
19 yes.

20 Q. By the settlement area, am I
21 correct that the closest development area on the
22 western edge of the site is on Waterdown Road, indeed
23 it is west of Waterdown Road?

24 A. That is correct, as shown on M-535
25 in this proximity.



1 Q. So from any of the residences or
2 the populated areas looking west to the site, we have
3 these three intervening factors?

4 A. That is correct.

5 Q. What is the distance on your
6 existing land use map, Mr. Stagl, of Waterdown Road to
7 the edge of the site, how far away is it?

8 A. I am sorry. From the western
9 limit.

10 Q. Take it from the fill area of Site
11 F over to Waterdown Road.

12 A. It is approximately 1400 metres.

13 Q. Thank you. Could we then look at
14 the southern property boundary of the site, and I
15 suggest again it may be of more assistance to have the
16 aerial photograph up for the moment, if you wouldn't
17 mind. Thank you.

18 Moving south from the proposed Site F,
19 we encounter first a triangle of land immediately north
20 of Highway 403 at the southern west corner of the site?

21 A. This parcel here.

22 Q. Yes. You are pointing to a
23 triangle, yes. That land is owned by National Sewer
24 Pipe, is it not?

25 A. That is my understanding, yes.



1 Q. It is currently vacant?

2 A. Yes.

3 Q. You have toured the site, Mr.
4 Stagl?

5 A. I have.

6 Q. More than once?

7 A. Yes.

8 Q. Moving south then from that
9 triangle of land in the southern boundary of the
10 landfill, we encounter first Highway 403?

11 A. The North Service Road first and
12 then Highway 403, yes.

13 Q. Indeed there is also a hydro-
14 electric corridor there?

15 A. There is.

16 Q. Then Highway 403?

17 A. There is, that is correct.

18 Q. Then there is a relatively large
19 tract of land between Highway 403 and the Canadian
20 National rail lines?

21 A. That is correct.

22 Q. Those lines as well are owned by
23 National Sewer Pipe immediately south of the site?

24 A. A large portion, my understanding
25 is they are owned by National Sewer Pipe.



1 Q. Those lands are currently vacant
2 today?

3 A. Yes, they are.

4 Q. We move south and we run into the
5 CN tracks?

6 A. That is correct.

7 Q. It is only after you move south of
8 the CN tracks that you encounter any developed area?

9 A. The first developed area, the
10 northern portion of South Aldershot district.

11 Q. That is south of the CN track?

12 A. South of the CN track.

13 Q. I suggested to you, Mr. Stagl, and
14 I am putting these suggestions to you and I am seeking
15 your view as a planner that those facilities or land
16 forms, if I can describe them as such, the vacant land
17 owned by National Sewer Pipe, the hydro-electric
18 corridor, the North Service Road, Highway 403, the
19 vacant land owned by National Sewer Pipe and finally
20 the CN railway tracks effectively, in combination,
21 shield Site F from any development to the south; would
22 you agree?

23 A. Very much so. They have a number
24 of elements that provide separation and buffering not
25 only in terms of distance, in terms of functions, in



1 terms of grade separation, in terms of use.

2 Q. Distance functions -- sorry, what
3 were the other two?

4 A. Grade separation and use.

5 Q. Perhaps you can explain those. I
6 understand what you mean by distance, by distance you
7 mean geographic distance?

8 A. The geographical distance.
9 Function is, these are multi-function in the sense that
10 you have the very major highway separating the two
11 areas and in any normal context, that is a very
12 physical, very substantial physical barrier between any
13 sort of relationship. The third is the change in
14 grade. There is a drop from the North Service Road
15 down to Highway 403, so there is a small grade
16 differential there. This is at a higher elevation.

17 Q. What is this?

18 A. I am sorry, this is the candidate
19 Site F, the southern limit of it.

20 As you travel further to the south over
21 the vacant industrial lands owned by NSP, there is a
22 slight grade differential as you travel towards the
23 south and towards the lake. There is a grade
24 differential as well that has to be dealt with.

25 Fourthly, was the use. The South



1 Aldershot development that now goes up to the CN line
2 is further buffered from Site F by in fact the NSP
3 lands which are intended for industrial development in
4 the long run of some nature. So this is as well, a
5 further land use buffer between candidate Site F and
6 any residential development to the south by way of a
7 land use.

8 Q. If any of those land uses bear
9 characterization, I suggest that really they are more
10 in the nature of public use as they stand today rather
11 than anything else; would you agree?

12 A. Yes, I would.

13 Q. Moving to the eastern boundary of
14 the site, first you have pointed this out to the Board
15 previously, we encounter first Bayview Park?

16 A. That is correct, in the proximity
17 of Exhibit M-103.

18 Q. Then moving further east from
19 Bayview Park we encounter a rather large quarry site,
20 do we not?

21 A. That is correct.

22 Q. That is owned by National Sewer
23 Pipe?

24 A. That is my understanding, yes.

25 Q. Could you just point out the



1 extent of that to the Board on the map?

2 A. The extent appears to be in this
3 area on the south in a projection of that Site F east-
4 west, the southern boundary of Bayview Park.

5 Q. You are pointing to an extension
6 of the southern boundary of Bayview Park?

7 A. Extending easterly over to as far
8 north as the northern boundary of Bayview Park and as
9 far east as, in terms of distance, approximately 700
10 meters from King Road itself.

11 Q. I am sorry, approximately 700
12 metres from King Road?

13 A. Yes.

14 Q. It is in lateral extent of a
15 greater dimension than Bayview Park itself, is it not?

16 A. That is correct, yes.

17 Q. That is, as I understand it, an
18 active quarry site?

19 A. My understanding is that yes, that
20 is the case.

21 Q. So it extends to be fair, a little
22 to the east and a little to the north of Site F?

23 A. Yes.

24 Q. Moving further east from that
25 quarry site we encounter again a heavily wooded area,



1 do we not?

2 A. That is correct.

3 Q. Part of those lands are as well
4 owned by National Sewer Pipe, are they not?

5 A. That's my understanding.

6 Q. Moving to the north and north-east
7 there is a hydro-electric corridor at that location as
8 well, is there not?

9 A. It can be seen better on Exhibit
10 M-535 in this proximity, here.

11 Q. You are pointing to the hydro-
12 electric corridor to the east of the quarry?

13 A. In this area here.

14 Q. So there is a V-line of the hydro-
15 electric corridor going in two different directions?

16 A. That is right.

17 Q. I notice on your Exhibit M-535,
18 Mr. Stagl, you have not indicated the existence of the
19 NSP quarry site there. Perhaps you could do that if
20 you would, please?

21 A. Certainly.

22 Q. Could you take a coloured
23 highlighter, if you would, please. I don't think you
24 have pink currently in use. Perhaps I could lend you
25 mine. Could you mark in approximate terms the lateral



1 and vertical extent of that quarry site to be taken
2 from the aerial photograph?

3 Thank you. I suggest again, Mr. Stagl,
4 that in planning terms, looking at the nature of the
5 current land uses to the east and to the immediate
6 north-east from Site F, there are a number of physical
7 or man-made facilities which effectively shield the
8 site from any development further to the east, do you
9 agree?

10 A. Yes.

11 Q. Then moving finally to the north,
12 moving north from the site line, I suggest that in part
13 we encounter the Burlington landfill?

14 A. Yes, that is correct, as shown on
15 Exhibit M-103, in this proximity.

16 Q. We have then north of the
17 Burlington landfill, vacant open space and I believe
18 and suggest to you that part of the Falcon Creek curves
19 over to the north?

20 A. That is correct, yes.

21 Q. Then moving further north yet, we
22 encounter the hydro-electric corridor?

23 A. That is correct.

24 Q. The hydro-electric corridor at
25 that location is in fact part of the two-branch network



1 that you described a few moments ago?

2 A. That is correct. Again, as shown
3 on M-535 in this location, travelling from an area east
4 of the quarry it turns in a north-westerly direction
5 and then in a westerly direction.

6 Q. If we were to move further north
7 still, we would run into the TransCanada PipeLine
8 corridor?

9 A. Yes.

10 Q. Again I suggest just dealing with
11 the northern perimeter of the site, Mr Stagl, in
12 planning terms again, there are, the land forms in
13 existence to the north of Site F constitute and
14 represent a shielding, burying effect protecting the
15 site from any development to the north?

16 A. Quite true.

17 Q. How far is the closest development
18 area on the eastern boundary of the site from the
19 proposed fill area? You have given it to us on the
20 west, can I have it now on the east?

21 A. The closest currently from the
22 fill is approximately 1400 metres, that is existing
23 today. There may be some subject to development
24 applications and approvals, as close as 1250, 1300
25 metres in the future.



1 Q. That is a substantial distance, I
2 suggest, from the proposed fill area?

3 A. Quite so, yes. Again there are
4 physical features intervening too.

5 Q. Moving to the south, I didn't get
6 that measurement from you, but I suggest the
7 approximate distance from the southern boundary of the
8 fill area to the beginning of the Aldershot community
9 is approximately 800 metres?

10 A. Taking the most southerly fill
11 unit to the residential is approximately 800 metres,
12 yes.

13 Q. Apart from the clustering, small
14 number of residences that you have pointed out to the
15 Board at the intersection of King Road north of the
16 site, there are no residential, there is no residential
17 development further to the north of the site?

18 A. That is correct.

19 Q. So we have in effect, in planning
20 terms, Mr. Stagl, a relatively insulated site, would
21 you agree?

22 A. Very much so, yes.

23 Q. In all directions?

24 A. In all directions.

25 Q. That does not apply at Site D, I



1 suggest.

2 A. That is not the case at Site D.

3 Q. In fact if we were to go around
4 Site D in similar fashion, it is true, is it not, that
5 in every direction the adjacent land uses are
6 relatively flat in configuration?

7 A. That is correct.

8 Q. There are residential development
9 areas and residences in every direction at Site D as
10 you move out from the site?

11 A. Yes, that is correct.

12 Q. Could I ask you to go to Table 1
13 of your report, please. Could I direct your attention
14 to page 2 of that table first, dealing with your
15 assessment of impact on surrounding land uses and on
16 adjoining land uses. The first part of the table, as
17 Mr. Tidball points out, deals with adjoining land uses
18 of a non-residential nature?

19 A. That's right.

20 Q. The bottom part of the table deals
21 with adjoining land uses of a residential nature?

22 A. That is correct.

23 Q. Could you put up, if you would
24 please, or perhaps take down your existing land use
25 graphic of Site F and leave up the existing land use



1 graphic of Site D, Exhibit M-5.6. Thank you.

2 You have told the Board that there are
3 three residences on site at Site D and two commercial
4 properties actually on site that stand to be displaced
5 by landfilling at Site D; am I right?

6 A. That is correct.

7 Q. You have also told the Board that
8 within 500 metres of the fill area, there are an
9 additional nine residences to be displaced or affected
10 by landfilling at Site D?

11 A. That is true.

12 Q. Do you draw a distinction between
13 displacement and impact on those nine residences?

14 A. Yes, there is a distinction.
15 Displacement is needing to leave whereas impact is the
16 potential of having to live with.

17 Q. So in that context we should draw
18 a distinction between the residences and commercial
19 enterprises on site and those within the 500 metre
20 zone?

21 A. Yes.

22 Q. Some of which may require
23 displacement and some of which may not?

24 A. That's right.

25 Q. I would ask you, Mr. Stagl, if you



1 would please, to take out your ruler. I was looking
2 for the word, and measure if you would please an 800
3 metre radius from the fill area at Site D, and I would
4 like you to mark it right on that existing land use
5 graphic?

6 A. 800 metre?

7 Q. 800 metre. I am correct, am I
8 not, that 800 metres is the closest distance at Site F
9 to any residential areas or any particular residence?

10 A. That is correct on Site F.

11 Q. This question is not intended to
12 be in any way critical of your artistic ability, but
13 there is a slight blip in the boundary, either bring it
14 in or take it out. It was actually at the other side
15 of the site that concerned me.

16 A. Along here?

17 Q. Is that equidistant? Would you
18 count then for the Board if you would please, the
19 number of additional residences within that 800 metre
20 radius, additional to those already within the 500
21 metre radius? Did you miss one?

22 A. This is a combined residence and
23 commercial. Seven, with one just borderline.

24 Q. What about the cluster, that is
25 eight?



1 A. This is just a little bit beyond
2 800.

3 Q. What about the cluster of four on
4 the pink line, do you regard them as in or out?

5 A. They would be, again given this
6 scale, they would just be out. They would be
7 approximately 850 metres.

8 Q. How many are there in that
9 grouping?

10 A. Four.

11 Q. Let us just deal then with the
12 eight that you counted. If we were to arrive at a
13 residence count, those residences to be impacted by
14 landfilling at Site D within 800 metres, based on your
15 existing land use map, we would count first the three
16 on-site, correct?

17 A. Correct, yes.

18 Q. The nine within 500 metres?

19 A. That is correct.

20 Q. And the eight on the extended 800
21 metre boundary?

22 A. That is correct.

23 Q. I make it twenty in total.

24 A. Yes.

25 Q. How many commercial residences



1 incremental, how many commercial uses incremental to
2 those within the 500 metre radius stand to be affected
3 with an 800 metre radius?

4 A. One additional commercial,
5 combined commercial-residential, which is in this
6 location, in the south-east corner of Site D.

7 Q. And we had the two on site that
8 you told us about?

9 A. Two on site, yes.

10 Q. Any within the 500 metres beyond
11 the two on-site?

12 A. No.

13 Q. So three in total?

14 A. Three in total.

15 Q. If we were to count the four in
16 the cluster you described a few moments ago, which I
17 make to have the pink line coming up the driveways, but
18 you and I differ on that, our number would go to
19 twenty-four residences to be affected?

20 A. That is correct.

21 Q. Could you also indicate on that
22 map to the Board if you will, please, Mr. Stagl, where
23 the Burlington Air Park is situate? Perhaps you could
24 just point it out and mark it on the map?

25 A. It is, as I recall, approximately



1 in this location.

2 Q. Could you measure that off if you
3 would please, to the closest site boundary for Site D?

4 A. To the site boundary?

5 Q. All right, to the site boundary
6 and then to the fill area if you would.

7 A. Taking it from the western limit
8 of Bell School Line, approximately 2800 metres.

9 Q. Is that to the boundary or to the
10 fill area?

11 A. To the boundary.

12 Q. To the fill area?

13 A. To the fill area would be another
14 100, so it would be 2400 -- pardon me, 2900 metres.

15 Q. We have then the location of the
16 Air Park well within the 3.5 distance requirement
17 contemplated under the Transport Canada guidelines?

18 A. Oh yes.

19 Q. In fact, less than 3 kilometres
20 measured from the site boundary or the fill area?

21 A. Yes.

22 Q. Did you, Mr. Stagl, as part of
23 your site investigation of Site D, tour the site area?

24 A. Yes.

25 Q. More than once?



1 A. Yes.

2 Q. Did you as well tour areas
3 adjacent to the site both west and east?

4 A. I did, yes.

5 Q. Do you as a planner regard it as
6 appropriate to a land use analysis to assess the visual
7 impact of a proposed land use on existing land users?

8 A. It is appropriate to do, more so
9 in various circumstances than others. Generally you
10 look at the impact of the change, the form that will
11 occur. In this instance, the form is a physical
12 feature, a landfill, but yes it is appropriate to look
13 at that.

14 Q. It was for that purpose, as I
15 understood your evidence to the Board this morning,
16 that you prepared the photographs that have been marked
17 as exhibits with respect to Site D?

18 A. Yes.

19 Q. Could I ask you to look at
20 Tremaine Road in relation to Site D, Mr. Stagl, and
21 pretend for the moment that you are standing on
22 Tremaine Road and looking in the direction of Site D.
23 I suggest to you that given the configuration of the
24 existing land uses between Tremaine Road and Site D,
25 that you would have virtually a clear and entirely



1 unimpeded sight line of the site from that location?

2 A. You do, yes.

3 Q. In fact you can see from that
4 location, I suggest, cars on Highway 25, could you not?

5 A. You can, yes, in certain areas.

6 Q. Moving further out from Tremaine
7 Road, could you make the same assumption for me on Bell
8 School Line further to the west?

9 A. I don't think you would be able to
10 see cars on Highway 25, but there is a sight line to
11 the site.

12 Q. There is a sight line to the site?

13 A. Yes.

14 Q. Is that because the existing
15 adjacent land uses in the vicinity of Site D are
16 relatively flat and of a non-modulating character?

17 A. They are, yes. They are slightly
18 sloping towards the west, but not so much that it would
19 hide the horizon. I don't think, as I say, you would
20 be able to pick up features such as cars on the road.

21 Q. From as far away as Bell line?

22 A. From Bell line.

23 Q. But you could from Tremaine Road?

24 A. You could, there are certain areas
25 where you can see the traffic.



1 Q. Looking to the configuration or
2 the topography of the land on the eastern side of the
3 site, would you agree with me again that we have a
4 relatively flat unimpeded sight line situation?

5 A. We do. I am not certain how far
6 easterly you want to take it. It is a slightly
7 different circumstance in this area, but it is
8 generally of the same nature, it is flat.

9 Q. Is that true of the lands to the
10 north and the south of Site D as well?

11 A. To the north and south, yes.

12 Q. I suggest to you, I would ask
13 whether you agree that that is a fundamental
14 distinction between the two sites, Site D and Site F.

15 A. Very much so. This setting is
16 part of a very large, relatively flat area within the
17 Region. There are a number of very long view lines and
18 vistas, very characteristic of the farming community,
19 low intensity uses, principally fields.

20 Q. As a professional planner, does
21 the type of configuration that exists at Site D
22 heighten, reduce or in any way impact on your degree of
23 concern for assessing the suitability of a particular
24 land form in the area?

25 A. I think there are two elements of



1 interest in looking at it, to see what the impact would
2 be. One is what we have dealt with, and that is in
3 the immediate vicinity, that is the juxtaposition of
4 the uses with immediately adjacent uses and how does
5 that change their circumstance. It would be the same
6 as looking at a building next door in the sense of the
7 type of use across the street.

8 The second is in the larger community
9 there is an element of a setting that characterizes the
10 area. The introduction of this type of form changes to
11 that extent, wishing to assess the extent of the
12 impact, what that might do to perception in the area.
13 That would be of interest to me, yes.

14 Q. Does that same issue or factor or
15 element of interest, I think you said, apply at Site F?

16 A. It does, yes. There we have a
17 different set of circumstances, which is, given the
18 rolling topography and the uses in that area, the open-
19 spaced nature of it, the trees and the escarpment
20 essentially give a slight difference in the setting,
21 but the same inference could be had there.

22 Q. Could I ask you to go back to your
23 Table 1, Mr. Stagl, if you would and turn to the first
24 page of it, please Your attention was drawn earlier
25 this morning by Mr. Tidball to the comments you made



1 earlier with respect to Site F under the short-term on-
2 site impact category and one of the items, you recall,
3 is the loss of an informal dirt bike track?

4 A. Yes.

5 Q. Mr. Tidball suggested and you
6 agreed or acknowledged that in fact the use of any part
7 of Site F for dirt bike purposes of trailing purposes
8 is an illegal use, isn't that so?

9 A. That is my understanding of what
10 is occurring.

11 Q. It is also true, is it not, that
12 the landowner, National Sewer Pipe, has put up signs
13 and has elicited the assistance of the local law
14 enforcement agencies in an effort to eliminate that
15 illegal use of its property?

16 A. I am not aware of specific actions
17 or complaints that have resulted from it, but certainly
18 I am aware, apart from the background documentation,
19 that there is some upset or concern with it to mitigate
20 it. I am not aware of any legal action or policing.

21 Q. You are not suggesting, are you,
22 Mr. Stagl, that that kind of illegal trespass use of a
23 landowner's property in any way constitutes a
24 recreational facility, the loss of which is relevant to
25 this Board?



1 A. No, I don't think so; not at all.

2 Q. In terms of its inclusion on your
3 table, I suggest perhaps it was an abundance of caution
4 if you will. I suggest to you it doesn't belong on
5 the chart at all, it's not an impact that should be
6 measured from a planning point of view?

7 A. The only reason it was put on
8 there was on reviewing the background documentation,
9 there was some concern that it was a recreational
10 facility that would be lost. What we have really
11 indicated is it is an informal matter. At best it is
12 just a dirt bike track. Most municipalities frankly
13 don't encourage them because of the liability.

14 Q. Precisely. I want to put it to you
15 more clearly, Mr. Stagl. Do you as a professional
16 planner in assessing impact, ever taken into account as
17 an adverse impact, loss of illegal land uses?

18 A. No.

19 Q. Thank you. Can I ask you to go to
20 page 2 of your chart please, if you would, at Table 1.
21 Again dealing in the same category that we looked at a
22 few moments ago both with the impact on adjoining land
23 uses and the impact on the residential and non-
24 residential variety, this portion of your table, as I
25 read it really addresses in the main, compatibility?



1 A. Yes, that is true.

2 Q. And you referred on a number of,
3 really in a number of instances in your evidence, to
4 the Board and Dr. Kingham asked the question this
5 morning to clarify what you meant by compatibility with
6 respect to certain elements of this table.

7 In general terms as a professional
8 planner, what do you mean when you refer to the term
9 land use compatibility?

10 A. Well, compatibility is, carries
11 with it different definitions. Essentially it is the
12 relationship to uses. The uses of built forms and the
13 degree to which they can operate or live together
14 without disrupting or taking away from the other use,
15 to the extent that there is a high degree, a good
16 relationship between the two, there is no disruption.
17 One does not impact the other, there is a high degree
18 of compatibility.

19 To the extent there is disruption, there
20 is a degree, a low degree of compatibility or
21 incompatibility. The function in planning is to try
22 and minimize those relationships.

23 Q. The disruptive relationships?

24 A. The disruptive relationships.

25 Q. Is it also a function in planning



1 to not only, as you suggested, minimize disruptive
2 relationships, but as well achieve those that
3 are harmonious?

4 A. That is correct.

5 Q. So it is not always a negative
6 exercise, if I put it that way?

7 A. That's right.

8 Q. In assessing the appropriate
9 location for any particular land use, any particular
10 land use, Mr. Stagl, I suggest to you that it is a
11 fundamental concern of a qualified planner to try and
12 locate the land use in an area where disruption will
13 not arise and where harmony can be achieved from a
14 planning point of view?

15 A. That is correct. I think that
16 goes to, I was trying to characterize it as a best-site
17 evaluation. The steps taken in undertaking an
18 assessment.

19 Q. That is what I am getting at, Mr.
20 Stagl. I heard you express your opinion in those
21 terms. I am trying to understand what you, as a
22 planner, understand as a "best site location" from a
23 number of perspectives. Is that also the fundamental
24 objective in siting a landfill?

25 A. It could be. There are a number



1 of other factors that should be looked at, the least of
2 which, or today in this province, the element of
3 environmental assessment. Just in locating the land
4 use, a landfill being, any other land use, those
5 evaluations would have to be looked at and assessed.

6 Q. You want to site it then, I
7 suggest, in an area in which it will fit with the
8 existing and proposed land uses?

9 A. Yes. It looks like at both the
10 positive element of the harmonious relationship as well
11 as looking at minimizing the non-harmonious and
12 incompatible elements.

13 Q. And you have had, at page 2 of
14 your Table 1, with respect to Site D, that a landfill
15 on the site would not be compatible with agricultural
16 use of adjoining lands. I made notes during your
17 evidence in-chief at which time I thought you had said
18 that it would not necessarily be compatible and you
19 recall that Mr. Tidball discussed that with you this
20 morning?

21 A. Yes.

22 Q. As I understood your evidence to
23 the Board, you indicated the compatibility in that
24 context referred to the existing policy framework?

25 A. That is where it stems from, yes.



1 Q. Is there also an element of
2 compatibility in terms of land use harmony, in terms of
3 fit?

4 A. Yes.

5 Q. Is that something different from
6 policy framework?

7 A. Actually in many respects that is
8 where that stems from, the first decision of
9 establishing the Official Plan framework. There is
10 inherent in that the establishment in the first
11 instance of the harmonious relationship. The
12 relationship of all the land uses has been reviewed,
13 has been established. The policies have been put in
14 place to reinforce that. That goes to my comment about
15 departure. All those elements, harmonious elements,
16 compatibility elements, have been put in place, been
17 studied and looked at and long-term objectives of the
18 municipality have been assessed, both regional and
19 local and they have been established in that framework.
20 The departure then is to justify going away from that
21 harmony that has already been decided upon.

22 Q. I want to make sure I understand
23 it conceptually, Mr. Stagl. If you look at any
24 proposed development proposal or any proposed land use,
25 an element of a planning analysis is to look, to



1 identify and determine what planning approvals would be
2 necessary to implement that land use, am I correct?

3 A. Yes.

4 Q. Beyond the planning approvals
5 analysis, is it not also true that you look to how the
6 proposed use would fit with existing uses and proposed
7 future uses to determine whether it will fit?

8 A. Yes.

9 Q. Are you saying to me that those
10 two considerations are interrelated?

11 A. They are.

12 Q. They are also quite discrete when
13 viewed from another perspective, are they not?

14 A. Yes, they are, yes.

15 Q. So my question to you, when you
16 discussed compatibility on page 2 of Table 1, was your
17 use of the term confined to a consideration of
18 compatibility with the policy framework with policy
19 approval or did it extent to the fit concept we have
20 been talking about?

21 A. It extends to the fit.

22 Q. In terms of your comment with
23 respect to Site D, the landfill would not be compatible
24 with agricultural use of adjoining lands. I direct
25 your attention to page 3-27 of your report, please.



1 A. 3-27?

2 Q. Yes. We find set out at that
3 page your conclusions with respect to your
4 consideration and discussion of the various
5 agricultural features applicable to Site D including
6 various policies at the site.

7 A. Yes.

8 Q. And are your conclusions with
9 respect to compatibility of landfilling and the
10 agricultural uses at Site D set out at that page?

11 A. They are, yes, they are reflected
12 there.

13 Q. The first, you suggest is that
14 Site D is comprised of prime agricultural land
15 presently in production and comparatively Site F has no
16 commercial agricultural potential?

17 A. That's right.

18 Q. That I do not see as being a
19 compatibility statement with respect to agriculture and
20 landfilling, but rather a comparison of existing use
21 between F and D, is that fair?

22 A. That is fair, yes.

23 Q. The second conclusion you have
24 stated is that Site F has no agricultural facilities,
25 whereas agricultural production on Site D would have to



1 be curtailed for at least twenty-five years and the
2 four existing dwellings on the site abolished.

3 Is it fair to suggest that that is a
4 conclusion that is both comparative of existing use of
5 the land, but as well speaks to the compatibility of
6 landfilling at Site D?

7 A. That is true.

8 Q. And conclusion three, there are no
9 existing farm operations on Site F or adjacent to this
10 site which would be displaced by or adversely affected
11 by a landfill, whereas farm operations on Site D would
12 be displaced, and farm operations adjacent to the site
13 would be adversely affected by a landfill. Does that
14 conclusion relate, Mr. Stagl, to this concept of
15 compatibility?

16 A. Yes.

17 Q. In what respect?

18 A. In part what is being addressed
19 here are the elements of the Food Land Guidelines and
20 the relationship of that. The compatibility comes,
21 part comes out of the guidelines themselves, but what
22 they address here specifically is that locating this
23 type of use in and adjacent to an agricultural area
24 will be disruptive, will represent a change, a
25 redirection of the existing circumstances. To that



1 extent, compatibility is influenced.

2 Q. Is it fair to say, Mr. Stagl, that
3 where there is disruption of existing of adjacent land
4 uses by introduction of a new land use, that new land
5 use is not compatible with the existing uses?

6 A. There are elements of
7 incompatibility introduced, yes.

8 Q. Is it fair to say that
9 displacement will occur? I regard displacement as
10 being of greater strength than negative impact. Where
11 displacement will occur, compatibility cannot be said
12 to exist?

13 A. That is true.

14 Q. That applies at Site D?

15 A. That is true.

16 Q. It does not apply at Site F?

17 A. That is true.

18 Q. Your fourth and final conclusion
19 with respect to this issue set out at page 3-27, is:

20 "Site F is not situated within an
21 agricultural community, but Site D is
22 located within an existing agricultural
23 community and a landfill at Site D would
24 result in: land use conflicts between
25 farming operations and landfill;"



1 I take that to be a direct compatibility observation?

2 A. Yes, it is.

3 Q. And your conclusion by virtue of
4 those land use conflicts, it is not compatible land use
5 at Site D?

6 A. There is an element of
7 incompatibility.

8 Q. Secondly:
9 "... and possible negative spin-off
10 effects to the surrounding agricultural
11 community."

12 And that is a compatibility conclusion or observation?

13 A. That's right.

14 Q. You are suggesting that with
15 respect to that possible result, compatibility does not
16 exist?

17 A. That is true.

18 Q. I suggest to you, Mr. Stagl, less
19 there be any confusion over the language you used in
20 your evidence, that when viewed from a land use
21 planning perspective, taking into account the policy
22 framework and the fit, compatibility concept we have
23 been discussing, landfilling at Site D cannot be said
24 to be compatible with the agricultural use of that land
25 and on the adjoining properties, would you not agree?



1 A. Yes.

2 Q. Could I ask you then to direct
3 your mind to Site F and apply this concept of
4 compatibility to it? I suggest to you that the review
5 we have gone through this morning indicates that
6 landfilling at Site F would first not disrupt an
7 existing community infrastructure?

8 A. That is correct.

9 Q. There would not be any
10 displacement of residences?

11 A. That is correct.

12 Q. There would not be any adverse
13 impact on any residences or residential community?

14 A. There is some impact, the degrees
15 of which, there is some impact. From what I have read
16 and heard, there would not be adverse impact but there
17 would be some impacts.

18 Q. I suggest those impacts would not
19 be material; do you agree?

20 A. From what I have read, I don't
21 believe that they would be adverse impacts, but
22 material or not, maybe to an individual, but certainly
23 not in my perspective on assessing the land use, the
24 degree of incompatibility is not one where I would say
25 change the land use.



1 Q. In a comparative sense, Mr. Stagl,
2 when we are talking about impact on residences, would
3 you agree with me that Site D is a far, far different
4 proposal than Site F?

5 A. Absolutely.

6 Q. And the measure and degree of
7 adverse impact to be occasioned at Site D far exceeds
8 that at Site F?

9 A. Absolutely, yes.

10 Q. I suggested to you further that as
11 a planning matter, at Site F the introduction of a
12 landfill would constitute introduction of a compatible
13 land use with those already in existence?

14 A. Yes.

15 Q. And secondly that it would be
16 compatible with those which historically had been in
17 existence in and around the site?

18 A. That is correct.

19 Q. Perhaps then just as a final
20 matter, Mr. Stagl, we can attempt to get some
21 identification of what you considered to be, in summary
22 form, the planning advantages of Site F in addition to
23 the features I have already drawn to your attention.
24 I would invite your comment one way or the other as to
25 whether you agree that these factors are true of Site



1 F. As you will appreciate, some months down the line
2 some of us may come back and try to have these readily
3 at hand, and I would like your opinion on them.

4 I would suggest to you first, you have
5 told me first that landfilling at Site F would not
6 introduced any change to the existing community infra-
7 structure, if I can put it that way?

8 A. That is correct.

9 Q. May I suggest secondly that
10 landfilling at Site F would not effect any change to
11 the planning framework applicable to Site F and its
12 environment?

13 A. That's correct.

14 Q. You've told the Board for example,
15 you believe it is permissible today under the Parkway
16 Belt West plan, the Regional Official Plan, the City of
17 Burlington's Official Plan and the City of Burlington's
18 zoning bylaw for the Region to landfill at Site F?

19 A. That is correct.

20 Q. No change need be made to any of
21 those planning documents to permit that use today?

22 A. That is correct.

23 Q. Thirdly, you have told me that
24 there would be essentially a compatible, a
25 compatibility gain by introducing landfilling at



1 Site F?

2 A. That is correct.

3 Q. With the existing land uses and
4 that would not be the case at Site D?

5 A. That is correct.

6 Q. Fourthly, that judging from the
7 comments you have made and your Table 1 in your report,
8 I suggest there would be minimal transportation, visual
9 or noise impacts at Site F to be occasioned in the
10 event of landfilling?

11 A. Relative to D, yes.

12 Q. Fifthly, we have discussed the
13 impact on residential populations, and you have told me
14 your views on that?

15 A. Yes.

16 Q. Sixthly at Site F in the event a
17 landfill was introduced at that site, there would be no
18 contravention of or conflict with provincial policy for
19 the use of agricultural production lands?

20 A. That is correct.

21 Q. Whereas there would be at Site D
22 you have said?

23 A. That is correct.

24 Q. I have lost count, I think I am at
25 eight. You have dealt with groundwater users and



1 groundwater in Table 1, and I suggest that your
2 designation of a low impact at Site F suggests that
3 that too is an advantage of landfilling at Site F over
4 Site D?

5 A. Relatively between the two, yes.

6 Q. Again in terms of measuring
7 adversity, in terms of impact from a planning point of
8 view, Site F is to be preferred on that basis?

9 A. Yes.

10 Q. Landfilling at Site F I suggest
11 will also fulfil the goals of the Parkway Belt West
12 plan for this area?

13 A. Correct.

14 Q. So in that sense there is a
15 positive side to the introduction of the land use?

16 A. That's right.

17 Q. It will also, I suggest, introduce
18 a confirmed rehabilitation plan for an area that
19 requires by law and in the existing policy framework,
20 ultimate rehabilitation?

21 A. That is correct.

22 Q. Do you agree with me that
23 landfilling at F, based on what you know about it and
24 based on what you know about the rehabilitation plan
25 introduces certainty to that rehabilitation concept, we



1 know when it will occur and how it will occur?

2 A. Yes.

3 Q. That is not true today?

4 A. That is correct.

5 Q. That is a feature that is

6 particular to Site F?

7 A. Unique to Site F, yes.

8 Q. Finally, with respect to Site F, I
9 suggest that a further advantage and a relevant one
10 from a planning point of view, and would ask whether
11 you agree or disagree, is that the landowners, the
12 people that own Site F, are supportive of the regional
13 landfilling at that site?

14 A. Yes, that is a factor as well.

15 Q. It is a relevant factor to a
16 planner, is it not, in assessing impact and suitability
17 of a land use?

18 A. Yes, it is a factor.

19 Q. Are there other advantages from a
20 planning point of view to landfilling at Site F that we
21 have not discussed that you would like to point out to
22 the Board or can now point out to the Board?

23 A. You have given a fairly
24 comprehensive list.

25 Q. Is there any doubt in your mind,



1 Mr. Stagl, from a land use planning perspective, taking
2 into account both the planning framework as you have
3 described it, and the compatibility-suitability fit,
4 discussion that we have had that Site F is to be
5 preferred for landfilling by the Region?

6 A. No question about it.

7 MS. CRONK: Thank you very much.

8 MR. LANCASTER: Thank you, Ms. Cronk.

9 As was the case with the former panel of
10 witnesses, the Board will require that the Region go
11 next in cross-examination.

12 MR. TZEKAS: Mr Chairman, without
13 offending that particular policy, Mr. Lederer and I
14 were able to agree to these things more readily than
15 our partners are.

16 As between the two of us, we have agreed
17 that I would precede Mr. Lederer. Again, we do not
18 want to impact the general policy, but that was the
19 discussion that we had, sir.

20 MR. LANCASTER: That's not a hard and
21 fixed ruling. It was under the circumstances of a
22 motion of Mr. McQuaid. It is certainly quite
23 satisfactory to the Board if you can make up your own
24 minds and that is preferable. It is quite all right
25 with the Board.



1 MS. CRONK: Could I just point out, I am
2 sure I can speak for Mr. Leitch and myself, because of
3 the consent arrangement and you will hear those
4 submissions from us.

5 MR. LANCASTER: Do you wish to make
6 submissions?

7 MS. CRONK: I am entirely satisfied they
8 proceed in the way they suggested, because they worked
9 it out together, but I just want to make it clear that
10 there will be submissions in the future.

11 MR. LEITCH: I only want to say that
12 when it is Burlington's case, I want to go last on all
13 occasions.

14 MS. CRONK: You are so much clearer than
15 I am.

16 MR. LANCASTER: I left that opening in
17 my ruling. I am not deciding in the future.

18 MR. LEITCH: I wasn't here when you made
19 the ruling, sir. I didn't have a chance to put in my
20 two cents worth, as I say. I thought I should say
21 that because that is the position I will take. When
22 Burlington's case is called, it is my position I want
23 to go last in all areas.

24 MR. LANCASTER: I think Mr. Estrin said
25 something of that nature. Yes, Mr. Lederer.



1 MR. LEDERER: Mr. Leitch's case is
2 certainly on the borders there.

3 I was not here as well at the time you
4 made your ruling. My understanding is, and I stand to
5 be corrected and also I have not had an opportunity to
6 review the transcript, that the ruling was based on
7 some statements made by the Board in respect of the
8 fact that the Region chose to proceed here with two
9 sites.

10 With respect to that, may I say to the
11 Board that at the end of the day that is at final
12 argument, if necessary, before, it may be necessary
13 given what has now been said in submissions, and I am
14 going to submit to this Board that the Region as a
15 result of the legislative framework that is in place
16 here, as a result of the attitude in some respect of
17 the parties forced upon them by the legislative
18 framework, as a result of attitudes and decisions of
19 the Environmental Assessment Board in other cases, as a
20 result of court cases having to do with the
21 requirements of notice, the Region had absolutely no
22 choice but to come here. If the day comes when those
23 submissions have to be made, and if it's before final
24 argument, so be it, but it is going to take us some
25 time to put that together. I want the Board to



1 understand that we take a very strong position with
2 respect to that question.

3 MR. LANCASTER: That's fine. It was not
4 a concern of the Board.

5 MR. LEDERER: I understand sir. The
6 Board can appreciate that perhaps if that is the issue
7 it may be relevant to discuss how we proceed. I will
8 leave it at that.

9 MR. LANCASTER: The matter can be argued
10 at any time and the Board can decide on the merits at
11 that time.

12 I think having said that, we will
13 adjourn for lunch. Mr. Tzekas, you will be commencing
14 at 1:30.

15
16 --- Luncheon Adjournment (12:17)

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

2 MR. LANCASTER: Please be seated.

3 Mr. Tzekas.

4 CROSS-EXAMINATION BY MR. TZEKAS:

5 Q. Mr. Stagl, I would like to begin
6 by going back and just discussing the nature and
7 chronology of your retainer, because I think it is
8 important to my understanding of the report that we
9 have been given and how to read it. You indicated to
10 us that you were originally retained in 1986 and that
11 your mandate was to consider a number of disciplines
12 I take it by that, sir, that when you say your mandate,
13 it is your firm's mandate?

14 A. That is correct.

15 Q. The ones that you noted were
16 planning, traffic, economics and coordination?

17 A. That is correct.

18 Q. Were there any others?

19 A. No, those were the four.

20 Q. I take it then at some point your
21 focus changed, and as a result the only report that we
22 have before us now specifically is your planning
23 report?

24 A. I am not certain that the focus
25 has changed. All of those elements are still on



1 retainer to the Town. It is only the planning report
2 that has come forward.

3 Q. I am not intending to draw any
4 negative inference from that. You are here now only to
5 speak to planning and to the extent that traffic is
6 included in that, I take it that that is also an
7 element in that?

8 A. That is right, yes.

9 Q. Am I right in thinking that you,
10 in being given your original retainer, that your firm
11 undertook some independent work in all of these areas
12 that I have outlined?

13 A. That is correct.

14 Q. Am I right in thinking then that
15 your firm did not do any independent work in other
16 areas. Let me give you some examples.

17 This morning odour and dust were
18 mentioned as two areas where apparently you didn't do
19 any independent work?

20 A. That is correct.

21 Q. Would noise be another one?

22 A. That is correct.

23 Q. Visual, with the exception of the
24 photographs that have been produced for this hearing,
25 am I right in thinking that with respect to the visual



1 aspects, you relied upon the work done by Mr. Wright?

2 A. The visual assessment, yes, that
3 is correct.

4 Q. With respect to the biophysical
5 elements, I take it that again you were prepared to
6 rely on the work that had been done by others, and that
7 you were prepared to review their work on those
8 aspects?

9 A. IBI itself had not been retained
10 to do any biophysical work.

11 Q. Right. In reviewing, I guess,
12 the environmental documents, I am right then in
13 concluding that for all these other elements, there was
14 no independent work done by your firm. You were
15 essentially doing, if I may, a documents review of
16 these other areas?

17 A. That is correct.

18 Q. Now, having come to this
19 particular hearing and having focused as you do on
20 planning, I would like to consider the specific purpose
21 that the report was prepared for and by the report I am
22 referring to your Exhibit M-529. Could I ask you, Mr.
23 Stagl, to turn to page 2-1 of that particular report?

24 A. Yes, sir.

25 Q. That is part of the executive



1 summary, but it is one of two statements of purpose, if
2 you will. I would like to read it to you and ask you
3 if that is in fact or was in fact the purpose for which
4 this particular report was prepared. It states:

5 "The purpose of this report is to review
6 the current federal, provincial,
7 regional and local government land use
8 controls which relate to the
9 establishment of a sanitary landfill on
10 Site F or D within Halton Region."

11 Then you go on to describe those various
12 land use controls?

13 A. Yes.

14 Q. That I take it, Mr. Stagl, is
15 consistent with what we have been discussing and that
16 is the primary focus of your work in many areas seemed
17 to be a review of documents or reports that had been
18 prepared by others?

19 A. Yes, that is consistent.

20 Q. This, I take it, is that kind of a
21 review. You are looking at policies that are in place.
22 You are not doing, as I understand it, any independent
23 research, but you are applying your expertise to these
24 various documents to formulate opinions?

25 A. In the area of planning, that is



1 correct.

2 Q. Statement of Purpose also appears
3 in the introduction, and I think in fairness we should
4 look to that as well. It is at page 1-1. It repeats
5 what I have just read to you, that is the purpose of
6 the report is to analyze the various land use
7 policies. Then it goes on to say:

8 "And to identify the other potential
9 land use implications of the proposed
10 landfill on these sites."

11 As I read that, it is a little
12 different. It involves the introduction of a second
13 step. First is the analysis of the various land use
14 policies, the second is the identification of other
15 potential implications. Am I reading that fairly, sir?

16 A. Yes. I don't know if you will
17 find there is an inconsistency between 1-1 and 2-1.

18 Q. Oh no, I am sorry, 2-1 sets out
19 what I consider to be the primary purpose or as I read
20 it, the primary purpose of the report. Then 1-1
21 repeats that and adds a little extra, if you will.

22 A. It expands.

23 Q. Fair enough. So the primary
24 purpose, I take it, when this report was drafted and
25 written, those purposes that we have described are what



1 the report was intended to achieve?

2 A. That is correct.

3 Q. The primary focus then was the
4 review of these various land use controls. I take it
5 it was through primarily the review of these land use
6 controls that you came to the decisions that you did
7 about this particular matter?

8 A. Yes, that is true, in part, yes.

9 Q. I take it as being something more
10 than that, Mr. Stagl. I thought, as I indicated
11 earlier, that that was the primary purpose of the
12 report and therefore I drew the conclusion that was
13 your primary source of information in making your
14 conclusion, this is what you were focused on?

15 A. That is consistent. In developing
16 my opinion there are certainly a number of elements
17 that I have familiarity with, which played in
18 developing my opinion. Certainly this assessment, the
19 fundamental elements of the policies, the frameworks in
20 place played a major part, yes.

21 Q. Fair enough, and I think that is
22 consistent as well with what appears in your witness
23 statement and that is Exhibit M-528. Perhaps you could
24 turn to that?

25 A. Yes.



1 Q. On the first page you outline your
2 methodology, or your approach to the work and again, if
3 I read it correctly, please tell me if I am being
4 unfair, but my impression from that particular
5 analysis, is that you were doing a documents review and
6 specifically you were looking at the various planning
7 frameworks that affected these two sites?

8 A. Yes.

9 Q. If we turn to page 2 and 3 of the
10 report, the Summary of Findings, we find quite a number
11 of specific comments on various pieces of federal-
12 provincial legislation, and towards the bottom of that
13 list we find matters such as the physical setting and
14 so on?

15 A. That is correct.

16 Q. Now, the list of documents that
17 you indicated had been reviewed in this particular
18 matter were very, very extensive. I think you
19 indicated as well to Mr. Tidball that you did not
20 personally review all of the documents?

21 A. That is correct.

22 Q. I am thinking of Mr. Coulter's
23 report as an example of that. Can you tell me, sir,
24 was there someone in your firm that actually reviewed
25 all of the documents that were on that list, or was



1 this more of a group effort?

2 A. It was very much a group effort.
3 There were probably about a dozen or more people that
4 have been involved actively in the course of the last
5 year and a half. Some are obviously reading more than
6 others.

7 Q. Was there amongst this group of
8 people who were involved in this documents review, was
9 there one person who read everything and who tried to
10 synthesize or coordinate this particular process?

11 A. There have been individuals who
12 have read a majority of the work, yes.

13 Q. Were those individuals involved in
14 the writing of the report?

15 A. In part, yes.

16 Q. I take it, sir, that by your use
17 of the word "individuals" that you don't put yourself
18 in that category, or do you?

19 A. In writing the report?

20 Q. In the category of that group of
21 people who had read most of the reports?

22 A. I have read quite a few of them
23 myself. I haven't read all of them.

24 Q. Were you involved in the writing
25 of the report?



1 A. Yes.

2 Q. Now, with respect to this review
3 of documents, and perhaps Mr. Coulter's report can be
4 used as an example. Obviously someone in your firm
5 reviewed that report and conveyed their comments to
6 you. Am I right in thinking, sir, that you took those
7 comments as presented and incorporated those into the
8 planning report that you did?

9 A. Many of those comments were
10 incorporated in the report. Other conclusions and such
11 used in the formulation of opinions, various opinions,
12 some found their way to the report, yes.

13 Q. Having I think understood the
14 process a little better than I did this morning, I
15 would like to turn to your first set of conclusions and
16 that relates to your review of the federal guidelines.
17 As I read your particular report and incidentally for
18 your reference, these, the discussion of these federal
19 guidelines begins at page 3-1 of the report and goes on
20 for approximately three pages.

21 As I read that particular section, Mr.
22 Stagl, there were four documents that you had reference
23 to; three of them are included in the schedule of
24 appendices, and one, Dr. Richardson's report, is simply
25 referred to. Is that the extent of the documentation



1 you looked at in reaching your conclusions on the
2 federal guidelines?

3 A. There were other documents
4 related, other items of correspondence from the
5 Ministry. We have reviewed the recent zoning
6 initiatives in Buttonville, for example. Certainly in
7 terms of this report, in the context of the report,
8 those are the applicable documents. There are certainly
9 other background documents we had available that were
10 part of the review, but again the question as I
11 understand it, relates to this report, the conclusions
12 in this report.

13 Within the framework of looking at what
14 a municipal planner would look at in terms of the
15 applicable policies and guidelines, those are the
16 documents that we reviewed and assessed, yes.

17 Q. That is an interesting perspective
18 and that is what a municipal planner would look at.
19 May I just digress and ask you this: would it be fair
20 for me to say that what this particular report does, I
21 am not now just referring to the federal section, I am
22 referring to all of them, is put you in the position of
23 a municipal planner who is approached with respect to
24 the siting of these two sites and is asked, I want to
25 put a site either here or there, tell me what is



1 appropriate. The municipal planner would then go and
2 look at the policy framework as you call it, the
3 official plan, the zoning bylaws and perhaps reach a
4 conclusion based on that. Is that to some extent the
5 approach the report adopts?

6 A. To some extent that is the
7 approach.

8 Q. Now, going back to the federal
9 guidelines, may I ask you first of all, do you have any
10 particular expertise in this area?

11 A. In terms of?

12 Q. The bird hazard problem?

13 A. Bird hazards, no specific
14 expertise, no.

15 Q. Therefore, I take it your
16 information was based entirely on the documents that
17 you reviewed?

18 A. The evaluation is simply based on
19 what the guidelines are and what they look to.

20 Q. That is very interesting. I think
21 it will be illustrative as we go through this. The
22 guideline is fairly clear. It sets out the zone of
23 approximately five miles and says that locating
24 landfill sites within that five-mile area is not
25 acceptable. That, I take it, is what you would get



1 from reading the guideline; do you agree with that? Am
2 I being fair?

3 A. Yes. Fair in paraphrasing the
4 guidelines.

5 Q. I take it if your concern was how
6 particular Site A as opposed to particular Site B might
7 relate to those guidelines, it is a fairly simple
8 analysis to go from there to the position that the
9 guideline affects the one but not the other?

10 A. That is right.

11 Q. Now, first of all in preparing
12 this particular portion of your report, did you review
13 the Region's report on this issue?

14 A. The question is, did I review or
15 did we review?

16 Q. Tell me if you reviewed it first
17 of all, and if not yourself, then somebody else?

18 A. We certainly did review the
19 various reports that were available. I myself have
20 reviewed some of the reports but not all of them.

21 Q. Was there any reason why you did
22 not think to reference that particular report in your
23 document?

24 A. There is nothing implied by its
25 absence, its omission. The reference is simply one



1 that in valuating there are policies applicable. This
2 is a policy that does apply. Here is a statement made
3 by one of the experts who has looked at it and here is
4 the relationship that we have determined. In one
5 instance it applies and in one instance it doesn't.

6 Q. I am going to get to, so that you
7 know where I am going, so that I can be fair to you, I
8 am going to suggest to you in a moment things aren't
9 that simple and simply reading a guideline like that
10 and coming to that conclusion may in fact be quite
11 misleading. Let us, if we may I would like to
12 continue first of all with just trying to find out what
13 you did in coming to these conclusions. You refer to
14 Dr. Richardson's report. Did you speak to Dr.
15 Richardson about his report?

16 A. I did not, but people in the firm
17 did.

18 Q. What did Dr. Richardson tell you
19 about the assumptions he was making with respect to
20 mitigative measures?

21 A. Again, I did not speak to him.

22 Q. Do you know what assumptions, you
23 referred to the report, and do you know what
24 assumptions it is founded on?

25 A. I would have to go back to the



1 report and refresh my memory.

2 Q. I will pass by that one for now.
3 I would like to have you turn to page 3-3 of your
4 report and I would like to compare this to what Dr.
5 Richardson actually said in his report. It is 3-3. I
6 am looking at the very first paragraph and this is
7 where you synopsise the report of Dr. Richardson and
8 you state in the middle of that paragraph:

9 "The report indicated that the proposed
10 landfill at Site D would attract a large
11 number of gulls (hundreds and
12 occasionally one thousand plus) on a
13 daily basis."

14 I take it, sir, that that is your
15 perception of what Dr. Richardson said or what the
16 report said?

17 A. Yes. One of the things that was
18 identified by Dr. Richardson.

19 Q. I would like to turn to that
20 report now. It is Exhibit 390, Mr. Chairman.

21 Having sent everyone on a wild search
22 party....

23 DR. KINGHAM: We can spare one copy.

24 MR. TZEKAS: Mr. Lederer has been kind
25 enough to give me his. I had it here before lunch.



1 The page number that I would like to refer you to, if
2 you are with me, do you have a copy?

3 A. I couldn't locate mine.

4 Q. All right. I was looking at
5 page 9.

6 A. Yes.

7 Q. You will have to bear with me. I
8 don't have it now marked, but I am looking at the very
9 last sentence on that page. It begins three lines up
10 with the words, "In the..." Do you have that?

11 A. The last paragraph?

12 Q. The very last sentence on page 9?

13 A. Yes. "In the....", yes.

14 Q. It says:

15 "In the absence of specific bird
16 deterrent measures, hundreds of gulls
17 will fly to the proposed site on many
18 days of the year. Over one thousand
19 gulls are likely to congregate at the
20 proposed site on some days, especially
21 in summer and autumn."

22 As I read that, Dr. Stagl, what
23 Dr. Richardson was telling us was this is what might
24 happen in the absence of specific bird deterrent
25 measures. Do you agree with that?



A. Yes.

2 Q. Would you also agree with me there
3 seems to be a slightly different emphasis on how many
4 gulls and how many days those gulls might arrive?

5 A. Well, I'm not certain there is an
6 inconsistency. There is a detailed description in his
7 estimation, yes.

8 Q. His detailed description is that
9 you are going to get, in the absence of these measures,
10 hundreds of gulls on many days, perhaps over a thousand
11 on some days. As I read your report, you interpreted
12 that as something that would happen on a daily basis?

13 A. Well, the sentence very simply
14 says "would attract a large number of gulls on a daily
15 basis" but the parentheses give some breakdown of
16 hundreds on occasion and sometimes a thousand plus.
17 The details are found in Dr. Richardson's report, gives
18 those details.

19 Q. I am going to ask you to accept
20 for a moment, I take it you weren't here and you didn't
21 hear Dr. Richardson's evidence?

22 A. I did not, I was not and did not.

23 Q. My friends aren't rising while I
24 do this, and I would ask you to accept what I say on a
25 hypothetical basis at the present time. Assume, sir



1 that Dr. Richardson reported that even though airports
2 are situated in areas with many gulls, serious
3 collisions were unlikely; that is the word he used and
4 that even when these collisions did occur, they for the
5 most part caused little or no damage.

6 Now, accepting that as Dr. Richardson's
7 conclusions, I realize there will be argument on this,
8 but on that assumption, would this have any bearing on
9 your conclusions?

10 A. No, I don't believe so.

11 Q. I take it given the process that
12 you have adopted, given that framework and given that
13 methodology, what is important to you is the existence
14 of a guideline and the fact that one site is affected
15 by it and one site is not?

16 A. Well, I think perhaps to reflect
17 on the point in question that had been raised by Dr.
18 Kingham, in reviewing this policy framework there are
19 certain elements that are guidelines and there are
20 certain elements that are policy, policies that are in
21 place. To that extent, one carries more import,
22 importance than the other. In this instance we have a
23 guideline. To that extent it has an influence on
24 evaluation in that context. It is a guideline. So to
25 that extent, the evidence that you had outlined to me



1 would not alter the conclusion I had on the application
2 of that guideline.

3 Q. What I am getting to is this, Mr.
4 Stagl. I note in your report and in other exhibits,
5 and I am thinking specifically of Exhibit 534 here,
6 maybe we can take a look at that. You are, as a
7 planner, attempting to compare these two sites and in
8 order to do that and in order to summarize your
9 evidence, you presented this Exhibit M-534?

10 A. Yes.

11 Q. That particular exhibit sets out
12 what you call the comparison elements, one of which is
13 the airport guidelines. I accept, I am not trying to
14 mislead you here, that you have always acknowledged
15 that these were in fact guidelines and the point that
16 you make is that Site F is within the guidelines, I am
17 sorry, complies with the guidelines and Site D does
18 not. I take it you mean to attach some importance to
19 that?

20 A. Importance to the extent that
21 within the context of those two sites, in evaluating
22 the guidelines and policies that are to be available to
23 various councils and the decision-makers, such as this
24 panel, it is an element that is there that gives some
25 guidance. As I indicated earlier, some carry more



1 import than others.

2 Q. Yes, but is the fact that this
3 particular guideline in this particular situation,
4 isn't the fact that that might be completely
5 insignificant a matter that you as a planner should
6 take into account, sir?

7 A. The element of insignificance is
8 not one that you raised with me before. I do not
9 believe it is significant in the sense that it is a
10 guideline, it is a public safety guideline that is
11 available. It is distributed to councils, decision-
12 makers for them to consider, so it is one that should
13 be considered.

14 Q. I take it then though that this is
15 something we are going to run into again and again in
16 your report. The guideline is there, it is described
17 and you apply it to these particular sites. Am I fair
18 in saying that having done that, you do not seek to
19 make a qualitative analysis about how significant the
20 guideline is to these two sites for comparison
21 purposes?

22 A. That is a fair statement.

23 Q. So when we read your conclusions
24 on this particular section at 3.3, if you can turn to
25 that particular page, it says there:



1 "A landfill site at Site D will attract
2 a substantial number of gulls to the
3 vicinity of Burlington Air Park, which
4 will increase the likelihood of aircraft
5 colliding with birds and pose a hazard
6 to safe air traffic movement from this
7 airport. The establishment of a
8 landfill at Site D is contrary to
9 Transport Canada's guidelines and the
10 Department has found the use of the site
11 for a landfill unacceptable."

12 In reading that particular conclusion, I
13 take it, sir, we are not to gather anything more, that
14 this is your conclusion or your firm's conclusion based
15 on the existence of the guideline and the documents
16 that you have looked at, not based on some independent
17 or qualitative assessment?

18 A. It isn't based on any independent
19 or qualitative assessment that we have done relative to
20 the safety measures. There is an assessment, a very
21 simple one as you have described, it is one site is in
22 an influence area and another is not.

23 Q. I take it we are really left to
24 the evidence that has preceded you as to whether or not
25 that is significant in any way at all?



1 A. That is true, yes.

2 Q. I would like to turn to the
3 provincial policies and to the Parkway Belt. As I
4 heard your evidence and as I read the report, Mr.
5 Stagl, I took it that you got some comfort from the
6 fact that the Minister of Municipal Affairs had issued
7 a letter that Site F is deemed not to conflict with the
8 plan?

9 A. It was one element of comfort, I
10 suppose, as you put it. It is not to take away from
11 my own interpretation.

12 Q. Can I ask you this, if a private
13 firm, a firm such as NSP had proposed to use Site F in
14 exactly the same way as the Region now proposes in this
15 hearing, would they have required an amendment to the
16 Parkway Belt West plan?

17 A. My own interpretation of it is
18 that it would have, yes.

19 Q. So here we have a situation where
20 two identical proposals would lead to very different
21 results in terms of the policy framework as you call
22 it. One would require an amendment and one would not.
23 One is deemed to conform.

24 A. If I understand your question, it
25 is the fact that here you have a use that in one



1 circumstance would conform and in the other wouldn't.

2 My understanding of it is that the reason one would is
3 that it is a non-public use, it would be a private use.
4 The whole intent of the Parkway Belt West plan was to
5 impose a provincial presence, a public presence and
6 influence in a corridor area for various objectives.
7 To the extent it was a private undertaking, there is an
8 element of non-conformity. It is not so much the use
9 itself.

10 Q. But the Parkway Belt plan, Mr.
11 Stagl, has many, many areas in it where private land
12 holdings are tolerated, indeed they are incorporated as
13 part of the plan, are they not?

14 A. Very much so and very tightly
15 controlled.

16 Q. So the plan is really a
17 combination of private and public uses. In this
18 particular case we have the Minister saying that to the
19 extent that this is a public use, it is deemed not to
20 conflict with the plan. The point I am getting to is
21 this: here we have a situation where from a planning
22 point of view, the precise same use may be put on the
23 precise same area and yet one requires an amendment or
24 a change to this policy framework and the other does
25 not. As a planner, is that not an anomalous



1 situation?

2 A. Not at all. The objective of the
3 Parkway Belt policy of the province is stated in the
4 outset of the Parkway Belt. These are essentially to
5 be public use areas and various descriptions are
6 complementary. Essentially this is to be a public use
7 corridor for various objectives. The fact that this
8 public use would conform, that is very consistent with
9 the province's intent of locating uses like that in the
10 corridor, to make land available for uses of that
11 nature.

12 The objective is not to provide for a
13 number of private undertakings, the plan obviously
14 recognises a number of private interests and tightly
15 controls that. I don't see any inconsistency at all.

16 Q. Let me approach it this way then.
17 Does it matter to you, sir, as a planner, I think you
18 began by saying to us that it was significant to you
19 that one site seemed to require changes in the policy
20 framework, whereas the other did not.

21 A. That is one of the elements that I
22 had expanded to the Board, looked at various things and
23 those were conclusions that I had come to and I have
24 taken those conclusions a step further. One of the, I
25 think, very significant outcomes of this, is that there



1 is a site that can proceed without any amendments being
2 required. It is a very significant conclusion.

3 Q. That particular conclusion in this
4 case seems to relate not so much to the actual use that
5 is going on, but really to the nature of the proponent
6 of that use?

7 A. Which is clearly reflected in the
8 plan's objectives and goals, those objectives, yes.

9 Q. Now, one of the things that in
10 discussing this matter with Ms. Cronk that you seemed
11 to conclude was that we actually have here a promotion
12 of the plan. It is something, placing Site F at this
13 particular location, promotes the plan because it is
14 one of the four stated goals of the plan.

15 A. In the context of Ms. Cronk's
16 questioning, that is certainly one element of it.
17 That comes in fact in the interpretation of the goals.
18 As I understood the questions to me this morning, there
19 is an element of this use being brought forward,
20 reinforces, answers a question today as to what is
21 going to happen with that parcel of land in terms of
22 the Parkway Belt. The answer is in the short term it
23 would be used as a public use, that is in the form of a
24 landfill requirement, a large land area. In the long
25 run it will be going to recreational use, which is one



1 of the stated and unstated objectives of the Parkway
2 plan. It would be the thrust of the Parkway Belt
3 plan. That, I think, is bringing it, if you will, to
4 fruition, objectives and intent of that policy.

5 Q. Do you agree with me, Mr. Stagl,
6 that the Parkway Belt plan is actually a fairly
7 complicated planning document and it refers to a number
8 of different uses within the plan?

9 A. I am not certain how you mean
10 complicated. From the private sector's point of view,
11 having represented a number of people seeking
12 amendments to it, it sometimes seems complicated. As a
13 land use plan, as a policy, it is fairly direct.

14 Q. Let me put it to you this way, the
15 four goals you have referred to for the Parkway Belt
16 West plan, would you agree with me that those
17 particular goals and objectives are not necessarily
18 applicable to all areas covered by the plan?

19 A. I am not certain I quite
20 understand your reference.

21 Q. Your theory seems to be that if it
22 is any one of these goals, and if it is within the
23 plan, it promotes the plan. Is that fair? Can we
24 agree on that? That is how I heard your evidence.

25 A. Let us go to the objectives, the



1 goals you are speaking of.

2 Q. That is at page 8.

3 A. Correct.

4 Q. And at page 9. One of the
5 paragraphs I was thinking of was the second paragraph
6 on page 9:

7 "Because the Parkway Belt is multi-
8 purpose in nature, not all the
9 objectives are necessarily applicable to
10 all areas covered by the plan."

11 A. Yes.

12 Q. Do you accept that as a basic
13 policy statement?

14 A. Certainly it is in written form.

15 Q. Mr. Stagl, not to be complicated
16 about this, are there parts of the plan, sir, that are
17 primarily intended for transportation, utility uses,
18 other parts of the plan primarily intended for open
19 space and recreation areas? Other parts of the plan
20 are a combination of those different things; isn't that
21 so, sir?

22 A. Certainly there are some areas
23 that serve more specific functions and there are areas
24 that as the objective says, it is multi-purpose in
25 nature. I don't have any argument with that



1 statement.

2 Q. Do you agree with me that because
3 it is multi-purpose in nature, even some of the stated
4 goals within the plan aren't necessarily consistent one
5 to the other. For example, the desire to use part of
6 the plan for transportation or a utility corridor may
7 be inconsistent with the desire to use it for an open
8 space or park use?

9 A. May be, yes.

10 Q. In deciding whether a particular
11 proposal promotes the plan, wouldn't a planner want to
12 look at the specific setting that the site is in and
13 look to how it fits into the fabric of the plan at that
14 site?

15 A. Yes.

16 Q. Isn't it true that this particular
17 site is designated both special and complementary use
18 areas?

19 A. That is correct.

20 Q. Isn't it true that in the plan
21 itself the anticipation was that at least some portions
22 of this particular property would go into a different
23 forum of development, such as industrial, along the
24 North Service Road?

25 A. Subject to studies, there was that



1 opportunity, yes.

2 Q. Can you tell me, sir, in this
3 context we have here the situation where we have a park
4 on one side of the proposed site and we have what will
5 soon become a park on the other side of the proposed
6 site. Can you tell me, as a planner, doesn't that
7 indicate to you that the presence of a landfill site in
8 this area, in this part of the Parkway Belt plan may be
9 inconsistent with the uses on either side,
10 incompatible, to use your language?

11 A. Not at all.

12 Q. Why do you say that?

13 A. The premise of your statement, as
14 I understand it, is that the landfill would be
15 incompatible with the park uses.

16 Q. Right.

17 A. It is not a statement that I can
18 accept. I expanded on that this morning to some
19 extent.

20 Q. Right. You think that having a
21 landfill site right next to a park is a perfectly
22 compatible set of land uses?

23 A. I think, as I indicated this
24 morning, the landfill in this park..... is yes, in the
25 short-term and in the long term.



1 Q. In the short-term, sir, we have
2 heard that this park, which is intended for uses such
3 as picnicking, I am speaking now of the existing site,
4 will at times be located within approximately 30 metres
5 of the active landfill. If I recall the evidence
6 correctly, there is also some indication it will be
7 elevated above that and be looking into it. Do you
8 believe that picnicking and landfilling activity are
9 compatible in that sense?

10 A. I think as I indicated this
11 morning, the dominant uses of this park, what I
12 understand to be in the long range, at the Burlington
13 landfill is principally as passive, and that can
14 include picnicking. The activities thus far that are
15 located in that area are things like model airplane
16 flying and rifle shooting and that type of thing, that
17 in the short-term these uses can be compatible.

18 In the long term it will result in,
19 assuming it continues its use as a passive area, a much
20 larger park setting, which is very compatible. In fact
21 it would be considered an infilling of park elements.
22 That too would be compatible, consistent with the
23 intent of the Parkway Belt West plan.

24 Q. We seem to have mixed two concepts
25 here and I want to get this clear. Ultimately and



1 after everything is rehabilitated, I am prepared to
2 agree with you that we will have a series of
3 complementary use areas. Do you not think there is a
4 short-term impact in imposing a landfill site between
5 these two recreational uses?

6 A. Not for all the uses that are
7 located in that park right now. There may be a
8 disruption to picnicking opportunities, especially
9 during the week during the operation of the landfill,
10 but no, to the general uses that are now going on at
11 that site and are contemplated for that site, it would
12 not be incompatible.

13 Q. Right. I have your opinion. I
14 take it sir, to that extent you are prepared to say
15 that the inclusion of this site within the Parkway Belt
16 is actually, as you indicated to Ms. Cronk, an
17 achievement of its purpose?

18 A. It is an achievement, a
19 furtherance of the intent, yes.

20 Q. Would you agree with me, and I
21 will put this in the hypothetical so we don't get
22 caught up in this particular setting. Would you agree
23 with me that the mere inclusion of a land use within
24 the Parkway Belt, even if it achieves one of the stated
25 goals, does not necessarily mean that that use is



1 consistent with what is around it?

2 A. If the question is, as I
3 understand it to be, does that mean that a landfill
4 would be appropriate anywhere in the Parkway Belt, then
5 the answer is no. There certainly still are
6 considerations of this particular setting, particular
7 circumstances.

8 Q. Let us see how far we can carry
9 that. I take it then that just as we had in the
10 federal context, a particular guideline and it meant
11 something to know whether it affected a particular site
12 or not, is this another situation, sir, where you have
13 this policy regime and again it is significant to know
14 whether a site comes within it or is outside of it. It
15 is also important, do you agree, as a planner, to look
16 at the specific setting, and to make some kind of a
17 qualitative analysis as to how that use will fit into
18 that setting?

19 A. I understood your question to have
20 two elements and I wanted to be sure I had them clear.
21 In the context of the Airport Guidelines, the Parkway
22 Belt is a substantially different animal. This is one
23 that has a substantial political backing. It came
24 about as a result of a substantial study, review, it
25 has been placed by virtue of various regulations and



1 Cabinet decisions. It has been implemented and
2 enforced. It is something that generally no individual
3 or group can ignore. There is a control mechanism in
4 place and one must respect the policies in dealing with
5 land uses. To that extent there is a difference with
6 reference to the Airport Guidelines.

7 The second question, as I understood it,
8 goes to the qualitative assessment. It relates back to
9 the question you just asked. Yes, there is an element,
10 just because it may be considered a permitted use does
11 not mean that one, in particular in the context of the
12 environmental assessment, one would have to undertake
13 an evaluation, do an evaluation of the undertaking does
14 not mean that we simply want to go ahead and locate one
15 anywhere. It would still require review and
16 assessment of the circumstances and characteristics
17 related to that specific site.

18 Q. That review and assessment is
19 something that has been done or attempted by a number
20 of regional witnesses, and I take it, Mr. Stagl, you
21 will agree with me that that kind of an extensive
22 qualitative review is not something that you undertook
23 in this report?

24 A. As we indicated earlier, our firm
25 had not taking any biophysical, noise, dust, or any of



1 those elements of the assessment.

2 Q. So what we get is the fact that we
3 know that Site F will be within the Parkway Belt. We
4 know from your report that it is deemed to conform to
5 that planning schematic or planning framework?

6 A. That's right.

7 Q. That is what we know.

8 A. Well, sorry, go ahead.

9 Q. I take it that others, we will
10 turn to the evidence of others to do the kind of
11 detailed qualitative assessment that is required under
12 the environmental assessment process?

13 A. Certainly. I was going to add
14 that the other thing that you know from me is my
15 planning opinion of my evaluation of the site. That
16 being that it represents or has characteristics of a
17 best-site location.

18 Q. Could we turn to another aspect of
19 the Parkway Belt West plan. That is mentioned in your
20 report and that is the regulations. It begins on page
21 3-8 of the report. One of the conclusions that you come
22 to in this section at page 3-9 is that the regulation,
23 these regulations effectively preclude any extensive
24 urban development on lands in the vicinity of Site F.
25 I am referring to the first sentence -- I am sorry, the



1 second paragraph on page 3-9.

2 A. Yes.

3 Q. I would like to know whether that
4 is consistent, I take it first of all the vicinity as
5 used in that particular sentence, refers to the area
6 generally described in paragraph 1 on that page?

7 A. What we are saying is that this
8 regulation applies to the whole subject area, not just
9 Site F, it applies to surrounding areas.

10 Q. I think that's repeated in other
11 portions of the report. I won't ask you to return to
12 it, but you do make a statement at page 6-8 that the
13 North Aldershot planning district is not one that is
14 situated or contemplated for extensive urban uses at
15 this point in time?

16 A. That is correct.

17 Q. Is it fair, Mr. Stagl, in order to
18 get an impression of what is actually going on here, is
19 it fair to look at what the planning documents, such as
20 the Burlington Official Plan and the Parkway Belt West
21 contemplate for this area?

22 A. Certainly.

23 Q. May I turn you to page 6-10 of the
24 report and there you talk about the future development
25 envisaged in the vicinity of the site by the Burlington



1 Official Plan and by the Parkway Best West plan; do you
2 see that?

3 A. Yes.

4 Q. Do you see that what is involved
5 there is residential development and industrial
6 development along, in the areas that you have
7 described?

8 A. The residential development in the
9 Tyandaga community is that element I referred to this
10 morning, which is - if I can make reference to Exhibit
11 M-535, where I had been asked to measure the distance
12 to the residential community to the east and I had
13 noted a delineation to the existing, to the possible,
14 that is the Tyandaga community does follow along the
15 hydro right-of-way in that area. That is the
16 residential growth I was having reference to. The
17 triangle of land in fact involves not only this
18 triangle, but the Parkway Belt reference has reference
19 to this area as an industrial zone.

20 Finally, the infilling and completion
21 has reference to the industrial lands south of Highway
22 403 which I have mentioned this morning.

23 Q. Will you turn to page 5-2 of the
24 report? There you speak of the planning designations
25 in a little more detail. That is page 5-2. The last



1 sentence on that particular page states:

2 "A special policy in subsection 1.4.5 of
3 Part C suggests that recreational or
4 residential development may be allowed
5 on the lands located along the east side
6 of King Road when the workable pits on
7 these lands have been depleted."

8 A. That is correct.

9 Q. That I take it sir, is another
10 policy statement in this local policy framework. I
11 take it that is something different from what you have
12 just described on your map?

13 A. Not really. The reference I had
14 made, I think yesterday, is that there is in the
15 Official Plan, the Burlington Official Plan, this
16 subsection 1.4 dealing with specific proposals. It is
17 about a page, a page and a half of details related to
18 the North Aldershot planning area, which I had
19 identified yesterday as being essentially the area
20 outlined on M-535, north of Highway 403. I had also
21 noted that these policies had been incorporated in the
22 plan in 1969 when the original Official Plan amendment
23 was brought forward. To the extent that amendment 101
24 introducing the Parkway Belt West plan was introduced,
25 those policies have been superseded. Certainly there



1 is that reference in the plan that if there is any
2 question about intent or designation, that the Parkway
3 Belt West plan would prevail. So, to that extent, that
4 reference now in that subsection, in this report, I
5 simply make reference to the policies that are there.
6 That part of the plan that calls for recreational or
7 residential development in order to be consistent with
8 the Parkway Belt West plan would require, the
9 recreational would certainly be permitted and the
10 residential, according to the Parkway Belt West is
11 subject to an amendment being successfully achieved to
12 the Parkway Belt West Plan and maybe other documents
13 would be limited to one house on a single lot. To that
14 extent there is no major residential development
15 immediately east of the site.

16 DR. KINGHAM: Can you give the Board
17 some sense, are you talking about the entire east side
18 of King Road or --?

19 THE WITNESS: East of King Road there is
20 the active NSP quarry site, but there are some areas
21 just to the north of that that appear to have been
22 extracted or worked on in previous years. There is
23 certainly nothing active. Actually, if I use M-103, it
24 shows it somewhat better. This is the active area of
25 the extraction. You can see a little bit of infilling



1 in this area. There appears to have been in this area.
2 The plan when it was done in 1969 spoke essentially of
3 this area to the east of King Road.

4 DR. KINGHAM: When you are referring to
5 this area on M-103, you are referring to the area east
6 of Bayview?

7 THE WITNESS: East of Bayview Park and
8 the area subject of the NSP quarry, a little area to
9 the north of it. That policy had reference to, in the
10 long run, once that extractive industry was gone and
11 there are policies in that section dealing with
12 extractive industries. It gave the indication that
13 the long-term use would be recreational and to the
14 extent the Parkway Belt has now come in, it is
15 effectively recreational unless there is one house
16 located on it. To that extent it could be residential,
17 but more likely it would be recreational.

18 DR. KINGHAM: If I understand these
19 words in the context of your Exhibit M-535, it would be
20 to say that Tyandaga, to which you referred earlier,
21 could be filled in in yellow? To the hydro line. The
22 triangle to the south could be filled in?

23 THE WITNESS: Industrial.

24 DR. KINGHAM: What you say here is the
25 development of the triangle of lands south of Highway



1 403 and the CNR railway line, that would be filled in
2 or could be filled in with blue?

3 THE WITNESS: Could be, knowing the
4 land ownership patterns and the plans of people. It
5 may not be the case, but it may be, yes.

6 DR. KINGHAM: And south of the track
7 could be filled in where it is not filled in, could be
8 filled in with yellow on the easterly side and blue on
9 the westerly. I am just trying to understand the
10 import of your words on page 6-10. I just want to make
11 sure I understand.

12 THE WITNESS: Yes, in this area here and
13 potentially residential.

14 MR. TZEKAS: Q. Mr. Stagl, doesn't the
15 Parkway Belt West plan contemplate some industrial
16 forms of development on the site itself?

17 A. In this vicinity here, fronting on
18 the North Service Road, there is some low intensity
19 industrial development. Yes. Subject to study.

20 Q. Right. Subject to study. Fair
21 enough. Am I right in thinking that that area or that
22 designation through which that property or that
23 industrial usage can be put extends really about half-
24 way up the site?

25 A. The special complementary use area



1 extends approximately 600 metres north from the North
2 Service Road. I don't know that you could take as a
3 given that the industrial would go that far,
4 particularly given that it is a provision that would
5 have to be studied, part of that would have to be
6 looked at, the impact of the land features, how far you
7 can go. There are certainly some physical constraints
8 on the site to take it much further than the area
9 immediately fronting on the North Service Road.

10 Q. Would you agree with me, sir, that
11 the presence of a landfill is inconsistent with that
12 particular contemplation.

13 A. No.

14 Q. The landfill is not inconsistent
15 with the industrial uses?

16 A. You have landfill industrial uses
17 right now in proximity to each other. The two uses,
18 they are not inconsistent uses at all.

19 Q. So we have then your theory that
20 that is another example of uses that are not
21 incompatible to a landfill?

22 A. Yes.

23 Q. To that extent I take it that even
24 though the Parkway Belt West plan when it was enacted,
25 contemplated some industrial uses along the North



1 Service Road, the p. esent proposal you say is not
2 inconsistent with that?

3 A. I am sorry the present?

4 Q. The present proposal?

5 A. Is not inconsistent, that is
6 correct.

7 Q. One of the things that was
8 mentioned during all of this, Mr. Stagl, was the notion
9 that these plans, regulations and policies do change
10 from time to time and I take it sir, as a planner, you
11 would agree with that simple proposition?

12 A. That is true.

13 Q. Indeed I notice from reading your
14 list of involvements, that you in fact even in this
15 region were involved on behalf of Mack Canada, in
16 getting a major portion of the Parkway Plan changed?

17 A. I don't know if it was major, it
18 was not that substantial in size.

19 Q. Am I not reading it correctly, it
20 was 600 acres. I may be incorrect. I'm sorry. Mack
21 Canada, you were acting for this company for an
22 amendment to the Parkway Belt regulations for a 60,000
23 square foot plant expansion?

24 A. That is correct, and in order to
25 do a 60,000 square foot plant expansion on land that



1 they currently had, they needed land to expand their
2 parking facilities. They would be displacing parking
3 facilities and that required, if you can imagine going
4 along the QEW, where the Mack Canada plant is now.
5 Just to the east of the plant, there is a large truck-
6 parking area. About one-quarter of it to the furthest
7 easterly extremity was Parkway Belt land. It was
8 Parkway Belt land that came down the QE and we got an
9 exemption for Mack Canada from the province to allow
10 parking there of some of their trucks on that land.

11 Q. The point I am making, and I don't
12 know if you will be able to agree with me or not, Mr.
13 Stagl, is this: these policies and these plans are not
14 sacrosanct. They are subject to change. Would you
15 accept that, sir?

16 A. They are not sacrosanct to the
17 extent that they are not frozen in time or buried in
18 concrete or various other descriptions that people
19 misconstrue about the planning process. The planning
20 policies are, to use the jargon, living documents. They
21 are always subject to review. The Act in fact requires
22 them to be reviewed on an ongoing basis, at least every
23 five years, to be monitored as to their success. In
24 many respects, yes, there are fine tunings of the
25 plans, all of which go through extensive studies and



1 public meetings and reviews.

2 To that extent, yes, there are changes.
3 Sacrosanct is an interesting term in my mind. The
4 basic intent, I think, once established, becomes
5 sacrosanct in that there is a considerable onus to look
6 at a policy departure, onus in the sense of justifying
7 it. Sacrosanct in the sense of intransigent, no the
8 plans are living documents. They do change to reflect
9 changing times.

10 Q. To the extent that change can be
11 justified, it is possible to have that change effected?

12 A. That is correct.

13 Q. I would like to turn to the Food
14 Land Guidelines for one moment. I am sure Mr. Lederer
15 is going to review these in more detail, but I will
16 just deal with them very briefly.

17 First of all, what category would you
18 place these in, sir? Are these more like federal
19 guidelines or they like Parkway Belt regulations?

20 A. They are somewhere in between. I
21 am certain the Ministry would love to comment on that.
22 They have in the initial instance, the status of simply
23 guidelines. They have in the second instance, a little
24 more clout in the sense that they were given Cabinet
25 approval and weight.



1 They have additional weight in the sense
2 that they are the subject of current regulation
3 formulation; that is there is an expectation that these
4 guidelines will now be coming forward and form under
5 the Act, a series of policy regulations with the weight
6 of the Planning Act behind them. So they are somewhere
7 in between.

8 Q. Is it fair for me to say that in a
9 general way, these guidelines contemplate the possible
10 disruption of existing agricultural activity by
11 competing for non-compatible land uses?

12 A. I am not certain I caught the
13 beginning of your question. Contemplate that?

14 Q. In the guidelines themselves there
15 is an acknowledgement that it is possible for
16 agricultural uses to be affected by competing for non-
17 compatible uses. What the guidelines set out to do is
18 say, as I understand it, that if you are going to have
19 that kind of situation, it has to be justified.

20 A. Fair. I think I would put a . . .
21 little more weight on it. In the first instance, it
22 looks to the agricultural land as a valuable resource
23 and one to be protected. That is in the first instance.
24 To that extent it establishes policies as to how lands
25 are to be identified, so that various parties,



1 municipalities, property owners, know what that
2 resource is.

3 In the second instance, reflecting the
4 support of that intent, it looks to directing non-
5 agricultural uses away from that reserve. It talks of
6 locating development of non-agricultural uses on
7 marginal lands, different elements, different areas.

8 In the third instance it then looks to,
9 if there is a need to remove any of that land from the
10 resource, here are the conditions or the methodology,
11 the mechanisms under which that is to be reviewed and
12 assessed. There are elements of justification, need,
13 looking at different areas, quite a few policies set
14 out as to what the individual, the proponent, the
15 municipality under the circumstances, what they should
16 look at to prove. I think your characterization is
17 fair in that it probably reflects that third element,
18 but there are the first two elements. It looks to
19 preserve it first very strongly and then secondly it
20 looks to reinforce that by directing non-agricultural
21 uses away from it.

22 Q. One of the first of your many
23 conclusions was that the evaluation process undertaken
24 by the Region in this case was a reasonable one, one
25 which had been reasonably applied?



1 A. Yes.

2 Q. I take it, Mr. Stagl, that you are
3 familiar with the fact that the Region in undertaking
4 this particular process did in fact have reference, or
5 at least a number of their experts at least, did in
6 fact have reference to these very guidelines?

7 A. They did, yes.

8 Q. Am I reading too much into your
9 statement, I assumed that when you said the process was
10 reasonable and reasonably applied, that you had
11 concluded that the Region's witnesses had in fact paid
12 proper attention to the Food Land Guidelines?

13 A. Yes, and to the extent that the
14 outline of the assessment, Site F came forward as the
15 preferred site. Again as part of my response that it
16 was a reasonable process, they looked at all the
17 elements, it was reasonably applied and it was
18 consistent with what my outcome was.

19 Q. They had in an earlier stage, Mr.
20 Stagl, five sites, all of which were probably to one
21 degree or another in prime agricultural land and their
22 process, including their reference to these guidelines
23 brought them to that point. The point where they had
24 five sites, potential sites within that area, and one
25 site which was not?



1 A. Yes.

2 Q. It take it, sir, that you would
3 agree with me that the Region does or did do in this
4 particular case, what the guidelines suggested; that is
5 they took the agricultural policies into account and
6 even having done that, they got to a stage where they
7 had six alternative sites, five of which were in an
8 agricultural area. Fair enough?

9 A. That is fact. I am not certain if
10 there's any opinion involved in that.

11 Q. Your opinion was that that was
12 reasonable?

13 A. Yes.

14 Q. It was a methodology which was
15 reasonably applied?

16 A. Yes.

17 Q. Now, Mr. Chairman, I don't have
18 too much longer, but I am wondering if this would be a
19 convenient time to break? I will be another twenty
20 minutes.

21 MR. LANCASTER: If you wish to continue.

22 MR. TZEKAS: It's up to the Board.

23 MR. LANCASTER: Continue.

24 MR. TZEKAS: Q. Mr. Stagl, given the
25 process which the Region adopted and the conclusions



1 that they came to with respect to agricultural land and
2 how they, how those types of lands might be used for
3 waste disposal facilities, I read your interpretation
4 as something different. I would like to outline it for
5 you and you can tell me whether I am right or wrong.

6 As I read your interpretation of these
7 policies, the agricultural considerations alone would
8 have eliminated Site D from the Region's consideration.
9 Let me add a qualifier to that. As long as there was
10 some alternative site to that in a non-agricultural
11 area?

12 A. Yes.

13 Q. So you view these particular
14 guidelines as being that strong in force that they
15 would eliminate the consideration of waste disposal
16 facilities in any agricultural area as long as there
17 was one alternative in a non-agricultural area?

18 A. I would have to say that the
19 Ministry has trained me well in that respect. They
20 feel that strongly about it.

21 Q. In your work, Mr. Stagl, have you
22 ever been retained to seek an amendment to an
23 agricultural land use designation or zoning?

24 A. We have done justification
25 studies, yes.



1 Q. As a result of those justification
2 studies, sir, I take it you have at least in some
3 circumstances in your professional experience, been a
4 part of a process that sees agricultural land turned to
5 something else?

6 A. Yes.

7 Q. In this particular case, I take it
8 what I am hearing is there really is no justification
9 for doing that as long as any alternative site exists?

10 A. I think the guidelines are quite
11 clear. If there are alternatives to be considered,
12 the priorities should be given to the agricultural
13 resource, protecting the agricultural resource.

14 Q. Now, one of the matters that I
15 didn't hear mentioned in our particular report or
16 didn't read, were the statements or policies relating
17 to mineral extraction, sir. I notice on your list of
18 documents that that was one of the exhibits that you
19 did not have reference to. I am speaking there of
20 Exhibit H-305.

21 A. I may have missed something. In
22 the midst of it all, I did overlook that. No, I am
23 familiar with that, I have reviewed the policy.

24 Q. Am I right in thinking that that
25 is a policy statement that has in fact been passed



1 under the Planning Act?

2 A. Yes.

3 Q. I take it, sir, that that is
4 something which would put it on a higher plane than the
5 Food Land Guidelines?

6 A. Certainly in terms of the Act
7 today, yes. In terms of practice, the guidelines are
8 given equal weight.

9 Q. In reviewing this regional policy
10 framework, Mr. Stagl, why would no reference be made to
11 this particular policy when you are dealing with a site
12 that has a mineral resource on it?

13 A. Well, I think that is quite self-
14 evident. In my review of the various policy documents
15 in place, you have the Halton Regional Official Plan,
16 which for this area reflects the Parkway Belt. You
17 have the local Official Plan reflecting the Parkway
18 Belt and that really is the prevailing policy. The
19 element of, the mineral aggregate policy, certainly in
20 the context of Regional Official Plan and their
21 policies and in terms of the policy itself, to my mind
22 were secondary. I reviewed the policies in that
23 context, but it was the Parkway Belt that directed me
24 as to the applicable policies.

25 Q. Do you think that the Parkway Belt



1 document is a complete answer to the provincial
2 policies with respect to aggregate resource. You
3 don't think these two documents co-exist some way?

4 A. Certainly they co-exist but to
5 that extent, as I say, I did look at the policy and
6 satisfied myself there was nothing inconsistent between
7 the two and the Parkway Belt was really the primary
8 policy direction.

9 Q. That is the reason you didn't give
10 it a mention in your report?

11 A. That is correct.

12 Q. I take it that your conclusions
13 with respect to whether aggregate could be removed here
14 consistently with the presence of a landfill site, I
15 take it that was information that came to you from
16 others, you didn't do that assessment, correct?

17 A. That is correct, yes.

18 Q. Am I also right in thinking, Mr.
19 Stagl, that with respect to agriculture and your
20 conclusions how Site D might be adversely affected by
21 the proposal, am I right in thinking that you rely on
22 Mr. Hoffman and his report in support of your
23 conclusions?

24 A. Certainly to the extent that Mr.
25 Hoffman directed his attention to the physical elements



1 of the site and the physical capability. That provided
2 sufficient information to me.

3 Q. Do you have any independent
4 expertise in this area?

5 A. In soil capability, no.

6 Q. Do I understand then, Mr. Stagl,
7 that what you were doing in this case was really
8 consistent with what was done in the earlier stage of
9 the report? That is, you were looking at the
10 particular policy guidelines and looking at the various
11 reports that had been written. On that basis, you were
12 commenting on the applicability of the guidelines to
13 either one of the sites?

14 A. The applicability and the outcome,
15 yes.

16 Q. You make a statement at page 3-16
17 of the report that the presence of a landfill site, I
18 don't think you need to read it specifically, but it's
19 to the effect that the presence of a landfill site will
20 create pressure for adjacent lands in this area to move
21 into non-agricultural production.

22 Can you tell me what studies you did to
23 arrive at that particular conclusion?

24 A. That was based on knowledge that I
25 have working with the Ministry, inputs we have had on



1 various other studies. There was no specific study
2 related to this site. I did not, as an example, myself
3 go and speak to the individual property owners in and
4 around Site D.

5 Q. I take it though, Mr. Stagl, that
6 from your qualification, that you have not worked with
7 a landfill site?

8 A. Not specifically with a landfill
9 site, no.

10 Q. What specific pressures a landfill
11 site might exert on an agricultural area is something
12 you haven't studied specifically?

13 A. The characteristics would be
14 similar to the introduction of many non-agricultural
15 uses in terms of just the traffic, the change in land
16 use, the elements of the community, that an
17 agricultural community goes through. All of those are
18 consistent with other non-agricultural type uses and
19 the impacts are the same.

20 Q. That is, if I may call it this, a
21 sort of generic analysis you are prepared to make?

22 A. Yes, based on my familiarity and
23 workings with the Ministry on other projects, yes.

24 Q. I take it to some extent, sir,
25 your analysis and your conclusions are based on the



1 notion that the landfilling activity is essentially
2 urban in character?

3 A. I don't know if it is in
4 character. It is certainly in terms of intensity. It
5 brings in a built form that is not characteristic with
6 the surrounding area. It brings in an activity that is
7 more intense in many respects than would be going on in
8 the agricultural community. There is a lot of coming
9 and going, daily activity that you wouldn't find in the
10 farming community. To that extent it is different.

11 Q. You referred to this as a farming
12 community. Did you make any studies to determine what
13 kind of urban pressure these particular lands are under
14 at the moment, quite aside from this particular
15 proposal?

16 A. You mean in terms of a development
17 activity or application? I am not certain I understand.

18 Q. That kind.

19 A. There are a number of elements.

20 Q. I think that is one of the
21 elements and did you look at that?

22 A. Yes, there is a circumstance here,
23 perhaps as Mr. Zsadyi had indicated in his evidence,
24 there was fairly minimal evidence of development
25 activity. The town has been quite consistent in terms



1 of maintaining its severance policy. There are one or
2 two cases that have slipped through, there are a number
3 of lots of record they've inherited. As a result of
4 that they see some activity going on. There's no
5 indication of any increased pressure in the sense of a
6 number of speculative applications in and around the
7 community.

8 Q. Do you know who the owners of the
9 lands at Site D are, sir?

10 A. Not personally. I have seen the
11 names on the various background technical reports and
12 documents.

13 Q. Aren't some of the names the names
14 of holding companies?

15 A. There are absentee ownerships,
16 yes.

17 Q. Isn't absentee ownership, holding
18 company, acquisitions an indication of urban pressure?

19 A. Not necessarily. It may be in the
20 minds of the owner. We have had a number of
21 interesting discussions about this in different forums.
22 The mere fact that there is a speculative ownership
23 does not mean that there is speculative pressure. It
24 may be in the minds of those individuals, but clearly
25 in terms of consistent record, both the Region and the



1 Town have shown a very consistent record in and around
2 Site D and around that whole community for the last
3 decade and a half, two decades -- the town's
4 initiatives, the Region has very strong policy
5 statements incorporated in the Official Plan. The
6 Parkway Belt came out and there was some side reference
7 to a Milton development area. They took an extreme
8 concern with that, incorporated references in the
9 Official Plan to take away from that. I wouldn't say
10 it is an area rife with development pressure. It may
11 have some absentee ownership, but frankly that is
12 happening in a lot of areas throughout the province,
13 especially near urban shadows. There is a lot of
14 leased farming going on.

15 Q. Given the vigilance of the
16 municipalities in protecting this, you perceive to be
17 this agricultural character. Why would that change at
18 all with the presence of a landfill site at Site D?

19 A. It introduces in the middle of the
20 setting, you must understand, perhaps with reference to
21 Exhibit M-531, the circumstance that we have is that we
22 have really in the urban shadow, a very large
23 agricultural community that is bordered by urban
24 development to the south, urban development to the east
25 in the form of Mississauga, and it is very slowly



1 creeping its way up towards Highway 401 in this
2 vicinity.

3 You have further to the north and west
4 the land capability has become less, it's not as
5 productive, it is not Class 1 and 2. You have a pocket
6 of prime agricultural land in this area. What you
7 have in effect is the introduction right in the middle
8 of it, not on the perimeter, not on the edge somewhere,
9 not adjacent or associated with some other type of use,
10 you have right in the middle a non-agricultural use
11 introduced. It simply changes the circumstances and a
12 new presence on the horizon so to speak. Not so much
13 the visual element, but it is a non-agricultural
14 element that is introduced, that is quite prominent,
15 people are aware of it. There is a coming and a going,
16 it is an activity with an intensity with it which tends
17 to just change the community. It makes it a little
18 more vulnerable to change, if this one intense activity
19 can come in, perhaps other intense activities can come
20 in. I think that is one of the elements the guidelines
21 looks to. It tries to keep a continuity, a consistency
22 in the communities so that those farming communities
23 stay established.

24 Q. You don't think the municipalities
25 in those circumstance would be as able to resist and



1 uphold, resist the urban pressures and uphold their
2 agricultural policies?

3 A. I don't know, it all depends on
4 the final vote. At this level, both our levels have
5 been very, very consistent, but it may be possible for
6 them to continue being very consistent, even with the
7 introduction of this. What I am saying is that it is a
8 departure, it is a change. It begins adding more
9 elements of inconsistency that will eventually come
10 back to the councils that have to deal with them.

11 Q. Turn your mind now to the Ministry
12 guidelines that you referred to. I think you discussed
13 these to some extent. Will you agree with me, sir, as
14 you did with Mr. Tidball, that these guidelines are not
15 intended or not aimed at site selection, not policies
16 that are aimed at helping the Board decide which of two
17 sites it should pick?

18 A. These are the MOE guidelines?

19 Q. Yes.

20 A. That is correct.

21 Q. Would you also confirm that the
22 applicability of these various policies is the
23 sensitive lands and that definition is very broad.
24 Certainly it is not confined to residential property?

25 A. That is true. The sensitivity is



1 related principally to the compatibility, so that means
2 you are always dealing with two uses and the
3 relationship between them.

4 Q. Then, can I take you to page 3-33
5 of the report. Am I right in thinking that in your
6 appreciation and your application of these guidelines,
7 you in fact focused on residential uses and focused on
8 those uses within a very specific distance; that is the
9 500 metre distance?

10 A. That is correct.

11 Q. Mr. Stagl, I read this particular
12 conclusion as a suggestion from you that in light of
13 these guidelines, Site F was preferable to Site D? Did
14 I misread your report, sir?

15 A. If we are having reference to 3-
16 33, the last sentence in that paragraph, if there is
17 any question, may help to clarify it.

18 The sentence reads;

19 "Therefore, the establishment of a
20 landfill on Site F would have less of an
21 adverse environmental impact on
22 surrounding land uses than a landfill on
23 Site D."

24 The context of that statement is within
25 the context of the MOE guidelines. Again, as indicated



1 this morning, these are guidelines, scoped to some
2 extent. It really just deals with impact areas or
3 influence areas. In the circumstance, using a 500
4 metre, and it could be more, it could be less, but
5 using a 500 metre influence area, one has more of an
6 impact than the other. In that respect, quite similar
7 to the airport guideline.

8 Q. I took it from that that the
9 implication is that Site F would be the better site for
10 this landfill than Site D. That is what I concluded you
11 wanted us to appreciate by your analysis of these MOE
12 guidelines.

13 A. Certainly in the context of the
14 guidelines, in the context of any adverse impact, you
15 look at the two, F in that instance, and you have a
16 better location than D.

17 Q. Even though those particular
18 guidelines aren't intended to be used as you have just
19 used them?

20 A. No, I disagree with that. You had
21 asked me if the guidelines are meant to do a site
22 selection. The guidelines are not meant as criteria for
23 site selection. They are meant as guidelines to
24 compatibility. Dealing with compatibility, it gives a
25 framework in which to assess areas of influence and



1 degrees of compatibility. All I have done is that I
2 have shown on degrees of compatibility, one site has
3 more impact than another site. To that extent one is
4 potentially a better location. It was not on site
5 selection, I don't see the elements of site selection
6 in that conclusion.

7 Q. Mr. Stagl, at that point, sir, let
8 us just look at one element. Did you look at anything
9 other than houses in coming to your conclusion on how
10 the MOE guidelines related to these particular
11 properties?

12 A. No, the principal influence that
13 was assessed was the residential aspect.

14 Q. Did you look beyond the 500 metre
15 mark?

16 A. I am certain I did. I had some
17 awareness of both beyond 500 and less than 500. 500
18 was something that I tried to identify, it was the
19 distance I used to identify an influence in the report.
20 Certainly I looked at the larger area.

21 Q. It seems to me, Mr. Stagl, the
22 only thing you did was tell us there are more houses
23 within 500 metres of Site F than there are at Site D.
24 That may be entirely fair, sir, but I don't understand
25 how the MOE guidelines make any difference to that



1 conclusion at all. I mean I read your report as saying
2 to me look, one of the reasons you should prefer Site F
3 to Site D, is because it is more consistent with the
4 MOE guidelines. I am suggesting to you you can't use
5 the guidelines in that way and that was Mr. Tidball's
6 question to you.

7 A. In that respect I think I disagree
8 with you. It was not the position put to me by Mr.
9 Tidball.

10 Q. Now, one of the other elements
11 that doesn't appear anywhere in your report that I
12 could find was any reference at all to biophysical
13 issues, the natural environment?

14 A. Yes, sir.

15 Q. Am I right in thinking that in
16 coming to your particular conclusions, that entire
17 element of the analysis was ignored?

18 A. I am not certain I would call it
19 and describe it as being ignored. The environmental
20 assessment process was not attempted to be duplicated.
21 To that extent it wasn't included in the report.

22 Q. All right. I think that we are on
23 all fours on that one. Do you agree with me that in
24 doing an environmental assessment, not a planning
25 study, but an environmental assessment, that this Board



1 will want to be interested or should have some
2 reference to the biophysical and natural environment?

3 A. Certainly. I think that really is
4 the thrust of the evaluation of the undertaking in many
5 respects, as far as the environmental assessment
6 component is concerned.

7 Q. Do I take it then, sir, from that
8 particular answer that your assessment was not intended
9 to be an environmental assessment?

10 A. That is true.

11 Q. That your conclusions were only
12 focused on those planning, either the planning
13 framework or the planning elements that you considered
14 and that you don't extend your suggestion that Site F
15 is the preferred site beyond that context?

16 A. That is correct. My conclusions
17 were based on planning evaluation, planning assessment
18 and the environmental assessment.

19 Q. I have three little brief areas.
20 First of all you mentioned in your report waste
21 generation centroids. You made the statement that
22 those centroids are closer to Site F than Site D.
23 Where did you get that information from, sir?

24 A. That is on, based on no specific
25 calculation other than observation of proximity to the



1 urban areas and a basic understanding of some of the
2 traffic information that had been related to me in the
3 initial review of the assessment.

4 Q. Based on that conclusion -- sorry,
5 based on that analysis, you made the statement at page
6 4-11 that Site F is located closer to the centroid of
7 waste generation?

8 A. Yes, sir.

9 Q. That seems to be a very specific
10 statement. You were comfortable making that statement
11 based on the analysis you have described. Was there
12 anything else described in your thinking?

13 A. As I have indicated based on the
14 observation and based on the information provided to me
15 and the traffic reviews and assessment, the initial
16 work, I have made that observation and that conclusion,
17 yes.

18 Q. If that observation or that
19 conclusion was incorrect, I take it it would have some
20 influence on your report?

21 A. Well, it may, I am not certain,
22 the reference that you are looking at here deals with
23 the Region's waste management policies. I think, as I
24 have indicated earlier, those policies, while put
25 forward by the regional municipality are still the



1 subject of referral, so they technically are not
2 adopted policy. To the extent that there is or is not
3 conformity, that may not influence the outcome of my
4 observations. My observation essentially is based on
5 the policy that is in place. This I have mentioned in
6 that it is there, it is another element that in my
7 normal review, the same sense I looked at the guideline
8 policies in place, these were policies that were
9 put forward, I assessed them and made some
10 observations. They contributed perhaps in an overall
11 fashion to the conclusion, but they are not fundamental
12 to it.

13 Q. One last point and that relates to
14 the Milton zoning bylaw. Could you refer to Exhibit M-
15 533, please?

16 A. Yes, sir.

17 Q. Do I read this correctly as
18 suggesting that wherever a specific public use is
19 mentioned on this particular document, Section 3(16)
20 does not apply? I don't know whether I am making
21 myself clear, Mr. Stagl. Let us take a specific
22 example.

23 As I understood your evidence, Section
24 3(16), public uses were permitted in all of those zones
25 marked on the map unless they happened to be mentioned



1 in a specific zone and you have outlined those.

2 A. To use as an example, perhaps if I
3 could assist. Why don't we use the example of
4 armoury. In armoury, as a public use is only permitted
5 in the institutional I, the C1 and C2 zones. These,
6 but throughout any of those zones, those are the only
7 zones that an armoury as a public use is permitted.
8 Other public uses, save and except armouries, are
9 permitted in other zones and are also permitted in the
10 I, C1 and C2 zones. To the extent that a specific use
11 is identified, the by-law is structured so as to limit
12 that to be permitted only in the location in which it
13 is identified. That, in this instance, happens in the
14 I, C1 and C2.

15 Q. So using armouries as an example,
16 once it is specifically mentioned in some or all of
17 those zones, in this case three of them, I take it on
18 your theory, that removes armouries from that general
19 category section 3(16)

20 A. A little bit more than a theory.
21 That is the case, yes.

22 Q. And for landfill sites, sanitary
23 landfills, you say they are mentioned in one specific
24 type of zoning. Do I read this correctly as indicating
25 that it is only in that specific zone, in the A1 zoning



1 that landfill sites are permitted?

2 A. No, it is only in fact on that one
3 site, which happens to occur in the A1 zone. In the
4 same fashion that the Conservation Authority facilities
5 are only permitted on one site in the OSR zones and the
6 sewage treatment plant is only permitted on one zone, et
7 cetera. The way the by-law is structured, the general
8 provisions that apply to basic zones with the exception
9 of a technical and some fourteen specific uses that are
10 allowed throughout various zones, but selected zones
11 and then there are four specific uses that are
12 permitted only on specific sites. That is how Section
13 3(16) in general is applied.

14 Q. I would like to read that section
15 with you because I don't agree with your conclusion as
16 to how it should be read. Could you turn to page 42?

17 A. Yes, sir.

18 Q. You will note at page 42....

19 DR. KINGHAM: Exhibit number?

20 MR. TZEKAS: I'm sorry, H-325.

21 Q. Just incidentally while we are
22 waiting or searching for that, on your theory of the
23 case, Mr. Stagl, would the one specific location in the
24 Town of Milton zoning by-law which contemplates
25 sanitary landfill site be the most appropriate place



1 for the landfill site from this policy context?

2 A. Well, an interesting question. In
3 the sense that I think you have had evidence that it is
4 an inherited site and in the sense that you have had
5 extensive evidence that it is not even one of the
6 short-listed sites, I think the opinion would have to
7 be no, it is not to be considered as the most
8 appropriate site.

9 Q. Even though in this case it is
10 specifically referred to in the by-law and indeed my
11 recollection is designated under some of the Official
12 Plans?

13 A. That is correct, yes.

14 Q. So you are prepared to ignore that
15 policy framework for that particular example?

16 Do you have now, I take it.

17 A. I'm sorry, was that a question, it
18 sounded like a statement to me.

19 Q. You are prepared, the question is
20 you are prepared to ignore the policy framework in
21 connection with that specific?

22 A. I think prepared to ignore is an
23 unfair characterization. I have acknowledged it, I
24 have reviewed it, I have assessed it. It is not
25 applicable given the background. It is an inheritance



1 that by virtue of these hearings, has become very
2 apparent that it is not an appropriate site, it happens
3 to be a circumstance that is zoned and designated,
4 given another circumstance, a previous circumstance.
5 I wouldn't characterize it as ignoring it, I am
6 certainly aware of it. I have considered it. It is
7 not particularly applicable in the circumstance.

8 Q. All right. Fair enough. Now, do
9 you have the zoning by-law in front of you?

10 A. Yes, sir.

11 Q. Do you see there at (16)(a), which
12 is at page 42, there is a list of the public uses that
13 are permitted and that is the general category that you
14 were looking at?

15 A. That is correct, yes.

16 Q. Turn the page to page 43 and I
17 think this is the foundation of your theory of the
18 Milton zoning by-law. It talks about exceptions under
19 subparagraph (c) and it says:

20 "Where in this by-law under the heading
21 of uses permitted, a use is specifically
22 permitted in a zone which use without
23 such reference thereto would be
24 permitted in any zone (et cetera,)....
25 the provisions of paragraph (a) shall



1 not apply."

2 Sir, is that the subsection that you are
3 looking at to base this theory that if a public use is
4 specifically referred to in some other section of the
5 by-law, paragraph (a) doesn't apply to it?

6 A. Again, my comment would be as
7 follows. This is not a theory, it is an
8 interpretation, an implementation. It is, to my mind,
9 a fair one. It is based in part on that section as
10 well as the structure of the by-law and the consistency
11 that one finds throughout the by-law.

12 Q. Well, turn to the A1 uses and
13 those A1 uses are described at page 180 of this
14 particular zoning by-law. Do you have that, Mr. Stagl?

15 A. Yes, sir.

16 Q. Going back to the exception
17 provision, it says,

18 "Where in this by-law, under the heading
19 of uses permitted...."

20 Do you see the heading Uses Permitted
21 under the A1 zone?

22 A. I do, sir.

23 Q. Does that particular category
24 include or make any reference to the sanitary landfill
25 site?



1 A. That section makes no reference to
2 any site specific uses.

3 Q. Would you agree with me that under
4 the A1 agricultural zone, one of the uses that are
5 permitted are public uses in accordance with the
6 provisions of Section 13(6) thereof?

7 A. 3(16).

8 Q. I'm sorry, 3(16) thereof?

9 A. Yes, sir.

10 Q. The specific use, the specific
11 landfill use that you have described and is referred to
12 on M-533, doesn't, isn't included under the heading of
13 uses permitted, is it?

14 A. It is not in subsection 1 of
15 Section 32, no. Neither are any site specific uses
16 found under Section 1, subsection 1 of Section 32.

17 Q. Exactly. Isn't it then possible
18 for me when I read the plain words of subsection
19 (16)(c) to conclude that site specific uses were not
20 intended to be caught by that particular provision; is
21 that a possible interpretation, sir?

22 A. No, I would not see that as a
23 possible interpretation.

24 MR. TZEKAS: All right. Those are my
25 questions, Mr. Chairman.



1 DR. KINGHAM: I wonder if you can
2 clarify two things for us, one now and one later.

3 You made reference in your Exhibit M-529
4 on page 1-1 to map 1. This is M-531, actually map 1.
5 I didn't find a map.

6 THE WITNESS: Which page?

7 DR. KINGHAM: 1-1. That is your
8 introduction?

9 THE WITNESS: Yes.

10 DR. KINGHAM: You say these two sites
11 are identified on map 1 of this report and are you
12 referring to M-531?

13 THE WITNESS: Yes, M-531 or M-536 in a
14 larger scale, but yes, M-531.

15 DR. KINGHAM: I assumed it would be on
16 M-531 as you referred to both sites.

17 The second request for clarification
18 refers to M-531 and I wonder if you could over the
19 coffee break in some recognisable colour, having
20 reference to M-103, which is behind your M-536, draw
21 on, carefully and in scale, the actual Burlington
22 landfill fill area because I am a bit distracted by the
23 lines that you have drawn on called Burlington landfill
24 and I don't recall any evidence that relates to that
25 and I would like to see what it is in proportion.



1 THE WITNESS: Yes, sir.

2 MR. LANCASTER: Ten minutes.

3 --- Short Recess

4

5 --- Upon resuming

6 MR. LANCASTER: Mr. Lederer.

7 MR. LEDERER: Thank you, sir.

8 THE WITNESS: Should I perhaps explain
9 what I have done. On the request of Dr. Kingham, what
10 I have done is I have taken from Exhibit M-103 and
11 using an approximate scale and dimension in terms of a
12 scale of relativity, I have attempted to define the
13 fill area on M-535, as being this area outlined in dark
14 blue. There is to the south here, if you look at the
15 air photo, elements of activity. There is a road and
16 there is a loading and weighing area, whatever, I have
17 shown that in this area too, but the thick blue line is
18 the extent of the fill that is shown on the air photo.

19 MR. LANCASTER: I wonder if you could put
20 that on the legend somewhere.

21 MR. LEDERER: While Mr. Stagl is doing
22 that, perhaps I could indicate that early in my cross-
23 examination I expect to refer Mr. Stagl to the
24 following exhibits, H-32, H-33, H-35 and H-14. Also
25 Mr. McLeod's two motor vehicle studies, the Site D



1 noise study and the comparative study.

2 CROSS-EXAMINATION BY MR. LEDERER:

3 Q. Mr. Stagl, while those others
4 are.... I am sorry, we will wait for the chairman.

5 Mr. Stagl, I just have a couple of
6 introductory questions just to make sure that we are
7 starting in the same place. I am going to have to, I
8 think, from time to time refer to questions you have
9 already been asked and I apologise for that. For me to
10 make somewhat, I hope, different points, it may be
11 necessary just to make sure, to review some of those
12 answers. If I may start with the very first point
13 which you raised in your direct examination which has
14 been referred to a couple of times over the course of
15 the day, this was in your view, a reasonable process?

16 A. It was, yes.

17 Q. It has ended in a reasonable
18 result?

19 A. It did and it has, yes.

20 Q. That result has brought two sites
21 to this Board, what we have come to know as Site D and
22 Site F?

23 A. Yes, sir.

24 Q. From the Region's point of view,
25 at least there is a slight preference with respect to



1 Site F?

2 A. Yes.

3 Q. As I understand it, the bottom
4 line of your position here, having conducted a land use
5 analysis, is that Site F is the preferable site from
6 that perspective?

7 A. That is correct, sir.

8 Q. To put it in terms which I think
9 Mr. Leitch may have used with you, all other things
10 being equal, Site F is the preferred site?

11 A. Yes, sir.

12 Q. Am I right, sir, however, that you
13 recognise that there are other areas of concern, other
14 areas of study which need to be and have been examined
15 over the course of these studies and this hearing?

16 A. There do need to be other
17 evaluations, yes.

18 Q. And those evaluations, it is
19 possible at least in theory, might lead, looking at
20 them alone in the absence of considerations like land
21 use planning, to a decision that Site F is preferable,
22 that is possible, isn't it?

23 A. Yes.

24 Q. Therefore it's conceivable to put
25 this simply, that all other things are not equal?



1 A. In the evaluation element, all of
2 those, in the evaluation framework, all of those
3 elements have to be considered, yes.

4 Q. Therefore, it stands to reason
5 that it is conceivable at least that having to consider
6 all of those things, and we agree the Board will have
7 to consider everything?

8 A. Yes.

9 Q. Considering all those things, the
10 Board may determine that Site D is the preferable site?

11 A. They may determine that, yes.

12 Q. And you, as a land use planner,
13 would be, and this is the bottom line, would be
14 prepared to accept that decision because to quote you,
15 Site D can operate as a landfill site?

16 A. If that is the decision of this
17 Board, yes.

18 Q. And the process, you are not
19 prepared to disagree with that decision? It is a
20 little difficult to disagree with a decision that
21 hasn't been made yet, but you understand that would
22 still be the end result of this process and you
23 wouldn't want to set aside everything else you have
24 approved of on the basis of that decision, would you?

25 A. I am not certain I understand.



1 Q. The process would still be valid?

2 A. Oh yes.

3 Q. As a land use planner, am I right,
4 sir, that you have in the course of conducting your
5 work, considered some matters which are not directly
6 your own expertise; for example, traffic matters was
7 one matter that was referred to?

8 A. Yes.

9 Q. Would I be right in saying that
10 you have relied on other experts and other reports with
11 respect to that work?

12 A. Yes, sir.

13 Q. Would I be right in saying that
14 generally speaking what you have done as a land use
15 planner is first of all to consider what has become
16 known here as the policy framework, the policies that
17 apply to these sites?

18 A. Yes, sir.

19 Q. To do this job properly, could we
20 agree that you would have to consider all of the
21 applicable policies and make them the subject matter of
22 your consideration?

23 A. Yes, sir.

24 Q. As I understand it as well, you
25 have at least, as a result of having reviewed these



1 studies and from some site visits, considered not only
2 policies, but some other matters which I would consider
3 as on the land, the number of residents?

4 A. The concept is they do relate to
5 the policies, the policies establish the framework for
6 assessing.

7 Q. Ms. Cronk has referred you to some
8 specifics with respect to Site F and to a lesser extent
9 with Site D?

10 A. Yes, sir.

11 Q. What I want to do generally over
12 the course of this cross-examination, is to review a
13 particular point with you and I am going to try and
14 make clear what it is. What concerns me is not the
15 preference of Site F as we have agreed that is in fact
16 the Region's position here. What interests me is the
17 degree of difference your evidence seems to suggest as
18 between these two sites, or if you like the degree of
19 the inferiority of Site D, and that is what I want to
20 sort of review with you and I am going to apologise to
21 you and everybody again. To some extent this is going
22 to require me to review some of what Mr. Tzekas has
23 done and I apologise for that.

24 Before I get to that, what I would like
25 to do is look at Table 1 and just start with that. Can



1 we agree that it is on Table 1 that generally speaking
2 we see summarized the on the land type impacts that you
3 have reviewed?

4 A. Yes, sir.

5 Q. I would like to start with what
6 you have done with respect to traffic. That is on,
7 really the last item on the third page of the table?

8 A. Yes.

9 Q. Impact of vehicular traffic
10 generated by landfill?

11 A. Yes, sir.

12 Q. At Site D you say a moderate
13 impact because of a large number of dwellings on
14 properties fronting onto the portion of Highway 25 in
15 the vicinity of the site. That could be summarized, can
16 we agree, as a moderate impact?

17 A. Yes, sir.

18 Q. And Site F as a minimal impact?

19 A. Yes, sir.

20 Q. I would like to go to the
21 substantive discussion of this in your report and I
22 believe it is at page 4-14. Do you see that?

23 A. Yes, sir.

24 Q. There we have these three points
25 which lead you, I believe, to the conclusion there is a



1 moderate impact?

2 A. Yes, sir.

3 Q. The thing that concerns me is
4 there is nothing here with respect to the traffic
5 impact considerations at Site F, there is nothing like
6 that in this report, can we agree?

7 A. That's correct.

8 Q. Am I right that in looking at Site
9 D, first of all you relied generally on the work of Mr.
10 McLeod?

11 A. Principally, yes.

12 Q. And that is represented ultimately
13 in his study with respect to Site D, which is Exhibit
14 H-32, which I have asked everybody to take out?

15 A. Yes, sir.

16 Q. Could you take that out for a
17 moment and would you just go to pages 68 and 69, which
18 have the conclusions and recommendations with respect
19 to that study?

20 A. Yes, sir.

21 Q. Now, will you agree with me that
22 what we have here are first of all the main conclusions
23 of this study?

24 A. Yes.

25 Q. Ultimately those conclusions



1 reduce to an effect and impact level?

2 A. Yes.

3 Q. There is reference, for example,
4 to at least one of the points you have listed, which is
5 that Highway 25 will take a substantial amount of the
6 increase, correct?

7 A. Yes.

8 Q. What interests me about this is
9 that if you look at the effect and the impact levels,
10 every impact level is low, do you see that?

11 A. Yes.

12 Q. It would appear from that that Mr.
13 McLeod's analysis is that the traffic impact at Site D
14 is going to be low; do you agree?

15 A. Yes.

16 Q. You however, going back to Table
17 1, have told us that it is moderate; do you see that?

18 A. Yes.

19 Q. Can I assume from that, sir, that
20 you have done one or two things, either you have taken
21 Mr. McLeod's data, decided you don't agree with his
22 analysis and reworked it in some fashion?

23 A. Or...

24 Q. Or you have done an independent
25 study that nobody has seen?



1 A. We have reviewed.

2 Q. Or you made a mistake, that is the
3 other one?

4 A. Or -- we have reviewed Mr.
5 McLeod's work. Our own transportation group did do an
6 assessment and have done some work on their own in
7 evaluating his work. My conclusion is essentially
8 based on the review of Mr. McLeod's work and
9 discussions that I have had with our transportation
10 people; that is the moderate low and it comes to our
11 assessment from a planning perspective of the two
12 sites.

13 DR. KINGHAM: Can you explain that very
14 point a bit more. It is a point I have had trouble
15 with since I guess the first month of this hearing.
16 With respect to Site F, there are garbage trucks going
17 to and from the site?

18 THE WITNESS: Yes, sir.

19 DR. KINGHAM: That is to say the
20 Burlington landfill, and if Site F is selected, there
21 will be garbage trucks going to Site F?

22 THE WITNESS: Continuing to go there.

23 DR. KINGHAM: Continuing to go there,
24 therefore the change in impact from what exists now is
25 minimal, to use your language?



1 THE WITNESS: That is correct.

2 DR. KINGHAM: If you construct a
3 landfill at Site D, there will be garbage trucks going
4 to Site D, where there are not such trucks going now?

5 THE WITNESS: The introduction of
6 traffic.

7 DR. KINGHAM: Therefore there will be
8 an impact. What is in that latter scenario, the
9 positive scenario, if any, in the vicinity of Site F
10 and its environs if there are no longer garbage trucks
11 going to the Burlington landfill? I think I asked that
12 question of Mr. McLeod.

13 MR. LEDERER: It seems to me I've heard
14 that one before.

15 DR. KINGHAM: I wonder if that is part
16 of the analysis?

17 THE WITNESS: I am not certain what Mr.
18 McLeod answered. In part it is. It comes in part from
19 my own planning assessment. It is not part of the
20 environmental assessment, which is a very quantified
21 assessment, factors, features and numbers and that type
22 of thing. In the circumstance of F, yes you have the
23 background traffic right now relating to the landfill.
24 Even if you take that truck traffic away, my own
25 assessment is that you are in a circumstance which is



1 in very close proximity to roads of that nature that
2 can carry that type of traffic. That is the type of
3 traffic that you have on it right now. It can very
4 easily take the traffic, the impacts are fairly
5 minimal. Whereas in the circumstance of the
6 agricultural community, yes you are located on a
7 highway, but that highway has an established pattern
8 right now, commuting back and forth between Milton and
9 the urban area, this area, it is used in great part as
10 a circulation route for many of the farmers in the
11 farming community. The impact upon it has a slightly
12 higher level than it would in this area here. It is
13 simply the assessment that I have made.

14 DR. KINGHAM: I am sorry, Mr. Lederer, I
15 thought I had better get that out of my system early.

16 MR. LEDERER: If it has been there for
17 this long, it deserves to come out.

18 Q. Mr. Stagl, to the extent that your
19 analysis of Mr. McLeod's data differs from his own, we
20 don't have anything, any report or document which would
21 explain to us the difference, the reasons for the
22 differing result, do we?

23 A. No, the work that we had
24 undertaken found a fair amount of consistency with the
25 work of Mr. McLeod. There were certain areas that our



1 transportation people had differences on, but certainly
2 nothing substantial enough to warrant putting together
3 a report and disputing it. The overall effect was
4 consistent.

5 Q. Excuse me, it was different
6 enough, it appears, to change your analysis with
7 respect to Site D from low to moderate, wasn't it?

8 A. That was a planning assessment on
9 my own part. Part, as I said, came from Mr. McLeod's
10 work and part came from the advice of the
11 transportation people but also my own assessment of the
12 circumstance.

13 Q. Are you an expert in traffic
14 analysis?

15 A. No, I am an expert in land use and
16 the effects on it.

17 Q. What you are telling us in some
18 fashion is that as a land use planner, quite apart from
19 capacity of roads, quite apart from speeds which may be
20 travelled, quite apart from the number of trucks which
21 may appear, quite apart from the changes in these
22 numbers of trucks, you think there is a planning
23 difference in having these trucks go to Site D rather
24 than to Site F?

25 A. Well, I think your question is, is



1 there a planning element to roads and transportation
2 other than the capacity, and I think the answer to that
3 first question is yes.

4 In the second instance related to the
5 site, yes there is a difference between this setting
6 and the more rural setting of Site D, the traffic
7 circulation and patterns.

8 Q. So the difference is that one is a
9 rural setting and one is an urban setting, is that it?

10 A. Yes.

11 Q. So it is better to have trucks in
12 an urban setting than in a rural setting?

13 A. The capacity is there and the
14 circulation patterns are there. In the rural setting
15 you have, it is a different pattern. It is used, as I
16 indicated, flying back and forth between the two urban
17 areas, it not only serves that function but it also
18 serves the function of the circulation pattern for the
19 farming community. You are again introducing a more
20 intensive use or influence even on the road network.
21 That's the same analogy I was making on land uses,
22 applies to the road network, the more intensive
23 circulation pattern introduced into that segment.

24 Q. It would be more intensive or less
25 intensive. The use of traffic in the Site F setting,



1 if you were to make the kind of changes that he
2 suggests. Will you agree with me that really it is
3 very difficult to make this distinction between traffic
4 as a traffic issue and traffic as a planning issue, as
5 a land use planning issue?

6 A. There is no question there is a
7 distinction between them, yes.

8 Q. I suggest to you it is very
9 difficult to make that distinction, do you agree?

10 A. I think from the planning
11 perspective, it is not difficult for me to make
12 distinctions of that nature.

13 Q. Would you agree with me that
14 distinction is not made anywhere in this report?

15 A. No.

16 Q. Quite apart from that, then you
17 say your own traffic people did some work. Did that
18 have some impact on the different result from Mr.
19 McLeod's result?

20 A. Essentially, as I indicated, the
21 work they had done indicated a considerable degree of
22 consistency with his findings.

23 Q. From a traffic point of view as
24 opposed to a traffic/land use planning point of view,
25 in fact your people agree with Mr. McLeod's analysis



1 that the impact at Site D is low?

2 A. The overall effect of their
3 conclusion is consistent with his, yes.

4 Q. So the only basis for any
5 distinction between Mr. McLeod's conclusions with
6 respect to traffic and the conclusions as found in
7 Exhibit M-529, your report, is this planning aspect to
8 it?

9 A. Yes, sir.

10 Q. Now can we look at your three
11 reasons at page 4-13 on which you talk about this
12 impact at Site F. First of all:

13 "A landfill on Site D would result in a
14 3 per cent increase in heavy truck
15 movements, which is significant, whereas
16 the increase in heavy truck movements
17 along Dundas Street from a landfill on
18 Site F would be negligible;"

19 Can we agree that increase of vehicles in relation to
20 capacity is a matter for Mr. McLeod's area of
21 expertise? It is not land use matter?

22 A. That is true, yes.

23 Q. Can we look at now the second one:
24 "Major road widening would be required
25 to accommodate a new turn lane into Site



1 : D, a bypass lane for northbound traffic
2 and an acceleration lane for garbage
3 vehicles if a landfill were established
4 on this site;"

5 Do you see that?

6 A. Yes, sir.

7 Q. Would you agree with me the need
8 for additional capacity represented by a road widening
9 is something for Mr. McLeod's area of study rather than
10 land use planning?

11 A. Yes, sir.

12 Q. Let us look at the third one:
13 "The substantial increase in heavy truck
14 traffic on Highway 25 would potentially
15 adversely affect the existing
16 residential uses abutting onto the
17 portion of Highway 25 which would be
18 used to gain vehicular access to a
19 landfill on Site D."

20 Is this land use planning or traffic?

21 A. In part there is the traffic
22 element, there is a circulation and safety element that
23 transportation experts would look to. It also, in
24 part, reflects a planning concern in terms of general
25 circulation and land use patterns.



1 Q. So these reasons that you give us,
2 as the rationale ultimately for showing us a moderate
3 impact, if we look at Table 1, for the most part and
4 accepting that portion of the last one which you say
5 deals with land use planning, all deal with Mr.
6 McLeod's field of study, do you agree that is what you
7 have just told me?

8 A. Yes.

9 Q. So all of those lead to the
10 conclusion that it is a low impact?

11 A. Following along his report, yes.

12 Q. So therefore, the only reason we
13 have for going from low impact to moderate is this
14 notion of circulation that you referred to; is that
15 correct?

16 A. My planning, opinion, yes.

17 Q. And that, as you have said, is a
18 planning opinion and not an traffic analysis?

19 A. Yes.

20 Q. Can we look at H-33, which is the
21 Site F report of Mr. McLeod. This is pages 64 and 65
22 of that report, do you have that, sir?

23 A. Yes, sir.

24 Q. This is similar pages with respect
25 to the study and you will notice because some of the



1 conclusions are common, in fact some of these
2 paragraphs are precisely the same, do you see that?

3 A. Yes.

4 Q. There are none of these comments
5 under conclusions and recommendations found in your
6 report, is that correct?

7 A. That is correct.

8 Q. Well, would you agree with me then
9 sir, that in effect when you come to make your
10 comparison, you don't provide us with anything to
11 compare? We can't see the basis for comparison because
12 you haven't told us anything about Site F, have you?

13 A. I have not expanded on anything in
14 F, no.

15 Q. Would you agree with me that what
16 this represents is something of an unbalanced approach;
17 we are simply not able to see the full range of your
18 considerations because you haven't put that in the
19 report?

20 A. I wouldn't call it unbalanced.
21 Again it is not an evaluation under the umbrella of the
22 environmental assessment. I have done a planning
23 assessment.

24 Q. You looked at Site F -- sorry, you
25 looked at Site D and you gave us some considerations.



1 Based on those considerations, you give us an impact,
2 right?

3 A. I give an opinion, yes.

4 Q. As to the impacts. On Site F
5 there is nothing, but you give us an opinion, right?

6 A. Yes.

7 Q. So there is no way of evaluating
8 that opinion, would you agree?

9 A. Not in the context of that report.

10 Q. There is no way therefore of
11 evaluating or determining the legitimacy of the
12 comparison you have made, which is to say that one has
13 more impact than the other. It is not here, is it?

14 A. It is not there and I don't know
15 that I agree with the first part of the statement.

16 Q. Well, it's not there, so I can't
17 do it from reading the report; do you agree? It is not
18 there, so I can't get it from reading the report, would
19 you agree?

20 A. You can't get it from reading the
21 report.

22 Q. Would you agree with me that the
23 report is not representative of a balanced
24 consideration, it is not there?

25 A. As I understand what you say, it



1 is not intended to do that.

2 Q. We will come back to that in a
3 minute. Would you agree with me that the document as a
4 document is not a balanced document?

5 A. I think it is a balanced document.

6 Q. You think so. So it is balanced
7 in your view, you give the thoughts and considerations
8 with respect to one site and not the other, that is a
9 balanced approach in your view?

10 A. The context of this report was to
11 look at the policy context. I think to that extent it
12 is balanced and has done that.

13 Q. So this has nothing to do with
14 policy, this has to do with on site, on land, the
15 impact of traffic, can we agree? That's what you said
16 Table 1 represented, didn't you?

17 A. I indicated to you that Table 1 is
18 characterized as on-site characteristics.

19 Q. I think I said on land?

20 A. On land characteristics. To the
21 extent that they reflect various policy elements, I was
22 looking at and I wanted to comment on, I have made
23 those comments that it is balanced.

24 Q. There is no policy dealing with
25 traffic?



1 A. No.

2 Q. Relative to Site D, is there a
3 policy with respect to traffic you have referred us to,
4 traffic land guidelines somewhere?

5 A. No, traffic land guidelines, no.
6 I think where you had found those comments were in the
7 context of the Regional Official Plan. I was reviewing
8 there, in particular as to how it affects Site D,
9 because there the plan gives greater details.

10 Q. In fact, if you go to Exhibit H-
11 33, which is Mr. McLeod's work, he does have, and you
12 will agree looking at page 65, here a low impact?

13 A. Yes.

14 Q. So his planning applications
15 caused some distinction to be made with respect to Mr.
16 McLeod's work at Site D, don't exist here and you agree
17 and your people agree with the low impact at Site F?

18 A. Our conclusions have been
19 consistent.

20 Q. Now, I also want to refer you to
21 H-14. You understand, and the evidence has been that
22 this a comparative study in which each of the experts
23 were asked to compare the two sites as the last step
24 leading up to the hearing?

25 A. That is correct.



1 Q. With respect to traffic, could you
2 go to, unfortunately this has not been made reference
3 to before, but to Appendix B and to page 11. That is
4 the second of the letters that were written with
5 respect to these various areas of expertise?

6 A. Appendix B, Comparative Analysis,
7 Giffels.

8 Q. Would you go to page 11, the last
9 page of the conclusion?

10 A. Yes, sir.

11 Q. "In light of the fact that no major
12 or significant negative transportation
13 and traffic safety impacts have been
14 identified with either site, and on
15 balance there is no clear overall
16 advantage with either site over the
17 other, there is no site preference with
18 respect to site transportation. Sites D
19 and F are considered of equal merit."
20 Do you see that?

21 A. Yes.

22 Q. Would you agree with me that in
23 Mr. McLeod's view, I think this is consistent with the
24 evidence he gave here, there is no basis for choice
25 between those two sites on the basis of traffic?



1 A. Yes.

2 Q. So if we take Mr. McLeod and look
3 at this solely as a traffic issue, and ignore whatever
4 land use planning implications there may be in it, can
5 we agree then that this does not help us in under-
6 standing the distinction between Site F and Site D?

7 A. That is a fair comment I think
8 yes.

9 Q. Can we move off the traffic and
10 look at, if we just return back to Table 1, and look
11 with me now at groundwater immediately above that?

12 A. Yes, sir.

13 Q. Here, I think if you go to Chapter
14 6 of your report and -- first of all I should say, I
15 apologise, at Table 1 here you have got high impact and
16 low impact, high for D and low for F?

17 A. Yes.

18 Q. I take it, sir, you are not a
19 hydrogeologist?

20 A. No, sir.

21 Q. You are basing this on your review
22 or your staff's review of the various hydrogeological
23 reports produced by the Region?

24 A. Yes.

25 Q. In view of the fact that the



1 reports of Dr. Rowe and Dr. Charlesworth were not
2 prepared as of October, 1987, I presume the work here
3 doesn't represent anything that they have done or said,
4 it is the Region's work you are relying on?

5 A. Yes, sir.

6 Q. Can we now to go Chapter 6 where
7 you have these impacts discussed and if you go to page
8 6-2, Section 6.3, Long-term Land Use Impact of Landfill
9 at Site D, and here we have groundwater quality and a
10 discussion of groundwater quality.

11 A. Yes, sir.

12 Q. If we go on to the other part of
13 this chapter which deals with long-term impacts at Site
14 F, if we go to page 6-9, would you agree here there is
15 a discussion of a variety of things, but groundwater
16 isn't one of them?

17 A. Yes, sir.

18 Q. So here again when we look into
19 your report to determine what your view of the
20 foundation for this distinction, we can't find it in
21 the report because there is no discussion about your
22 view of Site F and groundwater impact is there?

23 A. Yes, sir.

24 Q. Pardon me?

25 A. That's true.



1 Q. So in that sense again, will you
2 agree with me that this is not a balanced document?

3 A. Again I am not certain what you
4 mean by balanced.

5 Q. Let me tell you what I mean by
6 balanced. Do you want to know what I mean by
7 balanced?

8 A. It does not provide....

9 MR. LEITCH: He wants to finish his
10 answer.

11 THE WITNESS: The extent that it does
12 not provide the information you have just asked for,
13 that is correct. As to whether it is an unbalanced or
14 imbalanced report, I still have some disagreement with.

15 MR. LEDERER: Q. To the extent that it
16 deals with hydrogeology, we agree it is not balanced?

17 A. It is not written so as to cross-
18 reference all of the documents and all of the
19 paragraphs, no, true, it is not intended to do that.

20 Q. If I wanted to by reading this
21 report, understand the basis for the distinction in
22 your view between high impact and low impact, I can't
23 find it in the prose of this report; do you agree?

24 A. Yes.

25 Q. I have got to somehow figure that



1 one out on my own o. wait until I come and hear you
2 here apparently, is that right?

3 A. That is true.

4 Q. Now, can we go on that basis to
5 Exhibit H-14 again and to the comparative study that
6 was undertaken on behalf of the Region with respect to
7 this, and this you will find is, actually I think the
8 best way to do this is to start with the charts which
9 summarize all of this and you will find them, we have
10 all hand-numbered this part of the report, it is page
11 41, Chart 1. My recollection is that the first page of
12 this was not considered for reasons which Mr. Walker
13 discussed in his evidence. If you simply review all
14 the various sub-headings under hydrology and
15 hydrogeology and looking at Site D under technical
16 studies, will you agree with me that there is nothing,
17 there is not a single element which stands as high
18 impact. There a couple which are moderate high impact,
19 but there is not a single one which stands as high
20 impact?

21 A. Yes.

22 Q. So with that in mind, and my
23 recollection is nobody on your staff was retained to do
24 hydrogeological work; would you agree with me that
25 there appears to be some inconsistency between your



1 summary conclusion of impact on Table 1, which says
2 high impact and the apparent opinion expressed in this
3 chart of a hydrogeologist who you were relying on?

4 A. Again, the characterization is
5 something I am having trouble with. There is no
6 inconsistency to the extent that what this represents
7 is my opinion. It is not meant to represent totally,
8 if you are saying that I have misrepresented that
9 chart, that wasn't the intention.

10 Q. That is very interesting. You say
11 you relied on the reports of the Region's
12 hydrogeologists?

13 A. Yes.

14 Q. You are not a hydrogeologist
15 yourself, am I correct?

16 A. That is correct.

17 Q. And nobody on your staff is?

18 A. That is correct.

19 Q. So you read the reports and
20 determined that the conclusion in those reports was
21 wrong and that in fact the impact for one should have
22 been high?

23 A. No, I didn't say that, nor did I
24 do that.

25 Q. Can you explain to me then, sir,



1 how it is, the basis upon which you would come out with
2 a different result relying on the same report the
3 experts prepared?

4 A. I didn't do a report that the
5 experts did, I didn't do a hydrogeologic report and I
6 didn't intend to duplicate it. He did the technical
7 work and in fairness that was his conclusion. My
8 assessment was from a land use planning point of view
9 and understanding the advice that they would give as to
10 what the circumstance was in the area. Reviewing the
11 circumstance in the terms of the policy framework, I
12 came to the conclusion that in a relative sense between
13 those two sites, there was an element, a certain degree
14 of impact. In this instance to my mind, a higher
15 impact than relative to Site F. Again, it was not in
16 the context of doing a technical or hydrogeological
17 report, nor was it in the context of doing an
18 environmental assessment in the context of that
19 evaluation.

20 Q. So here again somehow on top of
21 the hydrogeologists' work, we have the imposition of
22 some land use consideration that allows you to say that
23 from a land use point of view, hydrogeology at Site D
24 results in a high impact; is that it?

25 A. Hydrogeology from a land use



1 planning impact has a higher importance to me, yes.

2 Q. I just want to explain to you very
3 simplistically, because that is my only way of
4 understanding it, the proposal at Site D, okay, with
5 respect to hydrogeology.

6 The proposal is that the water table
7 will be lower so that all the groundwater will flow
8 towards the site. Understand that?

9 A. Yes, sir.

10 Q. Let us assume that that works and
11 all the water flows towards the site, that being the
12 case, will you agree with me that there will be no
13 impact in the surrounding area because the water will
14 be flowing, it won't be flowing in that direction?

15 A. Yes.

16 Q. If that is the situation, would
17 you agree with me that Site D would show, not a low
18 impact but no impact. Very simply put.

19 A. Very simply put, in that fashion,
20 yes.

21 Q. You are not a hydrogeologist are
22 you, you can't therefore evaluate the legitimacy for
23 that proposal?

24 A. Yes.

25 Q. Pardon me?



1 A. I cannot evaluate that.

2 Q. I am suggesting to you that you
3 are not in a position, as a land use planner, to make
4 any distinctions between the conclusions of the
5 hydrogeologist who conducted the original work here.
6 Land use planning is not a function that is going to
7 help you?

8 A. Certainly to the extent that it is
9 on technical aspect of how the water flows in the water
10 tables, I can't beg, nor do I presume to make any type
11 of conclusion in that respect. That again, as I
12 indicated, is not where my assessment comes from.

13 Q. Your assessment comes from land
14 use?

15 A. Yes.

16 Q. If there is going to be no affect
17 on the land use as a result of the water flowing to the
18 site, it is not going to have any impact, is it?

19 A. You have just indicated that one
20 element in isolation may draw you to that conclusion.
21 There may be other elements. If you make reference to
22 Table 3, the third point under there is an element of
23 providing municipal water service. It is not a
24 circumstance that is provided now. There may be
25 pressure in the long run to do that. This is in the



1 middle of an area that has had some pressure exerted on
2 it, either directly or indirectly. The area
3 jurisdictions have attempted to maintain some
4 consistency in the introduction of some piped services,
5 may produce another impact. To that extent from a
6 planning perspective, it has impact. It is a factor I
7 would consider.

8 Q. Is that the only distinction, is
9 that the only land use planning consideration that
10 applies here?

11 A. I think in balance all of those
12 considerations, to the same extent that you can't take
13 one element out of context in your scenario of the
14 wells flowing towards the site, you can't take any
15 others in isolation either. On balance, that is the
16 assessment I made. I think I tried to indicate what
17 the highlights were.

18 Q. Let me ask you the question again
19 very simply. Is that the distinction you are relying
20 on, the potential need to bring in piped water, is
21 there anything else?

22 A. The distinction is the planning
23 perspective and that is an influence, yes.

24 Q. What is the planning perspective
25 which relates directly and solely and only to



1 hydrogeology that takes you to that conclusion'

2 A. The planning perspective means the
3 planning context and the framework I find myself in;
4 that is in an agricultural area, the agricultural
5 community has very strong policies at both levels
6 trying to maintain and ensure that. Any introduction
7 of an intensive use the possibility of some services
8 raises a planning question which has an impact factor
9 on my assessment.

10 Q. So, it is your concern for
11 agriculture in relation to hydrogeology that causes
12 this difference?

13 A. To characterize it fairly, it is
14 not so much my concern to agriculture as it is my
15 concern to the policy framework, my interpretation,
16 what merit would be sought or looked to to change it.

17 Q. That takes you to the position on
18 hydrogeologic grounds there is a distinction between
19 Site F and Site D. Site F is low impact and Site D is
20 high impact?

21 A. That is correct.

22 Q. Would you agree with me, sir, in
23 considering hydrogeologic matters, the technical
24 requirements, the technical findings of the experts are
25 in the end going to be an awful lot more important?



1 Whether it works here hydrogeologically is more
2 important?

3 A. Their opinions on the technical
4 matters, of course, come before my opinions. I think
5 to the extent that there is a planning element that has
6 to be made as part of this assessment, as part of
7 this review, I think my opinion is an element that can
8 be considered, should be considered.

9 Q. What I would like you to do now is
10 turn to the comparative study, the conclusion of the
11 hydrogeologists who prepared this work. This is the
12 fourth page of Appendix A.

13 A. Yes, sir.

14 Q. Here is the conclusion:

15 "Considering the advantages of each
16 site, we feel that those of Site F
17 outweigh those of Site D. In
18 particular, Site F is better from the
19 point of view of public health and
20 safety because there are no groundwater
21 and surface water users. Therefore we
22 favour Site F over Site D."

23 Do you see that?

24 A. Yes.

25 Q. Would you agree with me first of



1 all that the principal consideration there for them is
2 the presence of groundwater and surface water users at
3 Site D?

4 A. That is correct.

5 Q. If I understand you correctly, in
6 relation to piped water, it is something you see as a
7 land use factor as well?

8 A. Yes.

9 Q. You have both considered it, in
10 effect?

11 A. Yes.

12 Q. It is sort of a form of double
13 counting, we think of it in terms of land use and we
14 think of it in terms of land use hydrogeology?

15 A. I think it goes to express what
16 the evaluation is here. There has always been the
17 element in every evaluation, whether it's under the
18 EAA or just simply the planning, it is the evaluation
19 of the experts and then there is the evaluation by
20 overview, whether it is done by land use planner or
21 council or whatever. I don't see that as double
22 counting, I see that as a contribution to the final
23 assessment, the final evaluation.

24 Q. Can we agree that in fact what the
25 hydrogeologists say here is that Site F is the



1 preferable site?

2 A. Yes.

3 Q. Would you agree with me that in
4 looking at this paragraph, it doesn't seem to sustain
5 the view that you express, that the distinction between
6 D and F is as wide as high impact to low impact?

7 A. No. From their perspective there
8 is no indication as to what degree there is, but
9 certainly it is implied that it is a moderate or a low
10 distinction.

11 Q. So that distinction then in terms
12 of your preference for Site D over, sorry, for Site F
13 over Site D or the degree of difference which I recall
14 I told you was my major consideration, it would appear
15 from the technical aspect of hydrogeology, if you like,
16 that the work of the experts doesn't appear to sustain
17 the degree of difference you see, looking at it from a
18 land use planning point of view?

19 A. That is correct.

20 Q. Now, can we also look at this from
21 the point of view of noise on the back-up on the second
22 page of Table 1? Can we agree that noises generally
23 speaking are fairly objective, it is measured in a
24 fairly objective way. You take readings and make
25 certain predictions and you know what the decibel level



1 will be and you make certain findings?

2 A. Yes.

3 Q. Here you have got at Site D a
4 significant noise impact, from Site F some noise
5 impact. Do you agree?

6 A. Yes.

7 Q. To the best of my recollection and
8 I stand to be corrected on this, there is no
9 explanation here at Site D or Site F beyond what you
10 see on this table with respect to noise; am I correct
11 on that?

12 A. Yes. I don't believe we have
13 gotten to any detailed descriptions, no.

14 Q. So here we simply have, if you
15 like, the bare-faced conclusion, the significant at one
16 and some at the other?

17 A. Yes.

18 Q. So therefore we have no basis for
19 evaluating, subjecting your finding to any test,
20 because we don't know the basis on which you have done
21 it, true?

22 A. Yes.

23 Q. Would you go with me then to Mr.
24 Coulter's work with respect to Site D, H-35, and turn
25 to page 15. Do you have that?



1 A. Yes.

2 Q. Let us just if we could, look at
3 first of all that one sentence under paragraph 6.1,
4 Comparison of Landfill Noise to MOE Criteria.

5 "The Ministry of the Environment
6 criterion of 55 dB Leq has been
7 accommodated at all residential
8 locations except for the berm erection
9 and removal along the south-western
10 boundary of the site."

11 Do you see that?

12 A. Yes.

13 Q. "6.2 in terms of noise impact,
14 south level increases are regarded as
15 small."

16 Do you see that?

17 Q. We have agreed this is an
18 objective area of study. Would you agree that the
19 finding of sound level increases are regarded as small,
20 seems different and inconsistent with your conclusion
21 that there is a significant noise impact?

22 A. The reference there is the
23 mitigation that has been done, following the mitigation
24 with the berm.

25 Q. So your sentence here doesn't take



1 into account mitigation, does it?

2 A. It is assuming, it will have to
3 assume that the conditions of the mitigation will be
4 put in place.

5 Q. I don't understand, I'm sorry.
6 Your finding on Table 1, a significant noise impact, do
7 you consider mitigation when you make that statement?

8 A. No.

9 Q. So your view then is that it is
10 not appropriate to evaluate the impacts of mitigation
11 when you compare these two sites?

12 A. I just simply looked at them and
13 have made a statement assuming that it does go to D.
14 This and various other controls and mitigations would
15 be put in place and presumably many of the concerns
16 could be mitigated.

17 Q. Let us look at it this way, can
18 we? Looking at the distinction between Site F and Site
19 D, let us assume the sites are operating, let us
20 compare them as operating with mitigation features in
21 place, can we do that?

22 A. Yes.

23 Q. On that basis would you agree then
24 that what we've got is low impact in effect at both
25 sites?



1 A. Yes, with the mitigation.

2 Q. Would you agree then that on that
3 basis as operating sites, this field of study doesn't
4 help us understand the difference between Site D and
5 Site F as you have proposed it in your work?

6 A. To the extent that there is then
7 no distinction, yes.

8 Q. That's right. Thank you.

9 I want to leave on-land stuff, at least
10 for the moment, and turn to this matter of policy. As
11 I say again, I can't figure out how to do this without
12 reviewing some of what Mr. Tzekas has done and I
13 apologise for that. What I would like to try and do
14 because it has been, is, it won't be so easy with the
15 federal material, so perhaps we can just start with
16 that and see how we go.

17 Your hierarchy, if you like, of
18 regulations here, begins with the federal regulations
19 involving birds and airports, correct?

20 A. The ranking of the various
21 guidelines or the ordering of the various policies or
22 guidelines in the report are not intended to reflect a
23 hierarchy, that is simply where I started, at the
24 federal level.

25 Q. Let us continue that trend and



1 start with the federal level, shall we? You said at
2 the end of your direct examination or at some point in
3 the course of it, that with respect to this guideline,
4 the most that you could say was that one airport was
5 within five miles and the other, one landfill was
6 within five miles and the other wasn't?

7 A. That is correct.

8 Q. That is far as you could take it,
9 do you agree?

10 A. Yes, that's correct.

11 Q. That is the framework I want to
12 investigate, as Mr. Tzekas did, some of the concepts, if
13 you like, behind this regulation, behind this problem.

14 First of all, you in your report at
15 least, and others have referred to this as the bird
16 hazard. Do you understand those words?

17 A. Yes.

18 Q. I would like to look at the
19 concept of hazard for a moment. Can we agree that there
20 are degrees of hazard, that is, that some situations
21 are more hazardous than others?

22 A. Yes.

23 Q. There is, in fact I am sure you
24 will agree, an old saw about it being more hazardous to
25 cross the street than to fly in an aeroplane?



1 A. That is true.

2 Q. Can we agree that what that
3 demonstrates is that there are in many situations some
4 level of hazard, that we as a society are prepared to
5 accept and live as we do?

6 A. Yes.

7 Q. To put it simply and perhaps a
8 little bit facilely, we are not doing away with streets
9 merely because there are cars on them?

10 A. No.

11 Q. Doesn't that demonstrate then that
12 to evaluate a hazard and its impact on this kind of
13 study you have to have some sense of the extent of the
14 hazard in the particular case?

15 A. Yes.

16 Q. Now, that means, doesn't it, that
17 you have to have some individual study of the
18 particular situation, doesn't it, that's the only way
19 you can really understand the extent of the hazard in a
20 particular case?

21 A. We have been talking in generic
22 terms and there are some hazards, I suppose, that you
23 can't measure, but yes, if you are referring now to
24 particularly the bird hazard, in order to evaluate that
25 that would have to be evaluated.



1 Q. Can we agree you mentioned
2 Buttonville a few minutes ago. Can we agree or do you
3 know, and this Board has before it a notice of
4 intention or something to regulate land use around the
5 Buttonville airport. Are you aware of that?

6 A. Yes, I am.

7 Q. You understand that within a
8 certain distance around Buttonville, when that
9 regulation is put into place, you will not be able to
10 have a waste disposal facility?

11 A. That is correct.

12 Q. As a matter of regulation?

13 A. Among other matters.

14 Q. Absolutely, I am not suggesting it
15 is uniquely driven, but that's one of the factors, do
16 we agree?

17 A. Yes.

18 Q. That demonstrates, doesn't it, a
19 couple of things? Firstly, it demonstrates that the
20 federal government can regulate land use in the area of
21 airports; do we agree?

22 A. It appears that they are going to
23 do this, yes.

24 Q. So, if we look at the opening
25 paragraph, page 3-1 of your report,



1 "The federal government is solely
2 responsible for the administration of
3 aircraft traffic movement within Canada.
4 It has enacted various statutes and
5 issued various policies or guidelines to
6 control aircraft traffic so aeronautics
7 will not jeopardize the health, safety
8 or convenience of any members of the
9 general public (including pilots and
10 passengers). However, the provincial
11 government or their municipal delegates
12 is solely responsible for regulating the
13 use of property or land within the
14 province over which it has
15 jurisdiction."

16 Would you agree with me that that
17 appears to be wrong, since there is this power to
18 regulate land use in the federal government on land
19 surrounding airports?

20 A. I don't think it's an inconsistent
21 statement. It says over which it has jurisdiction.
22 What we have attempted to do here, and we are certainly
23 not experts in federal legislation, but what we have
24 attempted to do is simply reflect the circumstance that
25 there are guidelines and there are regulations that are



1 in effect. In the past, the federal government does
2 not appear to have exercised its authority or
3 jurisdiction on land uses. It has usually just
4 influenced the applicable airport in terms of its
5 licence. Where there has been a land use control, very
6 often there has been cooperation sought from the lower
7 tier government. In the case of Buttonville, this
8 appears to be, from our understanding, a new direction.
9 As to whether they had that legislative authority all
10 the way along and never exercised it or it is one that
11 they have created, we are not experts in that. It is
12 a circumstance that appears to be happening in the
13 Buttonville circumstance at least.

14 Q. "To date Transport Canada has not
15 restricted the establishment of
16 landfills in the vicinity of airports by
17 regulation, but Transport Canada staff
18 have been directing landfills away from
19 airports since 1978."

20 A. That is correct.

21 Q. It appears that they are going to,
22 in your terms, start regulating?

23 A. Start regulating.

24 Q. If I were to suggest to you there
25 were already some regulations in place with respect to



1 other airports, I think, and I stand to be corrected,
2 and Goose Bay is one of them, that is not something you
3 are aware of?

4 A. We didn't really look beyond the
5 influence in Ontario.

6 Q. Can we agree though that it would
7 now appear that where the federal government agrees
8 that a hazard is of sufficient extent to cause a major
9 concern, they have the power to regulate it if they
10 want -- let me go back, let me say it more
11 specifically.

12 If the federal government believes there
13 to be a hazard with respect to a particular airport
14 arising out of the possibility of the location of a
15 landfill within its vicinity, it appears to have the
16 power to regulate?

17 MR. LEITCH: I must rise to that
18 question because it seems to me that it is a question
19 which might be answered by a panel of Mr. Stagl and a
20 constitutional lawyer and some other experts. I don't
21 think that you can put the power in such a facile
22 fashion. I don't think it is a fair question for this
23 witness.

24 MR. LEDERER: I am prepared to let it
25 go. It is perhaps a matter for argument as much as



1 anything.

2 Q. Mr. Stagl, let us turn our
3 attention to the distinction between regulations and
4 guidelines. Regulation, we agree is a matter of law,
5 you are compelled to follow a regulation?

6 A. Yes.

7 Q. A guideline, generally speaking,
8 tends to be advisory?

9 A. Yes.

10 Q. It is something you should
11 consider as you carry out a project?

12 A. That's right.

13 Q. You may have to justify why you
14 are not -- the Food Land Guidelines, you may have to
15 justify why you are not following the priorities within
16 the guidelines?

17 A. That is correct.

18 Q. Can we agree that there may be
19 circumstances where it is not necessary to specifically
20 or completely follow the principles of a guideline?
21 That is what an individual study may show you?

22 A. That is true, yes.

23 Q. For example, this guideline was in
24 place in 1979 when old Site F was approved?

25 A. Yes.



1 Q. The old Site F is within five
2 miles of the Burlington Air Park?

3 A. Yes, sir.

4 Q. As a circumstance, apparently, I
5 just put it to you and if you don't know, just tell me.
6 I think if you review the Buttonville notice you will
7 discover that in fact the restriction on landfill is
8 something less than five miles. Are you aware of that?

9 A. I just can't recall.

10 Q. We have at least one case then,
11 that being old Site F, where in fact the landfill or
12 waste has been permitted, despite the guideline, within
13 a five-mile radius. That is a demonstration again,
14 isn't it, that you really have to have a specific study
15 to determine the applicability of the guideline to the
16 situation you are looking at?

17 A. It certainly reinforces that. I
18 don't know that there was a study that determined Site
19 F was appropriate, and I don't know that Transport
20 Canada was even notified or involved to the extent they
21 were in these circumstances, but yes the answer I think
22 to what I understand your basic question, that is the
23 application, the guidelines relate to studies.

24 Q. What you are going to want to do
25 when you conduct that study is to look at -- let's go



1 back to where we started -- the extent of the hazard.
2 The hazard is of such an extent it requires compliance
3 with the guideline, do you agree?

4 A. Yes.

5 Q. In this case, in fact there has
6 been some specific study and that is the work of Dr.
7 Richardson to which you refer. Do you recall?

8 A. Yes.

9 Q. If I understand your answers to
10 Mr. Tzekas and others, you did review his report before
11 writing your own report?

12 A. Yes.

13 Q. You weren't here for his evidence,
14 were you?

15 A. No.

16 Q. I take it you haven't read the
17 transcript?

18 A. No, not on his evidence.

19 Q. Have you talked to him since he
20 gave evidence here?

21 A. No.

22 Q. So you are not aware of what he
23 said?

24 A. No.

25 Q. Sir, you are an experienced



1 witness, you have given evidence before?

2 A. Yes.

3 Q. Would you agree that you have
4 prepared a number of these reports and watched a number
5 of people on the stand. Over the course of time,
6 after a report is prepared, many experts reconsider
7 what they have done and they may want to change their
8 view a little bit, stress different factors?

9 A. Yes.

10 Q. Would you agree with me that very
11 often under cross-examination they have put to them
12 matters they hadn't considered before?

13 A. Sure.

14 Q. Weaknesses in their work they
15 hadn't thought of?

16 A. Yes.

17 Q. As a result of that, their view
18 may change?

19 A. Yes.

20 Q. Would you agree with me then that
21 this Board now has more information upon which to
22 analyze the view expressed by Dr. Richardson, because
23 it has the cross-examination and the direct examination
24 presented here in evidence?

25 A. Yes.



1 Q. So to that extent then would you
2 agree with me that your reliance on his report could be
3 and you don't know on what he said, but it could, at
4 least in theory, be somewhat out of date?

5 A. The reliance on his conclusion is
6 in terms of what is a hazard or not, certainly there is
7 obviously more up-to-date information than what I would
8 have been party to, but in terms of just the
9 applicability of the policy or the guideline, that is
10 still there.

11 Q. What I am going to suggest to you
12 is this and the record will show whether I am right or
13 not, that when Dr. Richardson was here, Dr. Kingham put
14 to him the very specific question which is in issue
15 here, which is can you tell us the extent of the
16 hazard, how will it change and Dr. Richardson was
17 unable to provide an answer to that and to be fair to
18 him, I think he said it couldn't be done, it simply
19 wasn't possible. Accepting that, will you agree with
20 me that it becomes very difficult to understand what
21 the extent of the hazard will be because the expert
22 can't answer. That's the first point, do you agree?

23 MR. LEITCH: Before you answer that
24 question, I wasn't here either, but my understanding of
25 the evidence is what came to us was that while we could



1 not quantify it, there was some increase in the hazard
2 in relation to the location of the airport.

3 MR. LEDERER: That's true, I don't
4 disagree with that. That is fair enough.

5 Q. The point is that he couldn't tell
6 us the extent of the hazard. Now, will you agree with
7 me that absent evidence on the extent of the hazard,
8 you can't really know whether or not you ought to apply
9 the guideline in this case. You can't make that
10 judgment can you?

11 A. I actually take the opposite view.
12 Unless you can satisfy yourself that it doesn't have to
13 apply, it should apply.

14 Q. Surely if you agree that hazards
15 are of a different level and of a different extent,
16 what you need to do is to have some study which will
17 demonstrate or help you to make that judgment. Do we
18 agree on that?

19 A. Certainly if that is what is
20 required to help you make the assessment.

21 Q. In the absence of that will you
22 agree then that you are not in a position, in effect,
23 to determine how to or whether the guidelines should be
24 applied?

25 A. An interesting proposition. I



1 would say no, in the circumstance where there is
2 uncertainty, it would strike me more so the reason to
3 apply it.

4 Q. Will you agree with me that when
5 you don't know the extent of the hazard, you don't know
6 the difference between Site F and Site D. Do you agree
7 with that? Because of the hazard, just a moment....

8 A. You do know the difference between
9 Site F and Site D to the extent that in the one
10 instance the guideline would apply and in the other
11 instance, the guideline would not apply. What you are
12 asking me is that in the absence of any detailed
13 information on a site where the guideline would apply,
14 you would drop the guideline. I would say, I would
15 take quite the opposite.

16 Q. Let me be quite clear. My view
17 of Dr. Richardson's evidence indicates there is no real
18 increase in hazards here, but that isn't the
19 proposition I am putting to you and I don't want to
20 discuss it with you on those terms for the moment. I
21 think that is for the Board to evaluate.

22 My proposition to you quite simply is
23 this, that when you are trying to compare these sites,
24 you have to have a basis for comparison; do you agree?

25 A. Sure.



1 Q. In order...

2 A. The basis of comparison are the
3 guidelines. The guidelines in one instance apply and
4 in one instance they don't.

5 Q. Just a minute, that's my point.
6 Surely, sir, you have to have a specific study and know
7 what you are actually looking at and not simply apply a
8 guideline without study?

9 A. The guideline is very expressly
10 written in the sense that if it is within 5 kilometres,
11 it is to be discouraged.

12 Q. Mr. Stagl, I know when I am done,
13 I give up. Can we come back tomorrow?

14 MR. LANCASTER: Unless you don't want
15 to. 9:30.

16 --- Adjournment (4:50 p.m.) (Page 22900 follows)

17 CERTIFIED CORRECT:

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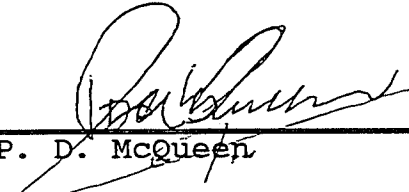
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P. D. McQueen

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