

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-QP-0208-A01;

— and —

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

— and —

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

— and —

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

- a) the acquisition of land for the construction, operation and maintenance of a sanitary landfill site to contain 7.96 million cubic metres of waste in the Regional Municipality of Halton and to do so by one of two alternative methods as follows:
 - (i) landfilling at the site referred to in Halton's Environmental Assessment as Site F in the City of Burlington;
 - (ii) landfilling at the site commonly referred to in Halton's Environmental Assessment as Site D in the Town of Milton

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

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

— and —

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

— and —

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

— and —

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

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I N D E X

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Management, Minister's File No. OPC-0026;

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

Dr. D.J. Kingham - Member



Nethercut & Co. Ltd.

Toronto, Ontario

Hearing conducted at The Oakville
Granary Commercial Centre, 105 Robinson
Street, Oakville, Ontario, on Monday,
February 29, 1988

VOLUME 97

APPEARANCES:

T.R. Lederer and
H.D. Hodgson

for the Regional
Municipality of Halton
(Proponent)

J.R. Tidball

for the Ministry of the
Environment

T. Vigod
J.F. Castrilli

for the West Burlington
Citizens Group

D. Estrin,
F.E. Leitch and
H. Dahme

for the Corporation of the
Town of Milton

S.R. Garrod and
A. Nurvo

for the Milton Area Citizens
Coalition and several
affected Milton area
landowners

R.B. Tuer, Q.C.
E.A. Cronk and
F. Perrier

for National Sewer Pipe
Limited

L.F. Longo

for Azova Investments
Limited

M.J. McQuaid, Q.C.
and C.J. Tzekas

for the City of Burlington

C. Mansfield

for the Ministry of Natural
Resources

P. Renaud

for Cumis Limited



Nethercut & Co. Ltd.

Toronto, Ontario

1 APPEARANCES (Cont'd):

2 C. Stevenson for Framgard Holdings,
3 P. Hancock Fosseri Investments
4 Limited, Seriphos
Investments Limited and
Topic Investments

5 J.H. Olah for the Halton Region
6 Conservation Authority

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Per: P.D. McQueen



Oakville, Ont.
February 29, 1988

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

MR. LANCASTER: Good morning, please be seated.

MR. GARROD: Good morning, Mr. Chairman. The first witness is Mr. Leon Kentridge, a planner, and I have placed on your table a copy of his report. An appendix to that you will see contains his curriculum vitae.

MR. LANCASTER: Thank you. That will be Exhibit ...

MR. GARROD: I think it was MR for Milton Ratepayers.

MR. LANCASTER: MR-546. The CV, I guess, is in here?

MR. GARROD: Yes, it is the appendix.

---EXHIBIT NO. Mr-546: Witness Statement and CV of L. R. Kentridge

LEON R. KENTRIDGE (Sworn):

EXAMINATION IN CHIEF BY MR. GARROD:

Q. Could I please ask you to turn to your curriculum vitae following page 48 of your report. You are a land use planner and a member of the Canadian Institute of Planners?

A. Yes. I have a Masters degree in



1 planning which I got from McGill University in 1961.
2 Prior to that in 1958 I received the degree of
3 architecture in South Africa. I have been practicing
4 both as a planner and an architect since 1961 in
5 Canada.

6 I am a member of the Canadian Institute
7 of Planners. I am also a member of the Royal
8 Architectural Institute of Canada. I am a member of
9 the Ontario Association of Land Economists and I was on
10 their board of directors. I am a past president of the
11 Association of Consulting Planners of Canada as well.

12 Over the last -- I guess it is nearly 30
13 years now, 25 years experience. I have been
14 responsible for the preparation of a broad range of
15 planning matters that I think are germane.

16 Firstly I have undertaken and prepared
17 many official plans, secondary plans, zoning by-laws.
18 I have done a fair amount of work in central area urban
19 development and in addition to working across most
20 provinces of Canada and in the north, I have also
21 undertaken projects in the U.S.A. and overseas. I have
22 run projects in Tanzania, Antigua, Malaysia and in the
23 Middle East, Oman and Egypt.

24 Some of this work, for example, I
25 carried out a master plan for Dar es Salaam and that



1 was a project that we got and that was funded by the
2 Swedish government. I have also worked doing a new
3 town plan for Rusha in Tanzania which was funded by the
4 Canadian government. I worked on the project for the
5 province of Ontario some years previously, for what
6 they called Seaton New Town which was a new town
7 proposed near Toronto Two Airport, to the west of
8 Toronto in Durham.

9 I, for example, designed Elliott Lake
10 New Town and also was involved in the location and
11 planning advice for Canada's Wonderland. Most recently
12 I have been involved on behalf of a citizens group
13 called STOP in the Railway Lands Limited. I have been
14 involved in the Harbour Hilton and the World Trade
15 Centre and at the moment I am advising Mr. Dennis
16 Perlman who is the city solicitor on rent review
17 legislation and condominium legislation.

18 Q. City solicitor in Toronto?

19 A. City solicitor in Toronto, sorry.

20 Q. You have been involved in some
21 waste disposal matters?

22 A. Yes, for about four or five years
23 now I have been in charge of the planning aspects, land
24 use planning aspects for the Ontario Waste Management
25 Corporation in its site search for a hazardous waste



1 treatment plant.

2 I may add that that also included
3 looking at Sites PI-1 and 13 as they are so described.
4 It includes essentially the D area. I have also
5 provided some advice to a citizens group called the
6 Central Ontario Coalition related to the location of a
7 hydro generating line from Bruce to Essa. I have given
8 advice to residents in the Northumberland County and
9 also in fact going back many years, was an adviser to
10 the Waste Management Corporation in their location of a
11 site in Maple which is now a Metro site.

12 I guess just to finish, Mr. Garrod, some
13 of the more recent work I undertook in the last few
14 years, I led a team in carrying out work in the City of
15 Buffalo both for their Main Street extension, looking
16 at the land use, but also looking at the development of
17 the waterfront, to see how we could develop the old
18 harbour for the City of Buffalo.

19 Together with another firm I was
20 responsible for looking at North York section of the
21 group location for the GO-ALRT study. And at the
22 moment I am also a consultant to the Hamilton Harbour
23 Commission for their lands in Hamilton Harbour.

24 Q. You are a principal of your own
25 firm?



1 A. Yes, I have two firms. I am a
2 principal in Leon Kentridge Associates Limited, it is a
3 firm that has been in operation for nearly 5 years.
4 Prior to that for about 17 years I was the head of the
5 planning division of the firm Marshall Macklin
6 Monaghan. I was also a partner there and on their
7 board of directors. I ran the whole planning operation
8 there. That included the recreation planning, land
9 use, environmental, land economics, et cetera. I had a
10 staff at certain times of up to 60 persons.

11 I guess in my experience before that I
12 was with the City of Toronto for two years, '64 to '66
13 and the deputy director of the Calgary Regional
14 Planning Commission up to 1964.

15 Q. Mr. Chairman, I would like
16 Mr. Kentridge recognized.

17 MR. LANCASTER: The Board recognizes
18 Mr. Kentridge as an expert.

19 MR. GARROD: Mr. Kentridge, when were
20 you retained in this matter and for what purpose?

21 A. I was first retained just over a
22 year ago we had our first meeting. At that time you
23 asked me to look into this matter. You provided me
24 with a fair amount of documentation so I could review
25 what had been happening. Subsequently I was in touch



1 with you on this matter on behalf of your clients and I
2 think I was formally retained, approximately a year
3 ago, either very early March or the end of February to
4 assist in this matter.

5 Q. What did you do in preparing
6 yourself to carry out this work?

7 A. What I was really trying to look
8 at were the questions that would involve two things I
9 think generally, Mr. Garrod. Firstly what I would call
10 the process, how the work had been done by the
11 consulting team working for the Region and, secondly,
12 to just give a general review on that based on my
13 experience of the process.

14 Secondly, to look at the actual matters
15 of socio-economic planning which would include matters
16 such as social planning, land use planning, the impact
17 on the residents of the area, and generally those areas
18 that were in sort of social fields as against the more
19 technical matters, I should say, hydrogeology, et
20 cetera.

21 In order to prepare myself well, I
22 firstly tried to familiarize myself with most of the
23 important reports, certainly reviewed most of them. I
24 tried to identify specific areas such as parts of the
25 transcript that I could review. I familiarized myself



1 with the land use in both areas and having visited it a
2 number of times and met the residents of Site D on a
3 number of occasions, various of the residents.

4 Subsequent to this familiarization and
5 the study of the areas, I prepared a report which you
6 have put in as an exhibit, setting out my findings on
7 this matter, Mr. Garrod.

8 Q. I would like to take you through
9 the report, Mr. Kentridge, but before you start with
10 that, you indicated you had visited both sites. I
11 wonder if you could give the Board an overview of the
12 setting of the two sites?

13 A. We have here, Mr. Chairman, two
14 aerial photographs which I would like to use. These
15 were not prepared by me. They were prepared by
16 Mr. Jonathan Kauffman who is going to be called, I
17 believe, as a witness after myself, so if I can use
18 them, I can't prove them, because I didn't do them
19 myself but I did work with him on that.

20 MR. GARROD: I wonder if we could mark
21 them for convenience.

22 MR. LANCASTER: We will mark them at
23 this time. M-547. Can you describe that?

24 THE WITNESS: Yes. MR-547 is an aerial
25 photograph that covers Site D. It also covers the



1 properties that abut Site D and essentially it goes
2 just north of Britannia Road which is towards the north
3 of the drawing. It just covers Lower Base Line on the
4 south of the drawing. It extends beyond Highway 25 to
5 the east and it extends beyond First Line to the west.

6 ---EXHIBIT NO. MR-547: Aerial Photograph of Site D

7 MR. GARROD: Q. That exhibit also has
8 an overlay as part of the same exhibit and what is
9 indicated on the overlay?

10 A. What we have on the overlay is it
11 shows, the fill area of the site area which is shown in
12 the dotted red line and the solid red line. It shows
13 an adjusted 500 metre line and what I have done over
14 here, the reason that I have adjusted it is that I have
15 taken 500 metres as a basis for consideration as has
16 been mentioned by the Ministry. I adjusted it in this
17 way.

18 Firstly, because there are berms to the
19 east of the site on D, I felt that the significance
20 would be to extend it to the east of the berm by 500
21 rather than from the actual area filled. Secondly, in
22 dealing with this, I have also looked at not just the
23 properties that fall within -- or the houses that fall
24 within the 500 metres, but also when a property extends
25 beyond the 500 metres, so the impact will not just be



1 on the house but the whole person's property. I have
2 given consideration to that.

3 Also, in my work I have taken into
4 account, properties that I think are so close to this
5 line, such as this red dot to the north, that it would
6 be appropriate to look at these. So I have really
7 taken this as a basis of working, but I have adjusted
8 it as it seemed appropriate to me.

9 The other drawing is of Site F. Should
10 we call this Site D, Mr. Chairman? Do you want the
11 Site D and surroundings, or don't you need a name for
12 it.

13 MR. LANCASTER: You have got that now.
14 MR-547.

15 MR. GARROD: Q. Just before you leave
16 that, Mr. Kentridge, what are the red dots shown on
17 there?

18 A. The red dots shown on here show
19 houses that I feel are germane in that they fall either
20 within the site area, or they fall close enough to the
21 site itself which I have defined as sort of an
22 extension of the 500 metre area that I think they are
23 important for consideration in terms of the direct
24 impact on Site D. These are shown by red dots. One
25 dot here, Mr. Chairman, is very hard to see, even as



1 close as I am standing, shows property that has been
2 burned and is now sort of a shell of a property. How
3 we have shown it is with a black line through it which
4 I guess is rather like don't smoke.

5 MR. LANCASTER: Two late for that.

6 MR. GARROD: Q. That's the Miller
7 Figa?

8 A. That is the Miller Figa property.
9 The next plan I have is another aerial photograph is
10 called Study Areas, Dwellings, View Angles Site F.
11 Should this be MR-548?

12 MR. LANCASTER: Yes. MR-548, if you
13 would, please.

14 ---EXHIBIT NO. MR-548: Study Areas, Dwellings, View
Angles Site F

15 THE WITNESS: This shows the Site F, the
16 landfill area, it once again shows the 500-metre line,
17 and once again with the adjustments so that where there
18 are certain properties that fall beyond the land that I
19 feel are so close, that it would be sensible to include
20 them and not just use the line in a hard way, we have
21 shown these. These are then the six dots that you can
22 see towards the north of this drawing. Two falling just
23 within the 500 metres and the others falling just
24 outside.

25 What this drawing also shows, of course,



1 Mr. Chairman, is the existing landfill site to the
2 west. It shows, down running in an east-west direction
3 across the lower portion of this photograph, the North
4 Service Road and also the highway, 403. It shows just
5 to the east of the site, Bayview Park with the riding
6 area to the north, the shooting area to the south. It
7 shows running up to the east of the site, King Road.
8 Beyond that to the east the quarry again.

9 It does not really show very well on the
10 photograph unfortunately, but this diagonal line of
11 course shows the Hydro right-of-way. It would include
12 an area called the Sassafrass Woods to the west and it
13 shows an office and an industry Cumis and Tridon which
14 are just to the west near the southern portion of the
15 site just north of the service road. The road that is
16 just off to the west of the drawing is Waterdown
17 showing a fly-over over the QEW.

18 Over here, you have got King Road with
19 the fly-over, and then down to the bottom of the
20 drawing, Mr. Chairman, is what we are calling Plains
21 Road, sorry, down here, it is right at the bottom it is
22 Plains Road which is a fairly major east-west road in
23 Burlington.

24 Perhaps I could just start by describing
25 the site if that is all right, and I will try and



1 describe first ...

2 MR. GARROD: Q. I wonder, Mr.
3 Kentridge, if it might be better to put them on the
4 easel at the front where people can see them there?

5 MR. LANCASTER: I wonder if we can
6 correct the transcript, it is Highway 403.

7 THE WITNESS: 403, sorry, Mr. Chairman.

8 This MR-547 is for Site D. Site D and
9 all the lands surrounding it generally are relatively
10 level, extensively farmed properties. You can see on
11 this aerial photograph the evidence of the farming
12 operations. The site itself is reached from the south
13 by Highway 25 which takes a little bit of a loop over,
14 just when it gets to Lower Base Line and perhaps I can
15 just refer to another drawing, M-531 for a moment.

16 This is Site D. If you come from the
17 Queen Elizabeth over here and you start going to the
18 north, there is a gentle rise in Highway 25 most of the
19 way and you are going through agricultural land. When
20 you come to about this turn, which is shown over here
21 just before you get to the Lower Base Line, you reach
22 really the rise of property over here and then it
23 starts to drop off from that point onward.

24 So, from that point you get a panorama
25 that covers the whole area. You can see of course the



1 escarpment but you can see Site D, you can see the
2 treed area in the middle of it. You can have a view
3 over to the west, right over to Tremaine, and you go
4 into the Parkway Belt until you come by Sixteen Mile
5 Creek, a very heavily wooded area lying to the east of
6 the site.

7 This road then sort of has this very
8 gentle dip down so it is in sort of a basin. As you
9 come a few hundred metres, perhaps, just north of the
10 site beyond Britannia Road, then it starts to continue
11 upwards again and it is at about this point beyond
12 Britannia Road it peaks again.

13 So, what you have to this extent is the
14 site in a very shallow basin which means that from both
15 the south and the north if you are looking back on the
16 site you get a panoramic view. The lands gently slope
17 upwards with a very gentle but more or less even slope
18 from say Tremaine going to the east. The result of
19 this is if you are at, say, the airport or Tremaine
20 Road, you get a very long vista. For example, if you
21 are in the properties that would lie just to the east
22 of the site such as in the Gillies property, from their
23 living room you can see right across to the silos right
24 away off to the west by Tremaine Road.

25 Q. Is Tremaine Road actually on this



1 air photo, MR-547?

2 A. No, it actually goes beyond that,
3 Mr. Garrod. So, what you have is a very broad view,
4 mainly farm areas going along Highway 25 but a number
5 as you go south particularly of smaller properties with
6 direct access to the road as well.

7 When I examined the site, of course, the
8 other thing that is worthy of note on the site, and
9 just off it are that there are also two runways for
10 airports that are shown. This one which is the Martin
11 property to the north which has this runway and we will
12 speak about that further. So light planes can take off
13 and land. This is a commercial operation although you
14 will notice that it is being farmed all around where
15 the planes will take off.

16 Just directly south of that, but on the
17 west side of the road, there is a property of someone
18 called Chaput. That also has a runway. The properties
19 themselves are primarily, from those that I have seen
20 or been into, in very good condition and substantial
21 and nice houses. Perhaps that gives a general
22 description of this site, and I can now turn to MR-548.

23 I would like to start in South
24 Aldershot, Mr. Chairman, and just on Plains Road.
25 Plains Road is a very busy four-lane highway. Parts of



1 it when you have a turning lane intersection 's five
2 lanes width. I am not sure but it was be a 120-foot
3 road. I think of that nature. It is characterized in
4 a large area, certainly the area lying to the south of
5 the property with commercial uses in the way of gas
6 bars, gas stations, fast food outlets, little strip
7 malls, et cetera.

8 There is, and I will come back to my
9 reason for describing it, just to the east of Highway
10 25 down here ...

11 Q. That's not Highway 25 I don't
12 think, Mr. Kentridge?

13 A. I am sorry, King Road. I beg your
14 pardon. King Road, an apartment complex, I can't really
15 remember if it is 12 or 14 storeys but it is a tall
16 building. You can see the shadow of it just over at
17 this point, and then directly lying on the side of the
18 building is a little shopping centre with a little
19 restaurant called the Lord Nelson, so that is what you
20 see on the big sign. That is just a strip plaza with
21 open areas.

22 Gas bars on the corner of King Road and
23 Plains Road. A couple of residences to the north of
24 this which are in the state of being turned into
25 shopping centres as well, they have got signs on them.



1 Then you get some of the residential in a nice treed
2 area lying to the north of Plains Road. If you
3 continue up King Road going northward there is quite --
4 it is level for a short way and then it starts to rise
5 and there is a general rise as you go to the north.

6 You come, first -- and it is interesting
7 -- to a little bit of a hump where you go over the
8 railway tracks and just to the south of the tracks you
9 start to see industrial land. This area is well enough
10 treed that when you are walking or driving there and I
11 have certainly been there both in summer and the
12 winter. So when there is trees and not trees, you
13 really can get no view across to this at all. You
14 would I am sure from the upper storeys of that building
15 but from ground level you don't, from any of these
16 buildings.

17 Over here when you start to come to
18 these industrial buildings, you get a little bit of a
19 view but it is somewhat hidden, Mr. Chairman, because
20 what happens over here is there is quite a steep rise
21 as King Road goes over the 403 at this point up to the
22 North Service Road. So, as you go up what it has the
23 effect of being is like it is a berm and does the same
24 thing as a berm does, it sort of screens your view,
25 except you get a view of the higher part which would be



1 of the escarpment to the north.

2 The road here is of a more rural
3 character but it continues rising with a few dips, but
4 steadily rising as you go to the north. As you come
5 around the curve to Bayview Park you see the park which
6 is just a very open relatively flat area with a few
7 buildings in it. There are trees that have been
8 planted by the way there lining up against the road and
9 you can see them in the photograph lying to the east of
10 King Road by Bayview Park which is obviously intended
11 to screen this area to the east because there is also a
12 bit of a berm.

13 The result is, that as you are going
14 across here you really cannot see into this pit here
15 until you come to the opening and the driveway and you
16 can see in there. Then the road continues to rise and
17 turns here and there is a continued rise of the road,
18 and right here, you can see fairly heavily treed areas
19 that consist of part of the proposed landfill site.

20 As you continue to the north and you
21 come to these four properties on the curve, it becomes
22 a very heavily wooded area in this part of the
23 escarpment, and substantially higher than this. It is
24 -- you have gone up a very large change in elevation.
25 From this area, for example, if you were to look and I



1 have done this, in the winter, what you get from there
2 is a marvelous panorama that goes right across the Bay
3 of Hamilton.

4 On your west side you can see the bridge
5 and on the right you can see really the beginning of
6 Ancaster, almost, and you can get a view of Stelco and
7 Dofasco. Quite far in the distance you will be able to
8 see this building as well.

9 The two things that I realized looking
10 at this and looking at the landfill, firstly because of
11 the way of the view and this landfill being so far
12 below with a lot of trees, it is really not something
13 you see very much. What you see is this panorama ahead
14 of you.

15 The other thing I found quite
16 interesting was that there were, say, Defasco and
17 Stelco if you are close up they are quite ugly. When
18 you see them in that context, it is really quite a
19 scenic view and they add to it with the smoke in the
20 distance.

21 I mention this because what struck me
22 when I looked at this was that firstly any work being
23 done here I could see it, in no way would it interfere
24 with the view that these people would have. If it was
25 in any way similar to the landfill which is even now



1 being worked near the north end, I didn't feel it had
2 really any impact for the houses that were in the area
3 because they were so much lower with this extremely
4 heavy tree cover.

5 I would like to go just now and perhaps
6 deal with the North Service Road. The North Service
7 Road is quite a busy commercial road I think in that
8 there is industrial traffic. Obviously going to Cumis,
9 to Tridon and the landfill site. On the south side of
10 course there is no access at all. It is just a
11 chainlink fence that divides it from the highway, and
12 it is substantially higher than the highway. There is
13 quite a drop down to the highway at that point.

14 Then on the north side it is really very
15 much like a restricted access road. There are very few
16 access points onto this road. There is one to Cumis
17 where you see that they have the remnants of an orchard
18 over there and then heavily wooded around to the rear
19 of it.

20 The Tridon plant, again that is a nice
21 industrial plant. It has got the equivalent of what
22 appears to be an office building, part of it near the
23 front clipped on to the industrial building to the
24 rear. It looked to me as though it was, and I haven't
25 been in it, but my impression was that it was 14 or 18



1 clear floors plan industrial building inside, mostly
2 likely by way of open web joists. It was lowered into
3 the topography so that there are quite substantial
4 swales around it. It is not standing free but rather
5 as though it has been cut into the landscape in this
6 building.

7 So, when I compare the two sites over
8 here, Mr. Garrod, what I see is firstly a site that is
9 extremely well screened here because it is firstly in
10 the lower area. There is extensive tree cover around
11 it. The topography coming up from the south with this
12 sort of berm effect in place, acts to sort of screen
13 the view and the houses that I could see when I drove
14 around and I came in off this road as well, of
15 Waterdown were also -- these two are sort of more open
16 but these you start to have within wooded areas, et
17 cetera. Q. These two meaning the two that
18 area actually within the 500 metre area?

19 A. Yes, and the other four that are
20 outside are very well wooded. I just compare that to
21 my findings where on the other site we had numerous
22 houses and really without exception they would all have
23 a view of the property and, of course, many of them, as
24 you can see, are well within what I call the close-in
25 area to the site itself, as against only a couple that



1 are beyond this distance.

2 So that is my overall view as I start of
3 what the two sites are like.

4 Q. With reference to you report, can
5 you explain how you carried out your analysis?

6 A. Perhaps what I could do and it
7 will become clear, Mr. Chairman, as I go, I will not
8 read the whole report but perhaps I can pick out areas
9 as I go through that I think are germane and relate. I
10 would like to start off on the page called introduction
11 by saying that my position is one of general agreement
12 with the conclusion reached by Mr. Peter Walker of the
13 firm Walker Wright Young. I certainly agree Site F is
14 the preferred landfill site.

15 I would like to say that up to the end
16 of Stage 2C the Wright analysis had dealt with six or
17 more possible landfill locations whereas in my case I
18 am really only focusing on the differences between F
19 and D. I would like to say that the sources of
20 information in this report have come, as I said
21 earlier, from either Mr. Wright's report.

22 Q. You mean Walker Wright Young?

23 A. Walker Wright Young reports and
24 the other material they have included by sub-
25 consultants or from various transcripts that I have



1 reviewed. This report also differs a little bit from
2 his report in that I am being specifically -- it is
3 really only the on-site areas and the immediately
4 adjacent properties, as against just a 0.5 mile study
5 area.

6 Our study area, as I have said on page
7 3, Mr. Chairman, is related to the people we believe
8 are most likely to experience significant direct
9 impacts from the proposed landfill. To do this, I
10 devised certain criteria. That is that the properties
11 should be those which directly abut or are separated by
12 only one roadway. Properties of course within 500
13 metres and also making these adjustments where I
14 thought it was appropriate to avoid an arbitrary cut-
15 off such as property which was called Viteta which is
16 outside the line.

17 Now, that is what we have done in D and
18 I used the same principle, Mr. Chairman, when I dealt
19 with Site F. I said in that case I have extended it to
20 the north to include the four residences that would
21 have been beyond the 500 metres because I felt it was
22 logical. Likewise, over here I used the 500 metres
23 beyond the berms because I felt that that was the
24 significant impact. It was not just the landfill, it
25 was the berms, because the berms have really two



1 effects.

2 I should say here: one is to screen the
3 workings of the site obviously and act as to perhaps
4 buffer noise. They also have the effect of eliminating
5 view from people who would be to the east of them or
6 all around them. That is why I felt those were
7 significant and I adjusted this technical area.

8 Q. I wonder if I could just draw your
9 attention, Mr. Kentridge, to the large paragraph on
10 page 4 and ask you if you could review the rationale
11 for the extension as you have indicated in the report?

12 A. At Site D I extended the study
13 area to include the houses fronting on Highway 25 which
14 I felt were likely to experience direct impact because
15 these houses would experience certain traffic and other
16 landfill impacts associated with the location of the
17 site entrance on the Highway 25 frontage. That is the
18 area where access will be gained, that area.

19 Of course, as I have said, these will
20 suffer or have the direct visual impact as well. That
21 is because, not only of the general view, but also some
22 of the view I felt of the Niagara escarpment would be
23 blocked if the landfill is constructed as proposed. I
24 felt it was these property owners, and of course those
25 that are going to be expropriated are the ones who will



1 have, bear the most significant impact.

2 Then, people who are living further away
3 will have some impact clearly, but I feel it drops off
4 fairly rapidly and the impacts that people -- whether
5 it is on Site F or Site D have start to have as they go
6 beyond Tremaine Road obviously is substantially less
7 than those that will be directly impacted.

8 Perhaps I could start to talk about the
9 methodology I have used. I think there is a slight
10 difference in the approach I have taken from
11 Mr. Walker at this point. On page 5 I deal with this,
12 Mr. Chairman. I say the method is one of comparative
13 analysis so the essential differences or similarities
14 between the sites are identified and highlighted. That
15 makes it easier, in my view, to compare sites.

16 Prior and during the Phase 2, Stage 2C
17 study, Walker Wright used a ranking process. That is a
18 very good process to use because if you have got many
19 sites you have got to say how do I start to sift them
20 out. Then I think it is a fairly standard procedure in
21 this sort of work, have a ranking of from, a numerical
22 high medium, low or very high, high medium; so you can
23 get groups. That allows you to do a fairly quick way of
24 eliminating sites when you are trying to focus in on an
25 area.



1 I think the problem is, and I appreciate
2 what Walker Wright Young have done, but really the same
3 process has been continued as they proceeded to this
4 stage. I think that that has an inherent difficulty,
5 Mr. Chairman. That is, that sometimes subtle and
6 sometimes not so subtle differences between the sites
7 can get obliterated if you still continue to use the
8 ranking process as you proceed. As against just
9 comparing two sites to say is this better than this or
10 worse than this or how much better or how much worse.

11 I would like to give an example. I
12 mention this on page 6. In the social impact analysis,
13 that was Myra Schiff, she describes both sites F and D
14 as low with respect to the number of residences on the
15 site. The reason why she did that was when she took a
16 large range in her study, it varied up to 30 plus
17 residences so she said right let's split this into
18 three areas, 0 to 10 or 10.7 I think was the figure she
19 used as low. 10 to 20 is medium and 20 to 30 is high.

20 So, at that stage while she was doing
21 the work, she said, oh, both these sites have a number
22 of residences and a number of persons I should add as
23 well, because it was persons that go up to 10 and I
24 think her residences were to 3.5 or something. So they
25 are both ranking low. What she starts to give a



1 ranking or an evaluation we get to this final stage of
2 comparing two sites they both score low.

3 I would rather take the approach of,
4 say, one site has got no people on it, the other site
5 has many people on it. I will speak to the figures in
6 due course. That is a big difference because in one
7 you are not going to have to ask any people to move,
8 give up their homes, be expropriated. On the other
9 site you are going to have to ask, actually more than
10 10 people. On one site you have no houses, you have to
11 take out of a residential situation and in the other
12 you have over four houses.

13 So, I think the problem is as you go
14 beyond the 2C stage. If you still limit yourself to
15 the sort of ranking and thinking about it in terms of
16 ranking, you know, obviously she is very aware of the
17 differences, but she is saying it is little or low
18 impact, I think you blur in many cases the differences
19 that apply between two different sites.

20 You will see as I go on, this explains
21 my approach. I am less inclined to just use a ranking
22 when you are down to two. It is very useful before
23 that but when you are down to two I think it is much
24 more evident to say which is better, this or that. You
25 can say, for example, I will deal with it later, some



1 of the things are very, very minor. Perhaps noise.

2 You can say, well, they are both very
3 minor, but nevertheless I can say, but, there will be
4 no noise impact on one site, Site F, there will be some
5 impact on the other and therefore that is a way of
6 testing the differences between sites, one has more
7 than the other. So that is the one area just to
8 explain, Mr. Chairman, in my methodology, I would
9 rather compare the two.

10 The other area I have looked into was
11 the evaluation factors used by Walker Wright Young and
12 the Region. The order of priority that they have used,
13 of course, and it is well known is public health and
14 safety first, natural environment second, social third,
15 cultural environment fourth, engineering and operations
16 and costs fifth and sixth.

17 I looked at the background reports and
18 also heard Mr. Wright give a little bit of testimony.
19 It shows to me there was an overwhelming priority of
20 the persons and of those whose opinion was solicited
21 agreed that health should be the first priority.

22 So, then we see public health and safety
23 as the overwhelming priority. Similarly engineering
24 and costs seems to be the overwhelming lowest priority.
25 The middle ground encompassed these others, social,



1 cultural and natural environments. I feel that the
2 ranking was less clear.

3 Now, natural environment, as defined by
4 Walker Wright Young, really consists of two factors and
5 their sub-factors. It is biophysical and agricultural.
6 I have spelled out on page 8 the factors and the sub-
7 factors. My view in looking at this is as a result of
8 combining the two factors of agriculture and
9 biophysical and then saying natural environment. You
10 start to get a trade-off between them. What we are
11 finding in this trade-off in trying to reach a decision
12 is that environmentally sensitive areas which are
13 biophysical are being traded off in direct competition
14 with agriculture.

15 So, we are getting a valued sort of
16 decision between competing land uses into a single
17 evaluation factor. I feel that such a forced decision
18 is avoidable at this stage by evaluating the factors
19 independently. There are two things that happen here
20 and I would like to tell you why I think it is better
21 to evaluate them independently, Mr. Chairman. I am
22 sure it has been said before but it is simply my view
23 and my view in previous work that I have done that
24 agriculture is not part of natural environment. In
25 fact even the Concise Oxford Dictionary under its many



1 definitions of natural one of them is uncultivated. I
2 go so far as to say in my view agriculture is the
3 antithesis of natural environment.

4 So, I think by separating them you are
5 still going to look at the two parts but what you will
6 do is not try and have some forced trade-off to say
7 which is more important within one factor and it
8 becomes easier, you compare the biophysical with the
9 two and you decide that. The agricultural and then you
10 decide on the road where does this fit in the totality
11 of the factors that Walker Wright Young say are go from
12 public health down to costs. Would biophysical now
13 become second or will it become the third or will
14 agriculture become the third and you can see where it
15 is, the importance of things.

16 So, one of the things I think would
17 occur, Mr. Chairman, is the following. In all
18 probability if you look at biophysical and agricultural
19 separately they each become less important than lumping
20 them together. In my view, it is not improbable that
21 because the total of their marks, so to say, is less
22 when they are disaggregated, it may be that neither
23 biophysical or agriculture would now rank second. What
24 you may find as a result of this is a re-ranking
25 occurring. I suspect what would happen is social would



1 become second and then we would most likely find
2 biophysical and agricultural somewhere in the rest of
3 the matter.

4 Now, I think, therefore, what we would
5 get is the higher priority of other factors and I think
6 social most likely would rank higher although I would
7 like to say I don't think that is important to me in
8 the total outcome of things. I think I will be able to
9 identify why I believe ultimately whether social is
10 first or agriculture is second, there is still such
11 enormous and marked difference between the sites that
12 that is not too critical.

13 When I look at it by disaggregating the
14 agriculture and environment what I see is that while
15 Site D is the preferred location from a biophysical
16 point of view because you do have some rare species, et
17 cetera, at Site F which are more perhaps significant
18 than Site D that part, and I haven't changed the
19 findings that Walker Wright Young have in that way, but
20 what I see also is that without changing it that
21 agriculture is clearly much more important for D than
22 perhaps by sort of a quantum amount in my opinion.

23 Of course, if you look at it in this way
24 of separating them out, I think it adds ultimately, and
25 I would like to go through this later, to the



1 difference in weighting or scaling between D and F.

2 Now, the balance of the report as I
3 mention on page 10 deals with what I have called the
4 general matters of public health and safety, natural
5 environment that I have talked about which will now
6 include social and agriculture but I still call it
7 natural environment and the social environment.

8 If I could, on page 11 I would just like
9 to talk about what I found out about public health and
10 safety. The report shows a high concern for public
11 health and safety. I agree with this in previous work
12 I have done for OWMC, it is top priority as well and I
13 agree with that priority. Public health and safety
14 should be the first concern. The public safety can be
15 put at risk through many pathways. Water, gas, soil,
16 migration of contaminants, all areas where you can have
17 a potential risk to the public. I have said water is
18 one of the most important and direct ways of affecting
19 local residents. I will quote:

20 "Where groundwater is the source of
21 residents' drinking water or is the water
22 supply for feeding livestock or watering
23 crops, any potential effect..."

24 As a result of run-off seepages, et cetera, is
25 obviously of substantial concern.



1 I think it is important to look at this
2 when you weigh public health and safety and you use
3 this risk analysis approach to say what happens in a
4 calamity. That should be our real concern. If we are
5 not worried about a calamity, then I think a lot of the
6 work we are doing in environmental assessment becomes
7 extremely easy. We just say we engineer everything and
8 nothing fails and we don't worry about a calamity. I
9 don't really buy that approach that you engineer
10 everything and nothing fails, because in my experience
11 of things that man makes, there is only one thing I
12 have ever come across that doesn't fail, so I
13 understand it, and that is a Maytag washing machine.
14 Everything else, as I understand and see ...

15 MR. LANCASTER: Don't you believe it.

16 THE WITNESS: It is a prudent thing to
17 presume, what happens in a case of failure? What we
18 see, of course, is at Site F there are no on-site
19 residents nor are there any downgradient property
20 residents who are dependent on groundwater supply.

21 As I understand it, the City of
22 Burlington's piped water is available to all residents
23 and there is no anticipated drinking water impact on
24 residents in the event of seepage and drainage. So, as
25 I can see this, I certainly will take the words of the



1 engineers that it is going to be extremely well
2 engineered, that they are going to try and avoid any
3 possible danger of a collapse at any time of the
4 system, but nevertheless, if this happens for some
5 forecast, where is there likely to be danger. We can
6 see it would not occur at D. In contrast all the water
7 supplies are on D.

8 MR. GARROD: Q. I am sorry, you said D?

9 A. I am sorry, F. In contrast all
10 the water supplies around D are from individual wells.
11 Ground and surface water is used in surrounding areas
12 for agricultural purposes. So any seepage or design
13 failure at D would have a major impact on the ability
14 for the farm community to operate. I would like to
15 just think about what would happen at D if there was a
16 failure. The first thing is, of course, you would say
17 what about is we somehow bring water down and pipe
18 water down some extensive length, extremely
19 expensively.

20 The first question is: even if you could
21 bring that amount of water down by piped supply, is
22 that adequate for not only the residents but for a
23 total farm operation. I think it is extremely
24 unlikely.

25 The other thing that would happen, of



1 course, when you get that amount of water coming down,
2 in my view, is that there would be a pressure to start
3 urbanizing an area because anyone who is in sort of the
4 development industry or looking at development, part of
5 urbanization and the opportunity to urbanize goes
6 towards the end of a pipe. That's what a lot of
7 engineers say. They often say you planners are all up
8 in the air, planning is really at the end of a pipe.
9 You can get water and sewers and then you can plan.

10 I am a firm believer that if water came
11 down here you would start to see quite a lot of
12 pressure for development. Once there is a pressure of
13 course then you start to say where do sewers go in and
14 you have to worry about enormous expenses. I think it
15 would not just dislocate these farmers, but it could
16 change, even if there was a thought of bringing down
17 water, the whole planning approach to this area that
18 has been spelled out in the policy documents.

19 So, my conclusion is, that where
20 agriculture is the economic livelihood of the area, the
21 potential impact of the landfill, failure would be much
22 higher. I have spelled this out at page 12 in a very
23 simple table. I have said, looking down at D and F
24 just to compare now, I have said groundwater wells are
25 the drinking supply of local residents for D. In F as



1 I have mentioned, it is serviced or serviceable, and
2 there is a downstream reliance on D for crop
3 operations, gardening, et cetera, and on F there is no
4 downstream reliance. In D failure would contaminant
5 and in F it would not contaminate.

6 So, if containment fails this goes to
7 the first priority, public health and safety, in my
8 view there would be a substantially greater impact on D
9 than on F. I think this is a very important factor to
10 consider.

11 DR. KINGHAM: Just at that point,
12 Mr. Garrod, do you have another copy of this. This
13 copy doesn't have a Table 1 in it?

14 MR. GARROD: There is no page 12. I was
15 about to say my copy had no page 13 in it.

16 THE WITNESS: Would you like me to go
17 over that again?

18 DR. KINGHAM: No, it is all right.

19 THE WITNESS: On page 14, for those of
20 you who have page 14, I would like to go on to say that
21 in this I deal with natural environment. I have said
22 the differences, I have summarized them on Table 2. I
23 have said the impact of land use on the biophysical
24 character of F would be greater than D because it is in
25 relatively natural condition and is not in active



1 | agricultural use.

2 | So, clearly, and I think this has been
3 | pointed out, there would be some impact on F as against
4 | D where the impact is virtually nothing. However, and
5 | I have said the proximity of the Sassafrass Woods which
6 | has been identified by the Ministry of Natural
7 | Resources is a very valuable and significant
8 | environmental area. It contains many of the same
9 | species of flora and fauna and it could well, in my
10 | opinion, moderate the biophysical significance.

11 | I note from cross-examination of
12 | Ms. Hellas by Mr. Garrod that he pointed out and she
13 | agreed that there was this program known as the IBP,
14 | International Biological Program, and that the
15 | Sassafrass Woods had been designated under the IBP as
16 | an IBP site, and he went on to say that the Sassafrass
17 | Woods was in fact an environmentally sensitive area.

18 | In further examination by Mr. Hodgson,
19 | also of Ms. Hellas, I noticed in the transcript that
20 | she stated that on Site F there are very significant
21 | features but none of them could be considered
22 | endangered and in fact when also Mr. Garrod cross-
23 | examined her as well, he spoke about the oak, hickory
24 | forests and she said that they are more common than
25 | they are now. When he asked about the history of



1 Oakville, she said, well in fact we did find oak and
2 hickory on all of our 2C sites and they all record
3 these species for the sites.

4 Finally, that is where in fact you
5 reached the conclusion that none of these vegetation
6 types is unusual or uncommon in Halton and she said
7 that is correct. Now, just reviewing the synopsis, not
8 redoing the work, but how I read this and understand
9 the general matter is that where there is some clear
10 biophysical impact on Site F the fact is that no
11 endangered species, most of the species according to
12 Ms. Hellas are available or occur just next door in the
13 Sassafrass Woods which has been a designated site.

14 I would like to look at agriculture.
15 What we have in the agricultural situation is a
16 reverse. Namely, Site D is impacted much more greatly
17 because the inherent land capability is so much higher
18 for Site D than for Site F. More than that it forms
19 part of a very large agricultural area which has long-
20 term viability. I think these are areas where
21 certainly I could see the agricultural use going on for
22 just an indefinite extent of time.

23 In the studies carried out the high
24 impact on long-term agriculture was identified by the
25 consultants. However, they modified it by the proposed



1 agricultural after-use. I would like to just speak
2 about this.

3 It seems that there are some questions
4 about how long it will take to rehabilitate such rarely
5 usable and there is no methane gas, how useful is it to
6 farm on a mound, how much land are you going to lose
7 because of the slopes to get up and down, et cetera.
8 Will anyone do it?

9 So, I think to some extent after-use,
10 clearly if D were selected it would be the way to go,
11 but it is very questionable as to whether this is
12 achievable or would just be something that would be
13 nice to try and try. As against that, if you were to
14 go to Site F, I would like to say, and it was to be
15 rehabilitated and let us even consider whether it is
16 being proposed now or not as a park, so you could
17 ultimately get quite an extension of the park system
18 going from the Burlington landfill to the Bayview and
19 even including this park ultimately.

20 There is no doubt in my mind and
21 experience to show that you can very successfully
22 rehabilitate a gravel pit or a shale pit or some sort
23 of mineral aggregate site. So, I think this also shows
24 the difference when I say that the level of impact on
25 page 6 has been modified but it is questionable. Of



1 course, if it is not successful then the modification
2 is not valid. I think here again there is another
3 thing.

4 If we look at if we are going to
5 mitigate by doing something. Clearly we should
6 mitigate wherever we can and whether you choose the
7 most careful access point into a property and make sure
8 you have got good view lines, I think these are things
9 we always want to do. On the other hand, I think that
10 we shouldn't depend on a technical fix. You should
11 firstly see what you can do without the technical fix.

12 So then, just looking at these two parts
13 of natural environment to finish, I see that in the one
14 there is an area, that is in the biophysical area that
15 has got some species but nothing is endangered. It
16 appears that just about everything or perhaps
17 everything for all I know, occurs just next door in a
18 much more important area called the Sassafrass Woods
19 and furthermore it could be rehabilitated I think very
20 successfully.

21 We go to the agricultural side and we
22 see that we are eliminating firstly a working
23 agricultural area as against an area that has not been
24 mined really in any really serious way for many, many
25 years. That it has an impact on these surrounding



1 areas in terms of the agriculture. It is not just the
2 area here but in terms of agriculture. It would be the
3 equivalent of saying, by the way, this is part of a
4 large mineral aggregate area and if we put a landfill
5 on this piece you wouldn't be able to take mineral
6 aggregate out and it would not be very successful for a
7 large area around there. It is absolutely equivalent.

8 On D you have this somewhat broader
9 impact. Of course on F, once again, when we compare in
10 terms of the natural environment you have no one on the
11 site who is living there. When you go to the
12 agricultural you do and I have spelled this out on
13 Table 2 on page 15. I have said on D there are just
14 remnants of natural vegetation and fauna. Site F has
15 been relatively undisturbed so there are many natural
16 species. D is of limited value, virtually nil. F has
17 potential for preservation but once again it less
18 valuable than the adjacent Sassafrass Woods.

19 So from a biophysical I see that F is
20 greater than D but I also question the significance of
21 how much more it is.

22 I bring this in because at one stage in
23 the Walker Wright Young, it seems that they weighed off
24 aggregate, they did weigh agriculture against
25 biophysical and say that on balance biophysical is more



1 important. I look at this and say, well, let us see
2 how important biophysical is. I see there is some
3 import, it doesn't look too great and then I look at
4 agricultural and I say now for D most of the site is
5 class 1 and 2 or class 1 and 3 complex. It is part of
6 an active ongoing agricultural area. It has long-term
7 viability. I compare that to Site F which has got no
8 long-term viability. I say that D is substantially
9 greater than F in terms of impact and F is preferred.

10 Now, I would like to look on page 17,
11 social environment. These include population impacts,
12 disruption, dislocation, dust odour noise, litter,
13 social impact. Some of these are important in my view
14 or very important because of population impacts. Some
15 are much less important, visual impact, but a
16 population impact I think is extremely important to me,

17
18 Mr. Chairman, because what you are getting is people
19 whose homes are being displaced because they are going
20 to be expropriated. You can't move someone, from my
21 experience, out of the house. If you own a house you
22 cannot be moved out by my will or because someone wants
23 to just move you. The only way you can be moved out is
24 by expropriation and it is a very complex procedure. I
25 think it is important. I compare this to a park. You



1 can close a park without expropriating it. It is not
2 given the same weight of importance in terms of the
3 procedures you have to go through. That is why I think
4 that dislocation is extremely important.

5 F is a vacant property. There is going
6 to be no dislocation of residents, and as I understand
7 it NSP who are the present owners have supported
8 landfill on its property and are in favour of this
9 proposal. I understand that another company called
10 Azova have a small portion of F, also support this
11 view. So there is going to be no dislocation and you
12 have the equivalent of a willing seller.

13 When I go to look at Site D, and if I
14 consider this from a planning viewpoint and what would
15 concern me if I was doing planning. I see, firstly
16 that there are five private residences on site and of
17 the five one of them has been burnt out. But that
18 means that there are four actually on-site. The uses
19 also include an antique aircraft repair business with a
20 grass strip, and I will just cover this briefly, but
21 you are going to hear much more about this from
22 Mr. Kauffman and I am sure from Martin as well. This
23 isn't just some private strip. This is a major, a
24 unique business that goes with this. I would say great
25 cultural value to the country.



1 Then if the Tomosky property is also
2 expropriated because part of it is in, that means a
3 sixth property that could be affected, six residences.
4 So what this means is that this dislocation will cover
5 13 residents, people, nine properties, five or six
6 houses, three businesses and it is a very substantial
7 dislocation. Perhaps I can just talk -- let me give
8 you an example. This property over here, it is not a
9 permitted use under the zoning by-law. I think there
10 will be substantial difficulty in Mr. Martin trying to
11 relocate and trying to build up his business. He would
12 have to find, firstly, it is not just as simple as
13 finding a house or more difficulty finding a park. He
14 has got to find an area that he can buy that has the
15 characteristics that he can get a couple of runways to
16 work and then he is going to have to find a site which
17 is zoned because this is non-conforming now. Even
18 though, as I have found out, it doesn't cause any
19 inconvenience to the neighbours if he wants to go
20 somewhere else he would to apply for a re-zoning. It
21 is not that easy to find this use as a permitted use.

22 So, it would be quite a serious impact.
23 I sort of contrast this with the conclusion reached by
24 Dr. Myra Schiff where she used her household rating and
25 said, well, they are both low, so I call them both a



1 low impact. I think that is not correct. I think
2 there is really a major impact and in comparison with F
3 a quantum difference in the impact. I do recognize that
4 if she had redone it because people move and change,
5 she may have been in a low to moderate today with the
6 13 residents. Still it is not low to moderate I think
7 if you have got 13 people whose lifestyle would be
8 changed and could only be changed by expropriation. No
9 other way could someone force them to move off a
10 property.

11 When I look at the question of farm
12 operations and so on and the businesses and the other
13 uses and what is happening around, I think the impact
14 is even greater.

15 Land uses in the immediate area of D are
16 also prone to disruption. I think people would be very
17 concerned if I said I see not only the view but the
18 question of how well can they farm if there is going to
19 be dirt or dust or plastic flying around that is going
20 to be, there is a danger of it being perhaps caught
21 into their hay bales and so on. Would this be saleable
22 et cetera. I think the impact is quite substantial.

23 We have seen that there are five houses
24 on Site D, zero houses on Site F. I have summarized
25 this on Table No. 3 which I will come to down the road.



1 When I contrast this, I look at the bottom of page 19,
2 Mr. Chairman, to Site F.

3 I see firstly you have Bayview Park
4 which is a rehabilitated landfill site and I certainly
5 understand the people who say, riding horses in the
6 corner, who say they would rather not have another
7 landfill, but in point of fact the park has occurred as
8 a result of rehabilitation and I find it sort of
9 intellectually difficult to understand when a park has
10 been created as the result of a rehabilitation further
11 use and rehabilitation next door should certainly be
12 stopped. We have had our chance and no one else.

13 I think it is not dissimilar to the
14 argument, Mr. Chairman, that people on the Leslie
15 Street landspit where this land spit was used for clean
16 fill to go out into the lake and then they said that
17 will give us a whole opportunity for a lot of land
18 uses. Then as soon as the land spit started to develop,
19 because no one was on it for some years as the trucks
20 were going there, you start to get a lot of gulls and
21 birds and suddenly you are finding people saying, oh,
22 we mustn't allow any boaters here or recreation people
23 because there are birds on the site. The birds are
24 only there because of the fill in the first place.

25 I think it is sort of a hard argument



1 for me to appreciate why when something is created that
2 is an ongoing opportunity for further growth and
3 rehabilitation, that as soon as the first piece has
4 gone nothing else should occur.

5 The other area besides the Bayview Park
6 is the landfill site to the west, the Hydro right-of-
7 way, the Niagara Escarpment to the north. There are no
8 residential uses right adjacent to the site area. I
9 compare the residential uses that could be right
10 adjacent to the site area to looking at Site D when you
11 can see there are a number of properties right adjacent
12 to the site area. The only ones that you have here are
13 right on the extremity, well over 400 metres away. I
14 think it is 460 metres away.

15 Within what I called my study area in
16 comparison to the six residences on Site D, as I have
17 defined it.

18 Q. On Site F?

19 A. On Site F, I am sorry. I have
20 defined it in comparison to that on Site F. On Site D
21 within this area you get 22 households containing a
22 total of 64 persons. It is a substantially larger
23 number of persons. Then there are other businesses and
24 farms in that area. For Site F, the residences in
25 Aldershot are a considerable distance away as I



1 described them. The topography is such that I am quite
2 confident that they are very well shielded except for
3 the persons who will be living in the upper floors of
4 the apartment building.

5 So, I think the impact on residences on
6 Site D in the vicinity is greater than at Site F. I
7 deal with this on Table 3 on page 21, just to put it
8 once again in a comparison. For D you get the direct
9 displacement of 13 resident people, 3 businesses
10 including the Martin aircraft business. On Site F, no
11 residential or residents or other businesses. For D you
12 get a potential conflict with existing rural and
13 residential users.

14 We shouldn't forget that there are some
15 rural uses in the area. As I said if you go up Highway
16 25 there are a number of smaller one acre properties
17 that are dotted down there. With F there is a minimal
18 conflict even now or even after restoration. On Site
19 22 you get 22 residential uses and I think that is 64
20 people in the study area as I have defined it against
21 six. My conclusion is, once again, that for this area
22 of consideration that the impacts on population at D
23 are greater than at F.

24 On page 22, Mr. Chairman, I would like
25 to go on to visual impact.



1 MR. LANCASTER: Mr. Garrod, do you want
2 to select a time that would be appropriate for a break?

3 MR. GARROD: This would be convenient,
4 Mr. Chairman.

5 MR. LANCASTER: We will adjourn for 15
6 minutes.

7
8 ---Recess

9
10 MR. LANCASTER: Thank you, please be
11 seated.

12 MR. GARROD: Q. Mr. Kentridge, you were
13 about to deal with your analysis of the visual impacts
14 on page 22 of your report.

15 A. I think there is -- I perhaps
16 alluded to it previously -- a difference in the impact
17 because of the topography and the vegetation. Of
18 course, when an area is farmed, the tree cover is
19 largely removed except for hedgerows and along roads.
20 F, on the other hand, not only has this topography
21 which acts to shield it from surrounding areas but it
22 is also so well treed that it is screened to a large
23 extent.

24 F is located about 0.8 kilometres from
25 the urban area which I referred to in the south. I



1 would agree with Mr. Wright who dealt with this work in
2 his visual impact study when he said the impact was low
3 and very minor and identified these differences as I
4 see it, on Table 4. Mr. Wright, as I talk about on
5 page 23, speaks about the height of the landfill and
6 that the homes on Britannia, First Line and Highway 25
7 will bear the highest impact.

8 I think, looking at this computer-aided
9 drawing that Mr. Stagl had, 537-C. As I can see it the
10 importance is not that it is going to screen the work
11 of the landfill, but that it clearly, the view one
12 would have going across will be hidden. I think that
13 is perhaps one of the significant things in terms of
14 Site D. There will be a screening of the view. At
15 Site F I am quite confident in saying the view will be
16 in no way impaired. From this point of view I would
17 certainly agree with the conclusion that there is a
18 greater impact on Site D.

19 DR. KINGHAM: Before you turn the page,
20 Mr. Kentridge, you may just want to reverse the figures
21 in the middle of the large paragraph on page 23 so that
22 they are right. These tourist centres are 3.7
23 kilometres, 6 miles distance, it is perhaps 6
24 kilometres and 3.7 miles?

25 THE WITNESS: Thank you very much.



1 Thank you, Dr. Kingham.

2 I will deal with Table 4 if I can after
3 I have looked at some of these other impacts, and the
4 next one is truck traffic and noise. I think that the
5 impact on both sites is quite minor. They appear to be
6 within the MOE standard for truck traffic.

7 MR. GARROD: Q. You mean from noise?

8 A. From noise, that is right. In
9 terms of noise that is created, I think they are both
10 within well accepted standards, but I will just take
11 the point that on Site F it has already been masked by
12 the background noise. When you are on Site F even down
13 here without the measurement, it does have all the
14 traffic on the 403 that is coming up here. So,
15 although it is not significant in either case, I agree
16 with what Dr. Coulter said, that at Site F it is
17 immeasurably small.

18 Once again when we go to the landfill
19 operations I think here once again the impacts are
20 minor, I don't think these are important impacts in the
21 larger picture. However, once again I think there is
22 just a little bit more noise at Site D than at Site F.
23 That is because of the situation with the background
24 noise that you get in the area. The same really
25 applies during the berm construction. It is not a long



1 period once again. What you are finding is in the 403
2 situation there may be a slight net benefit.

3 So, in summary, very minor but I think
4 it will be greater at D than at F. That is what I have
5 read into the results. Likewise if I look at dust and
6 odour, we see that the conclusion was, and I spell this
7 out on the bottom of page 29, actually a reduction of
8 impact for both sites D and F. Now, it says ...

9 Q. I am sorry. I am not following
10 you there. You are saying a reduced level of dust and
11 odour?

12 A. Impact was predicted, right.

13 I think that this is an area that is
14 not, to my mind, a major concern or one of the big
15 differences when I compare it to the visual, or the
16 dislocation, or the removal of agriculture. I don't
17 want anyone to feel that this is something that needs a
18 lot of concern as a way of differentiating the sites,
19 but I still think that although most of it will be
20 undetectable at site boundaries and no residences would
21 be affected say in the case of F, there will be a
22 little bit more dust at D during construction,
23 landfill, et cetera.

24 Once again I don't think those are the
25 most important points, Mr. Chairman. I hope I have



1 reflected that when I look at Table 4 where I say, that
2 is on page 24, if we look at Site D it is apparent that
3 the landfill is visible from a very large area. That
4 it is not only providing distant views, but those in
5 the immediate proximity and that there will be a visual
6 impact for about 159 houses and a high impact for 65.
7 There is a much less visual impact at F, and no nearby
8 houses are affected.

9 Q. Just so as I understand,
10 Mr. Kentridge, am I correct that those numbers of 159
11 houses and a high impact for 65 houses are the numbers
12 you took from Mr. Wright?

13 A. That is correct, yes. We have
14 said that for noise impact the existing noise level is
15 better than MOE criteria for Site D, and for Site F,
16 that any additional truck noise would be masked by
17 existing noise levels.

18 For dust impact, all I have said is that
19 for a two-month period on Site D the dust level will
20 exceed MOE criteria, not an important thing. When I
21 add up the question of the visual, the noise and the
22 dust I find the most important of these really comes
23 down to visual because the others are so minor and here
24 you see a very large differential in impact, and I have
25 said if we look at this in terms of the visual, noise,



1 dust overall; that the impact is greater at Site D than
2 at Site F and, therefore, F is preferred.

3 I would now like to turn to the area of
4 land use compatibility. That is on page 32. This
5 involves looking at not only the land uses, but also
6 the most pertinent planning policies.

7 There has been some attempt to separate
8 policy from land use impact. In my view, Mr. Chairman,
9 it is not always that easy to separate them because
10 often the policies of a municipality, we are thinking
11 in land use planning terms and official plans, will be
12 a reflection of what is on the site already or will be
13 a reflection of what they are going to encourage to
14 continue on the site.

15 We are not just comparing some
16 theoretical and abstract document. To a large extent
17 these documents are a reflection of what exists. This
18 is true of most of southern Ontario. Most zoning by-
19 laws are written after houses are in place. It is not
20 just we want this to happen and the policy will be
21 impacted. It usually is a reflection of what is on the
22 ground.

23 If I look at Site F, firstly and look at
24 the policies. There is the mineral aggregate resources
25 policy. This is a policy of general application



1 throughout the province of Ontario. It establishes in
2 general terms that mineral resources should be
3 recognized as an important component in any
4 comprehensive land use or resource management program,
5 although it mentions that other uses may take
6 precedence over extraction in particular circumstances.

7 Municipalities are directed to consider
8 aggregate resource in terms of whether extraction is
9 practicable and realistically possible. It also states
10 further in the policy that an official plan may
11 establish policies to permit non-aggregate uses where
12 it can be shown that the proposed use serves a greater
13 long term public interest than aggregate extraction.
14 That is section 2.3. So, this policy does recognize
15 that other uses can take precedence and one of the most
16 significant tests is if it is in the greater long-term
17 public interest which means that in this particular
18 case you will be evaluating the long-term public
19 interest of the region as against the interest of
20 continuing operation of this particular small National
21 Sewer Pipe property that really has not been in
22 operation for many years.

23 In view of the fact that Site F is under
24 active consideration which is for a long-term public
25 use, I think that if consideration is given to Site F



1 it will comply with the mineral aggregate policy in
2 terms of this particular statement.

3 I think, you know, you have got to look
4 at obviously for the Food Land Guidelines are much more
5 important in the way they apply to Site F than the
6 mineral aggregate policy to Site F. I think you have
7 got to look at both cases as to which takes precedence.
8 I think generally the mineral policy does provide
9 situations where other uses can take place and
10 particularly if it is in the major public interest.

11 I would think that there can be no
12 question in my mind that it would comply in terms of
13 this application because a landfill of this magnitude
14 is certainly of major public interest. Then there is
15 the Parkway Belt West Plan. I think this was discussed
16 in great detail, certainly by Mr. Stagl. All I would
17 like to say here that in terms of the public uses that
18 are permitted I believe the landfill will comply with
19 this designation for Site F.

20 This has already been confirmed by the
21 Minister of Municipal Affairs in his letter to the
22 Region of June 24th, 1986. I think that is of some
23 significance because, Mr. Chairman, if I look at this,
24 I feel that the Minister had to be aware of a number of
25 the policies. He at least was satisfied as he has made



1 quite abundantly clear in his letter dated June the
2 24th, that the landfill on F would conform to the
3 policy planning framework certainly in terms of the
4 Parkway Belt Plan.

5 This letter, of course, was written
6 after the mineral aggregate resources policy statement
7 came into effect in May of '86. So I think it is
8 reasonable to assume that the Minister of Municipal
9 Affairs would have taken this into account.

10 The next policy level below the
11 provincial I would like to look at is the regional.
12 Once again for F the Halton Regional Official Plan
13 establishes broad planning policies for the Region and
14 I deal with this on page 35. The plan is cognizant of
15 the significance of agriculture and that it is
16 important to preserve it. It includes a number of
17 policies that encourage the government to take action
18 assisting the viability of farming operations. They
19 have policies that encourage a secure, economically
20 viable agricultural industry.

21 The plan also includes a part on
22 resource management. This discusses the general aim of
23 encouraging the protection of the resources and they
24 state as part of this in subsection D3-9 the solid
25 waste management policy set out in the plan indicates



1 that the landfill should be developed on lands not
2 suitable for other viable uses.

3 So, if I think you read that, if you put
4 landfill in, don't put it into an area suitable for
5 other viable uses. It is quite clear that both sites
6 are suitable for other uses. On Site D it is obviously
7 a completely viable use. On Site F I am not sure how
8 viable the use is in terms of the fact that it has not
9 been used for many, many years. I guess in this case
10 viability goes to the financial viability as well as
11 the functional viability. I couldn't comment on
12 whether it is financial viable, but I could say it
13 hasn't clearly been in use.

14 At the municipal level the Burlington
15 Official Plan which was approved in '71 and has been
16 amended really once again says that lands are governed
17 by the Parkway Belt Plan and this provision should
18 prevail. Their zoning by-law permits the development
19 of this landfill site. So, I think if I look at the
20 mineral aggregate policy, the Parkway Belt, then the
21 Regional and local official plans and zoning by-laws,
22 my conclusion is a landfill could occur on Site F and
23 it would conform to provincial, regional and local
24 policy because it would clearly be a permitted use in
25 terms of the Parkway Belt and I think if we look at the



1 use for the greater public good in terms of the mineral
2 aggregate policy it would comply as well.

3 I would not like to turn to Site D on
4 page 38. There is firstly the question of land use in
5 the vicinity of airports which is a federal policy in
6 this case. There was a lot of discussion about this.
7 I think the question is that the federal government has
8 clearly come out with a policy that enunciates the fact
9 that they are concerned that there is a risk from bird
10 hazards. When you look at the question of risk,
11 Mr. Chairman, I think you can try and identify how many
12 collisions or occurrences there may be in a year or
13 five years or averaging them over 100 years. The risk
14 might be very small but it is all taken into account.

15 I know in the work I did with OWMC they
16 suggested that as a result of the site going in West
17 Lincoln there may within an area be an increase of
18 cancer of something like one case in 50 years.
19 Something negligible, but they took it into account.
20 It is an elevated risk and we want to concern ourselves
21 about elevated risks. I don't think the risk over here
22 should be looked at, however minor it is, and say, well
23 we all face risks. When we go out on the street and
24 cross the road or get into a car we face the risk. I
25 personally cannot work or live in a society without



1 walking on the road. I feel I have got no choice, but
2 I certainly do have a choice, as an example, Mr.
3 Chairman, as to whether I want to take up smoking.
4 Someone can say, you know, Mr. Kentridge, if you smoke
5 only two cigarettes a day and you start at your age the
6 chance of you getting cancer is going to be very
7 limited. I can say that maybe so I don't want to do
8 it, I don't want to take that added risk even when
9 there is that choice. Even when there is that risk I
10 can say I don't want to turn around and take that risk.

11 I think that is the case, as I see it,
12 of the federally designated bird hazard. There may be a
13 small risk, but on the one side there is a small risk
14 and on the other there is no risk. It is rather like
15 the truck traffic. Although it has been identified that
16 there will be acceptable levels of truck traffic, I am
17 satisfied that given a long enough time there will be
18 an accident one day. We say it might be so
19 insignificant that there might be one accident in 10 or
20 20 or 50 years. Anything of that nature has a risk
21 because it is rather, as I discussed about the
22 engineering, if there is a long enough timeframe then a
23 risk of occurrence will happen.

24 So, therefore, when I look at a choice
25 of two sites again instead of just saying a risk is low



1 so we sort of score them both. Score them similarly in
2 both circumstances, I rather think the logic is to say
3 that if we have a chance of risk and no risk it is more
4 logical to go to an area where there is less likelihood
5 of risk occurring.

6 At the provincial level we have the Food
7 Land Guidelines. This is also a government policy, it
8 was approved in 1978 and this policy deals with the
9 conservation and protection of agricultural uses. Its
10 objectives are the maintenance of an economically
11 viable industry in Ontario. Protection of the best
12 lands (classes 1 to 4) for agricultural practices.
13 Just looking at this policy alone it is clear that they
14 say, oh, Site F is preferable and that is where the
15 landfill should go. Site D, once again, is located in
16 an area of active and viable long-term agricultural
17 use. The guidelines are to preserve such areas intact
18 for ongoing agricultural productivity. They require
19 that priority be given to agricultural land uses.

20 Of course, once again the guidelines
21 establish criteria for assessing non-agricultural uses.
22 One of the criteria is that consideration, if a non-
23 agricultural use is to take place, to be given, to
24 finding a location on lower capability lands. Here
25 again I look at this and say F is much lower capability



1 and as far as I can see, as has been said by the Walker
2 Wright Young report, it can be used.

3 Also in these guidelines they raise the
4 issue of compatibility. They speak about the
5 introduction of intrusive incompatible land uses which
6 can affect the security and viability of agricultural
7 uses. The introduction of a land use into Site D
8 would, I believe, impact unfavourably, would be
9 incompatible and would affect this long-term viability.
10 The use of D would be in conflict with the Food Land
11 Guidelines in terms of the loss of high capability
12 agricultural lands, the failure to use lower capability
13 agricultural land that is available elsewhere, and the
14 intrusion of an incompatible land use into an
15 agricultural area.

16 If I go to the regional, and this is on
17 page 41, there are two things I would like to say.
18 Firstly the regional plan places emphasis on the
19 importance of retaining existing agricultural land
20 uses. It discourages the introduction of non-
21 agricultural activity. To this extent I think it
22 implements the provincial policy of the Food Land
23 Guidelines. I think a land use on D would be in
24 conflict with regional plan policy by introducing non-
25 agricultural and potentially incompatible land use into



1 | this area.

2 | I will now go to the municipal level
3 | which is the Milton Official Plan and by-law. In the
4 | official plan, the majority of the site is designated
5 | as agriculture with a small section designated as
6 | conservation and hazard lands. The Milton Official
7 | Plan discourages non-agricultural and incompatible uses
8 | in an agricultural area. The Milton zoning by-law
9 | designates Site D as agriculture. I have a somewhat
10 | different reading of the by-law from Mr. Stagl. I
11 | think in simple terms I agree with Mr. Peter Walker on
12 | his interpretation, which is to say, that the by-law
13 | allows public uses in an agricultural zone because
14 | there is this question Mr. Lederer got into under the
15 | permitted use, et cetera, et cetera, and I did and do
16 | agree with that argument.

17 | So, I believe that an amendment to the
18 | by-law may not be required and of course if it is not
19 | required the OP amendment would not be necessary as the
20 | zoning by-law is deemed to conform to the official
21 | plan. I was a little bit cautious in saying it may not
22 | be required, Mr. Chairman, because I think the by-law
23 | was written in a somewhat convoluted form. It is not
24 | easy to get to this interpretation. It took me some
25 | time to come to the view that Mr. Walker was correct.



1 The way I look at it is this. If this
2 same wording applied to a parcel of land that was being
3 dealt with for, say, a private client, say someone is
4 putting in a use that had the same wording that
5 applied, but he was a private client. He said I think
6 you are permitted and do you need a by-law amendment, I
7 would suggest you talk to a lawyer about this, not me.
8 It is more a legal question. From the point of view of
9 security I would just get a by-law amendment so there
10 is no question about it afterwards.

11 I think the important thing about this
12 is that when the Milton by-law permits it, I still take
13 the view that it is clearly the Regional Official Plan
14 and the Municipal OP and zoning by-laws very clear
15 policy not to encourage such uses as landfill on D and
16 in fact to encourage farm uses. The reason that it is
17 permitted in Milton in this case is because the by-law,
18 in the sort of wording, incorporates a tremendous
19 latitude to government-type uses, Mr. Chairman. More
20 or less to the effect of saying if there is something
21 the government wants to put up they can put it just
22 about anyway. If you want to put up a small
23 engineering office or a road works site somewhere, it
24 makes it easy to do.

25 That is not saying that it thereby



1 encourages it in this zone. Quite to the contrary. It
2 is very explicit that it encourages agriculture. It is
3 really the case that if it is going in I believe it is
4 permitted by the by-law although it would be most
5 likely prudent that a lawyer would say get it zoned and
6 the OP amended in the process.

7 Considering these two sites, one must
8 make a trade-off between the mineral aggregate
9 resources policy statement and the Food Land Guidelines
10 policy statement. In my view the government's
11 agricultural policy should be given primacy for a
12 number of reasons. I start enunciating these on the
13 bottom of page 43. Firstly, the mineral aggregate
14 policy confirms that when a use is for public benefit
15 it will be allowed. That is a very different statement
16 from anything I see in the Food Land Guidelines.

17 Secondly, Site F is not in active
18 continuous use, whereas Site D is in active continuous
19 use and this, therefore, to my mind once again shows
20 the importance of the land with a different weighting.
21 A non-extraction use on F would not impact any other
22 quarry uses so it is really only impacting one
23 relatively insignificant unused quarry, whereas D would
24 impact viable land and surrounding lands.

25 Finally a quarry has a finite life,



1 whereas an ongoing agricultural use, has the potential
2 for indefinite production assuming that sound
3 agricultural policies are applied.

4 Finally, I would like to just refer to
5 the Food Land Guidelines.

6 Q. This is Exhibit M-114, Mr.
7 Chairman. Which page of the Guidelines are you
8 referring to, Mr. Kentridge?

9 A. Page 12 of the Guidelines. On
10 page 12, section 3.13 it says halfway down that
11 section, the fourth line it says:

12 "If the land is to be used for another
13 purpose, (speaking about high capability
14 agricultural lands) the requirement must
15 be justified. The need for the
16 alternate use within the municipality or
17 planning area must be documented,..."

18 I think we have some documentation:

19 "...as must the reasons why the lower
20 capability or marginal land cannot be used."

21 Well, as I can see it to this date the lower capability
22 land can be used. Everything I have seen in the
23 documents Mr. Peter Walker prepared for Walker Wright
24 Young, indicate that Site F can be used, it is the
25 preferred site. If it can be used I think there is an



1 implicit instruction that it must be used. There is
2 nothing of equivalent strength, directness or sort of
3 direction given in the mineral resources policy.

4 Now, the sites are located in different
5 areas and are therefore governed to some extent by
6 different planning policy frameworks at both the
7 municipal level and provincial level. On balance, the
8 use of Site F for a sanitary landfill site would not
9 conflict with such policies, whereas the use on D would
10 conflict with pertinent federal and provincial
11 policies.

12 Further, and I say this at the bottom of
13 page 44, rehabilitation is likely to be a net benefit
14 to Site F to improve the situation much as the Bayview
15 and Burlington Park. It will provide a useful activity
16 during the landfill lifetime so it can become a
17 valuable amenity. In contrast after restoration there
18 will likely be a net loss of productivity in
19 agricultural use at Site D and surroundings.

20 So, these differences indicate a high
21 level of preference for Site F. I think this contrasts
22 with the Walker Wright Young and Associates conclusion
23 which found that Site F was preferred to D in terms of
24 land use planning, but the ultimate restoration of
25 agricultural use at D reduced the level of preference.



1 It seems to me in terms of land use planning at least
2 Site F is very substantially preferred.

3 What I have done, Mr. Chairman, on page
4 45 before I go into a conclusion, is I have tried to
5 summarize these factors that were dealt with in the
6 Walker Wright Young report. I have put them in the
7 same order that was done in the consultant's report,
8 although as I have said, when you disaggregate
9 agriculture and natural environment into biophysical
10 and -- I beg your pardon -- when you disaggregate
11 natural environment into biophysical and agriculture, I
12 think what you would most likely find is the question
13 of social environment which deals with the displacement
14 of people, having properties expropriated becomes the
15 second criteria.

16 I look at this and I say public health
17 and safety and I tried to give a bottom line figure.
18 There is a higher risk of drinking water pollution for
19 residents and agricultural uses in the situation of a
20 collapse or a breakdown of the system. At Site F there
21 is a lower risk of impact because municipal supply is
22 available. When you look at that factor F is
23 preferred. When you look at natural environment, D has
24 lower significance for biospherical because it is an
25 agricultural use already. It is not natural



1 environment now, it is being cultivated. There is a
2 higher significance for biophysical for F because it is
3 not in agricultural use.

4 So, for this criteria, for this factor
5 which I have called natural environment or you could
6 call biophysical, D is preferred. When you go to
7 agriculture next I said there is much higher impact on
8 D and I discussed this earlier, no significant loss for
9 F, so F is clearly preferred in that category.

10 When you get to social environment there
11 are a number of criteria, the most important ones are
12 population and visual. There is a very high impact on D
13 and in fact Myra Schiff speaks about low. I would go
14 further, Mr. Chairman, I think on F there is just no
15 impact.

16 So, I think there is a high impact on D
17 and a nil impact on F. Visually there is a higher
18 impact for D than there is for F. When we come to
19 compatibility in terms of policies, once again the
20 landfill would conflict with regional, federal and
21 provincial policies for D and would be in conformity
22 with F. So when we take the whole of the social
23 factor, once again, F becomes preferred.

24 I have no comments under cultural
25 environment although Walker Wright Young indicated that



1 F was preferred for cultural environment. Under
2 engineering operations and costs which I have got two
3 asterisks, means those factors, Walker Wright Young
4 indicated no marked differential between those two
5 sites.

6 DR. KINGHAM: Before we leave that
7 table, Mr. Kentridge, under social environment
8 population Site F, can we assume you meant to say urban
9 context and intervening land uses?

10 THE WITNESS: Intervening, thank you.

11 MR. GARROD: Q. Turning then to your
12 conclusions, Mr. Kentridge?

13 A. If I look at the conclusion, at
14 all the factors used by Mr. Wright and of course I have
15 taken the liberty of disaggregating, in every factor
16 but biophysical, F is the preferred site, and when you
17 disaggregate them so you are giving greater weight, I
18 think you give greater weight to social impact in my
19 view.

20 So, it is not only that they are all the
21 biophysical but I think there would automatically be a
22 greater weight to social which indicates I feel an
23 overwhelming and one-sided indication that F is the
24 preferred site.

25 In the Walker Wright Young analysis four



1 of the five factors favour Site F. Ours is the same
2 instead of four out of five it is five out of six after
3 we disaggregate. So we support the general conclusion
4 reached. However, I think the difference is that we
5 see a much different weighting and scale showing that F
6 is preferred so substantially to D that I would even go
7 further to say that if you look at some of the criteria
8 that are being used such as the policy statement, this
9 impact on the persons, although Site D may be the
10 second preferred site in the ranking, et cetera, it is
11 hard to really think of it in the same way as Site F in
12 terms of suitability.

13 I think that generally sums up my
14 conclusions, Mr. Chairman, on the study I carried out.

15 DR. KINGHAM: Can I just ask you on that
16 very last sentence. In the last two pages you shift
17 gears slightly to refer to our conclusions and our
18 view.

19 THE WITNESS: It is my view, I was using
20 the "Royal We". I apologize.

21 DR. KINGHAM: I just wonder if there
22 were more people involved in this than you yourself?

23 THE WITNESS: I had some staff, but this
24 is my report and I wrote it.

25 MR. GARROD: Thank you, Mr. Kentridge,



1 those are all my questions.

2 MR. LANCASTER: Mr. Leitch.

3 MR. LEITCH: I have some questions.

4 CROSS-EXAMINATION BY MR. LEITCH:

5 Q. Mr. Kentridge, as you know, I
6 represent the Town of Milton. In the order of things
7 it is my turn. I am interested, first, in dealing with
8 your statement that you have been the person in charge
9 of the land use planning aspects of the work of the
10 Ontario Waste Management Corporation for the past four
11 or five years?

12 A. Yes, when the team was put
13 together, they retained the firm of Marshall Macklin
14 Monaghan to carry out that aspect. On the specific
15 condition that I was the person who ran the job and was
16 active in it. In due course when I set up my own firm,
17 they actually transferred the work to Leon Kentridge
18 Associates, so I had a continuing role and still
19 continue right now.

20 Q. In the course of giving your
21 evidence to the Board you indicated that that process
22 carried out by the Waste Management Corporation touched
23 on part or all of what we call Site D in this process?

24 A. That is correct.

25 Q. If I may put some statements of



1 fact in regard to that process to you, I would ask you
2 to agree or disagree with them or qualify them as you
3 understand the subject matter.

4 Firstly the Ontario Waste Management
5 Corporation is a Crown corporation under the Ontario
6 Waste Management Act.

7 A. Yes.

8 Q. Its stated purpose is to study and
9 eventually build and locate facilities for the disposal
10 of toxic wastes, hazardous waste in the province?

11 A. Yes, and operate.

12 Q. And operate. In the course of
13 setting about its mandate it went through a selection
14 process which commenced with the province of Ontario
15 and narrowed to certain designated sites?

16 A. That is correct.

17 Q. Am I correct that the comparison
18 between that work and the work that has been done in
19 this process would be that at Stage 2C where this
20 process designated six candidate sites, at a similar
21 stage, that process designated eight sites in the
22 Golden Horseshoe?

23 A. I think it was eight.

24 Q. Let me be more specific. There
25 was one site in Brampton?



1 A. Yes.

2 Q. Three sites in the Milton ...

3 MR. LEDERER: Just to be absolutely
4 certain about what is going on here, Mr. Kentridge
5 answered the question "I think there were." Now
6 Mr. Leitch is putting specific sites to him and
7 Mr. Kentridge is going yes. The issue here must surely
8 be does Mr. Kentridge know this or is he really
9 agreeing with Mr. Leitch because it makes sense within
10 a general recollection. Because if it is latter it is
11 Mr. Leitch's evidence not Mr. Kentridge's.

12 MR. LEITCH: Q. Do you know,
13 Mr. Kentridge, if I named the eight sites would you be
14 able to say yes or no?

15 A. If I recognized them I will say
16 yes, if I can't remember I will say I can't remember
17 and if you are wrong I will say you are wrong.

18 Q. There was one in the Town of
19 Brampton?

20 A. Yes.

21 Q. Three in the Town of Milton?

22 A. That is correct.

23 Q. Just stopping there ...

24 A. One M and 13 I think we called
25 them.



1 Q. Let us see if we can more clearly
2 define sites which developed in this process in Milton
3 to that process in Milton. In this process we have
4 what we call Site D?

5 A. Yes.

6 Q. That was coincident with a site in
7 the OWMC process?

8 A. That is correct.

9 Q. In fact, as I understand it, my
10 understanding was that the site in the OWMC process was
11 larger?

12 A. Was larger than that.

13 Q. Included the whole of the Site D
14 in it?

15 A. That is correct.

16 Q. Then there was a site in this
17 process which we called E and E was at the intersection
18 of Tremaine Road and Britannia Road?

19 A. That's right.

20 Q. The northwest corner. That Site E
21 in this process again was smaller than and completely
22 contained in a site in the OWMC process?

23 A. That is correct.

24 Q. So now we have got then these two
25 sites in this process inside two sites in the OWMC



1 process. There was a third site in Milton and it is
2 not necessary I think for me to ask you where that was,
3 but it was east of these two sites?

4 A. That is correct.

5 Q. Then there were three sites in the
6 Niagara region?

7 A. That's right.

8 Q. One site in West Lincoln?

9 A. That's right.

10 Q. Am I also right that the proposal
11 of the Waste Management Corporation was to locate
12 physical chemical treatment facilities and an
13 incinerator together with a secure landfill site?

14 A. Yes.

15 Q. That continues to be the proposal?

16 A. That is correct.

17 Q. As matters developed, of those
18 eight sites it came down to three specific proposals?

19 A. Yes.

20 Q. That would be similar in that
21 process to the two alternatives in this process?

22 A. It was a winnowing down.

23 Q. The three proposals involved a
24 combination of what we know as the Site D site here and
25 the Site E site here?



1 A. That's right.

2 Q. For all?

3 A. Called the LF4 and TILN.

4 Q. On those two locations would be
5 constructed all of the facilities and there was a
6 proposal for Niagara and a proposal for West Lincoln?

7 A. That is correct.

8 Q. As matters turned out West Lincoln
9 became the preferred choice?

10 A. That is correct.

11 Q. Am I correct that in the ranking
12 of things the Niagara option was second and the Milton
13 option was third?

14 A. That is correct.

15 Q. Shortly after the election which
16 sees us with a Liberal government changing from
17 Conservative to Liberal, there was ...

18 MR. LEDERER: Sir, could someone explain
19 to me what this has to do with why we are here? I am
20 sitting here trying to figure out what the relationship
21 is. I thought for a while it was a comparison of the
22 process which has some vague relevance I suppose. This
23 is a completely different project. The purpose of the
24 landfill for which we seek approval is entirely
25 different. We are not dealing with toxic waste, we are



1 not dealing with a province-wide facility, we are not
2 dealing with physical, chemical treatment plants, we
3 are dealing with municipal waste and municipal
4 landfill. Surely we don't now have to investigate in
5 even this kind of summary way, the history of some
6 other process which I suspect Mr. Leitch is now going
7 to get to this matter of public record. It converted
8 to an environmental assessment. Converted to a
9 completely different project on a completely different
10 scale dealing with a completely different type of
11 waste. It seems to me we are going too far. We ought
12 not to have to deal with this. In theory we can now
13 make all of those findings an issue here if this goes
14 too far and I suppose everyone including Mr. Leitch can
15 see that's not appropriate.

16 MR. LANCASTER: The Board would like to
17 know the purpose of that question.

18 MR. LEITCH: When I opened up the case
19 on behalf of the Town of Milton, I indicated to the
20 Board as you will recall there was this point of
21 contact between the two processes. I think I said to
22 the Board the hearing which will occur in respect of
23 the Waste Management Corporation study would involve a
24 comparison of the sites which we are dealing with in
25 order to arrive at the propriety of the conclusion in



1 that study.

2 To that extent the purpose of calling
3 this evidence is to place it in context so this Board
4 can understand as it deals with this project that it
5 will have a bearing on the work that another Board
6 under the same, under at least one of the same statutes
7 will deal with in that process.

8 MR. LEDERER: If I may respond to that.
9 First of all with the greatest of respect no matter how
10 you put this together, the abstract, the real,
11 whatever, one process has no bearing on the other. We
12 have got a hearing here, we have got a proposal, we
13 have got a lengthy series of studies. A lengthy
14 testing program. It doesn't matter what everybody else
15 is doing, what matters is whether or not this process
16 can be sustained pursuant to the terms of the
17 Environmental Assessment Act. Whether one of these
18 sites can be or ought to be approved.

19 I may say, Mr. Chairman, there is
20 another aspect to this that is of concern to me. If I
21 can just introduce it by referring to some words of
22 Mr. Leitch has just said. He said the reason for
23 calling this evidence. One of the difficulties in this
24 hearing is that people who are on the same side, have
25 the same point of view of the witness have been



1 permitted to cross-examine which means it is permitted
2 to ask leading questions.

3 With the greatest of respect that is
4 somewhat of a prejudicial effect, because when you are
5 leading you are actually trying to help. It really
6 ought to be direct examination. Now we have someone
7 saying oh, I am calling evidence through somebody's
8 else's witness and in doing it I am going to lead.

9 As a result there has been no
10 preparation for this, there is nothing in Mr.
11 Kentridge's witness statement with respect to this. No
12 indication he would make those kinds of comments, no
13 indication that there would be an ability to cross-
14 examine. I object to that too. This is taking the
15 matter of cross-examining people on the same side too
16 far and introducing all new issues.

17 With the greatest of respect it is not
18 appropriate given the responsibilities of the other
19 parties who seek to do proper cross-examination because
20 they are adverse in some respect. This is not proper,
21 sir, it is going too far. The latitude that has been
22 permitted by this Board.

23 MR. GARROD: Mr. Chairman, I wonder if I
24 might make one comment since it is my witness. That
25 is, that I almost rose when Mr. Leitch used that phrase



1 myself about calling this evidence. I think it was
2 probably an unfortunate use of the phrase by him and I
3 did want to make it clear that as far as I am aware,
4 Mr. Leitch has not had any prior discussion with my
5 witness about this and there have been no prior
6 consultations so this is not in the nature of
7 examination in chief, at least as far as I am
8 concerned.

9 MR. LANCASTER: Yes, Mr. Leitch, I think
10 the Board has to agree and also it seems to indicate
11 you might be asking the Board to reserve this site for
12 another purpose.

13 MR. LEITCH: I am not asking the Board
14 to reserve this site for another purpose. Quite the
15 contrary.

16 MR. LANCASTER: I would think so, but
17 that is a good point.

18 MR. LEITCH: Well, I would take my
19 chances of that, Mr. Chairman. Frankly I would take my
20 chances on that if you were prepared to do it. Firstly
21 it was an unfortunate choice of words. The evidence
22 was being adduced, not called by me. I have not
23 discussed this matter with Mr. Kentridge. I know he
24 has a position with the Waste Management Corporation.
25 Let me say that all I want now from Mr. Kentridge in



1 regard to the line of questioning that I was putting to
2 him, is his concurrence with my question as to whether
3 or not that Ontario Waste Management Corporation
4 process is under the Environmental Assessment Act as it
5 stands today. That is as far as I am going to go.

6 MR. LEDERER: That is a matter of public
7 record.

8 MR. LEITCH: If my friends all agree
9 with that I don't have to ask the question.

10 MR. LEDERER: It is history.

11 MR. LEITCH: Q. Mr. Kentridge, the only
12 other area that I am going to ask you some questions
13 in, is the matter of the interpretation of the Milton
14 Official Plan and zoning by-law as it relates to the
15 question of whether or not there ought to be an
16 amendment to those documents for this project which we
17 call Site D.

18 I take it from what you said in your
19 analogy of if you were representing a private client in
20 regard to a use such as this that you would say to them
21 to be safe you should apply for amendments to the
22 documents?

23 A. Absolutely.

24 Q. I would put it to you,
25 Mr. Kentridge, that it would be desirable from the



1 point of view of the Milton documents for them to be
2 amended to give a specific approval to Site D if indeed
3 it was the site which eventually was designated?

4 A. I think it would be. That is the
5 route I have suggested. I was just trying to say the
6 way this by-law is worded, Mr. Leitch, it may be -- I
7 sort of defer to you or Mr. Garrod or Mr. Lederer on
8 this -- not necessary or necessary to technically do
9 it. Certainly, in any event, it would be sensible and
10 prudent to tidy the whole thing up and have a special
11 by-law.

12 Q. As we have now in fact?

13 A. On the other site.

14 Q. On old Site F as we call it.

15 Indeed there is a special provision in the zoning by-
16 law under the special use section of the agricultural
17 designation, the agricultural zone?

18 A. Yes.

19 Q. There is a similar separate
20 paragraph in the official plan dealing with that site?

21 A. I understand that. It is purely
22 when I look at a zoning by-law, let me find a page if I
23 may.

24 Q. Are you looking at the
25 agricultural zone?



1 A. I am just looking for one section
2 in the Milton zoning by-law. In the section under the
3 agricultural zone in a normal situation, Mr. Leitch,
4 let us say here is a section called "Uses Permitted"
5 and it says agricultural and complementary use and
6 agriculture use, an existing church, an equipment
7 storage building, an office of a veterinary surgeon et
8 cetera.

9 If I was to be advising a veterinary
10 surgeon who wants to open an office there, I would say,
11 oh, you are under uses permitted therefore I don't
12 think you need a zoning amendment. Then I speak
13 generally I don't think a zoning amendment is needed
14 for anything listed under uses permitted. Once it is
15 permitted by definition of the Planning Act it complies
16 with the OP, so you don't need an OP amendment.

17 When I come down to public use with the
18 provision of section 3(16) I say, under that permitted
19 category do you need a by-law amendment or not. Not
20 quite clear to me. That's why I said I would be
21 careful. I would defer to you on this.

22 Q. Thank you. When we look at the
23 zone provisions and the special provisions of the
24 agricultural zone in the present by-law we come to a
25 specific designation for a sanitary landfill at



1 Tremaine and Britannia Road?

2 A. Correct.

3 Q. All I was trying to ask you,
4 Mr. Kentridge, whether you would agree with me that it
5 would be desirable if Site D were chosen in this
6 process to have a similar kind of designation in the
7 by-law, and in the official plan?

8 A. Absolutely.

9 Q. At the same time as we understand
10 the evidence, the references to old Site F would be
11 removed if that happened?

12 A. Yes.

13 Q. Indeed they would be removed
14 whichever site is chosen?

15 A. That is true.

16 Q. You would call that appropriate as
17 well?

18 A. Yes, I would.

19 Q. You have -- once you have -- of
20 course, it is desirable for this Board to do those
21 things, you would agree with me that it then calls for
22 an application of the principles set forth in the
23 Planning Act in the process of doing that?

24 A. I don't quite understand you.

25 Q. In other words if you are going to



1 amend the official plan you go to the Planning Act?

2 A. To see how you would proceed?

3 Q. To see how you would proceed and
4 what kinds of things you look to when you are
5 proceeding to do that?

6 A. That's right.

7 Q. What this Board is doing is using
8 it?

9 A. Yes. If that's what you mean, I
10 agree with you.

11 Q. And you were assisted, I think in
12 coming to your agreement with Mr. Walker's
13 interpretation of the by-law by that section of the
14 Planning Act which deems a zoning by-law to be in
15 conformity with an official plan?

16 A. That's right.

17 Q. I take it from what you say when
18 you say you would defer to myself or Mr. Lederer or
19 Mr. Garrod that you are ...

20 A. Even Mr. Tzekas.

21 Q. Especially Mr. Tzekas.

22 MR. LEDERER: That's really going some
23 distance.

24 MR. LEITCH: Q. I take it what you are
25 really expressing there is that in matters of



1 expertise, there is a well recognized expertise in
2 relation to interpretation and documents, official plan
3 especially which is a policy document, and the zoning
4 by-law which implements the official plan, but that
5 when you come to determine the meaning of a public
6 statute it may very well be that lawyers have the
7 expertise and training to do that, to some higher
8 degree than planners?

9 A. Absolutely.

10 Q. The deeming section that Mr.
11 Walker has relied on and you have referred to in your
12 report is section 24?

13 A. That's right.

14 Q. Section 24 is an interesting
15 section because it is the section that puts the teeth
16 in the official plan; would you agree with me?

17 A. I will have to get it out.

18 Q. Look at 24 subsection (1)?

19 A. Yes. The one that starts
20 "Despite"?

21 Q. Yes.

22 It says, so that we can all understand
23 it:

24 "Despite any other general or special
25 act where an official plan is in effect



1 no public work shall be undertaken
2 except as provided in subsections (2)
3 and (4) and no by-law shall be passed
4 for any purpose that does not conform
5 therewith?

6 A. Yes.

7 Q. That conformity is dealt again
8 within subsection (4). In subsection (4) of 24, it
9 says that:

10 "If an official plan is in effect and a
11 by-law is passed under section 34, if an
12 appeal isn't taken against that by-law
13 within the time limit it is deemed to
14 conform with the official plan."

15 A. That is right.

16 Q. You would agree with me that it
17 doesn't anywhere in the section say that the official
18 plan is deemed to conform with the by-law but quite
19 specifically it says that the by-law is deemed to
20 conform with the official plan?

21 A. Correct.

22 Q. What you have done is you have
23 accepted the logic of that. You have said well, if the
24 by-law is deemed to conform with the official plan,
25 then it must follow that the official plan conforms to



1 the by-law; am I right in how you approached that?

2 A. Yes, I suppose I said if it is
3 deemed or seemed that the by-law that we have here is
4 in place and no amendment is needed, then I deem it is
5 in conformity of the OP and vice versa.

6 Q. Although it doesn't so state?

7 A. It doesn't state.

8 Q. When I look at the teeth that the
9 legislature has put in official plans through section
10 24 I see two kinds of teeth and I will ask you if you
11 agree or disagree with me.

12 Firstly, you can't pass a by-law that
13 doesn't conform with the official plan?

14 A. That I agree with, yes.

15 Q. Secondly, you can't undertake a
16 public work unless it conforms with the official plan?

17 A. That's correct.

18 Q. In dealing with that second tooth,
19 if I can put it that way, public works, is it defined
20 in the Act; do you understand?

21 A. I believe I have it here.

22 Q. Section 1J.

23 A. Yes.

24 Q. It means:

25 "Any improvement of a structural nature



1 or other undertaking that is within the
2 jurisdiction of the Council,
3 Municipality or Local Board..."

4 You would agree with me I think that this landfill
5 undertaking would be a public work?

6 A. Yes, I do.

7 Q. So for it to be undertaken it has
8 to conform with the official plan?

9 A. Yes.

10 MR. LEITCH: Thank you.

11 MR. LANCASTER: Thank you, Mr. Leitch.

12 Mr. Tidball, do you have any questions?

13 MR. TIDBALL: I have no questions, thank
14 you, Mr. Chairman.

15 MR. LANCASTER: Mr. Griffiths?

16 MR. GRIFFITHS: No thank you,
17 Mr. Chairman.

18 MR. LANCASTER: Mr. Tzekas and Mr.
19 Lederer are going in the same order as before?

20 MR. LEDERER: We haven't actually had an
21 opportunity to discuss the matter. I wonder if perhaps
22 it might be appropriate to take a somewhat early lunch.

23 MR. LANCASTER: We can do that, and you
24 can advise us when you come back. A quarter to two.

25 ---Luncheon Adjournment at 12:17 p.m.



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

2 MR. LANCASTER: Thank you, please be
3 seated. Mr. Kentridge, you may sit if you wish.

4 THE WITNESS: I will start this way and
5 see how it goes.

6 MR. LANCASTER: You are going to proceed
7 are you Mr. Lederer.

8 MR. LEDERER: It seems to be my turn,
9 Mr. Chairman.

10 CROSS-EXAMINATION BY MR. LEDERER:

11 Q. Mr. Kentridge, as we begin I want
12 to see if we can get some idea as to what the bottom
13 line of what you view of all of this is. First of all I
14 gather from what you told my friend Mr. Garrod this
15 morning that you find the process adopted here by
16 Walker Wright Young and the various consultants
17 retained by the Region acceptable?

18 A. Yes, that's right.

19 Q. As I understand it, therefore, you
20 would agree that the results, certainly the end of the
21 2C study, which proposed the present Site D and Site F
22 as the two sites to fall out of that process as being
23 an appropriate result?

24 A. Yes, I do.

25 Q. I take it as well that you agree



1 with the results of that study, which say that Site F
2 is the preferable site as between those two?

3 A. Yes, I do.

4 Q. I take it, sir, you would agree,
5 however, that if at the end of the day -- let me try
6 this another way -- I am sorry. First of all am I
7 right in saying that where you differ from the Region's
8 consultants with respect to this work is as to the
9 degree of differences between the two sites?

10 A. Yes, that is correct.

11 Q. I think you used the words this
12 morning there is an enormous and marked difference in
13 your view?

14 A. Yes, correct.

15 Q. We will come and deal with that.
16 Sir, would I be right in presuming you have not heard
17 all of the evidence lead before this Board?

18 A. That is correct.

19 Q. You have not reviewed all of the
20 transcripts of the evidence?

21 A. Correct.

22 Q. Maybe I am right as well that
23 while you may have read many of the reports you have
24 not read them all?

25 A. Correct.



1 Q. Now, will you agree with me, first
2 of all with respect to the reports that you have not
3 read, that that would seem to indicate that the Board
4 when it comes to make its decision will have more
5 information before it than you had when you undertook
6 this study?

7 A. Sure, absolutely.

8 Q. Will you also agree with me, since
9 they were responsible for preparing them that it would
10 appear unlikely that the people at Walker Wright Young
11 had not read all of the reports? I suppose we will
12 have Mr. Walker's evidence on that and I don't recall
13 whether this specific question was addressed?

14 A. That would be fair.

15 Q. I take it you have given evidence
16 before, I know you have given evidence before, we have
17 met before; haven't we?

18 A. Yes, we have.

19 Q. Would you agree with me, as an
20 experienced witness, you were here for Mr. Stagl's
21 evidence last week?

22 A. Not all of it.

23 Q. I put those questions to him, I
24 don't know whether you were here or not. You will
25 agree with me that as an expert after you prepare a



1 study and you file the report with your clients, you
2 may have some cause to re-think what you have done,
3 perhaps change the stress a little bit, have a new
4 thought, that kind of thing?

5 A. Yes.

6 Q. So the thinking process doesn't
7 stop with the writing of the report, it continues to
8 evolve in some fashion?

9 A. Yes. You know, you don't want to
10 put down the stuff in the report unless you are
11 satisfied that you understand it and I hope that if
12 anything else changes your mind it is most likely the
13 result of added information that has been brought to
14 your attention.

15 Q. Would you also agree with me and
16 again I put this to Mr. Stagl last week, that in the
17 course of giving evidence and being confronted with
18 cross-examination you may see a new way of approaching
19 it, have a new fact put to you that can again change
20 your position and amend your view of any particular
21 given situation?

22 A. Oh, yes, if something new is put
23 to you in cross-examination it is only appropriate that
24 you agree to it.

25 Q. It stands to reason, therefore,



1 Sir, that ultimately this Board is going to be in a
2 different position than you are to undertake a
3 comparative analysis with respect to these two sites?

4 A. They have a different task from me
5 and they are going to have heard a lot of evidence in
6 tremendous technical detail. I daresay that the Board
7 maybe at the end of this will have heard, know more
8 than anyone else, including the lawyers who sometimes
9 do and sometimes not, or Mr. Walker or myself or anyone
10 and I think the Board members are the only parties who
11 have been -- really will have been from A to Z.

12 MR. LANCASTER: I agree though I have
13 heard more I don't know if we will know more.

14 MR. LEDERER: I am always prepared to
15 prepare to admit as a lawyer that they don't know very
16 much about anything.

17 MR. LANCASTER: The Board?

18 MR. LEDERER: No the lawyers. I may say
19 to Mr. Leitch he is fortunate I am not getting more
20 personal in this.

21 Q. My point, obviously Mr. Kentridge
22 is this, that at the end of the day with the additional
23 information they have it is at least possible that this
24 Board will have determined that in fact in their view
25 Site D is the preferable site. Can we agree?



1 A. I wouldn't presume to suppose what
2 the Board will find at the end of the day.

3 Q. I am not asking you to presume
4 anything, I am asking you if something is possible?

5 A. I think it is possible. In my
6 view though unless some evidence has been brought
7 forward or I have missed some reports or missed picking
8 up some important transcripts that are completely
9 different to shed light onto things that I haven't
10 seen, I certainly maintain my present opinion that Site
11 F is substantially better for a landfill site than Site
12 D.

13 Q. Sir, if you have missed something,
14 or if that additional information is before the Board
15 and if they therefore select Site D you would still be,
16 would you not, accepting of the process which has
17 resulted in that as the ultimate conclusion?

18 A. Oh, yes, I would certainly accept
19 the process, but I would like to amplify on that. In
20 terms of the information that I am familiar with,
21 Mr. Chairman, I find it hard to conceive of these two
22 sites being close. If on the other hand, in terms of
23 the process if I can use this sort of rather far-
24 fetched analogy. Let us say not only the information
25 we have, but somehow by an enormous oversight not only



1 have a choice of risk or no risk.

2 Q. It stands to reason in Ms.
3 Schiff's case that she was right, either there is a low
4 impact or there isn't?

5 A. No, she is wrong because there is
6 a nil impact or there is an impact.

7 Q. Sir, I am suggesting to you that
8 what you have got to do in this case, what you have got
9 to do when you come to compare, would you agree with
10 me. Let's go back, will you agree with me there are a
11 large number of factors that anyone will have to
12 consider in making this decision?

13 A. Absolutely.

14 Q. Will you agree with me there will
15 be negative impacts associated with every landfill
16 proposal?

17 A. Yes.

18 Q. There will be difficulties, trade-
19 offs that have to be made?

20 A. This is usually the case and I
21 think this is particularly so if you start to try and
22 winnow down from many potential sites to few.

23 Q. Sir, will you agree with me that
24 when you come to trade off these different factors you
25 will have to trade off that aren't seemingly directly



1 Q. Let us go to this case here, sir.
2 You are satisfied in this case, despite the fact that
3 these two sites, sites and 2 and 2A are different to
4 say it doesn't matter we'll simply state the fact that
5 there is a substantial impact at both. I am suggesting
6 to you that is precisely the same as saying Ms Schiff
7 is wrong, they are both low. You should have looked to
8 see if it was two or eight. What you should be doing
9 here is to look at the difference between these two and
10 determine in fact the degree of difference. You are
11 doing here precisely what you say she did wrong?

12 A. I think that's why I started going
13 into some of the charts as well to say what figures did
14 they use here. Did they say zero and impact or did
15 they call one low and nil. I think at that stage you
16 can't use those low ranges.

17 Q. I am not talking about there being
18 at that stage?

19 A. It is almost like a light being on
20 or off.

21 Q. Excuse me, now it is only like a
22 light being on or off. So either the impact is great or
23 it isn't. Either the light is on or it is off; is that
24 correct? Is that what you are saying?

25 A. It is something like this, and you



1 an immeasurable difference.

2 Q. I really don't want to get into
3 this now, but it is going to take forever but I am
4 going to tell you right now that I think the trap you
5 have fallen into is precisely what you have criticized
6 Ms. Schiff for. So let's try and look at it. What you
7 say Ms. Schiff did wrong at the 2C level of study was
8 that she has a range of low impacts. She takes an
9 absolute value and says if there are any number of
10 houses between zero and 10.

11 A. Persons.

12 Q. Zero and ten persons which are
13 impacted then she treats it the same. They are both
14 given a low, correct?

15 A. Yes.

16 Q. That you say doesn't pick up the
17 subtle distinction of the situation where there are two
18 people in one case and eight people in the other case
19 because they both come out as low; correct?

20 A. That's right.

21 Q. You say that's wrong because you
22 have got to pick up that simple distinction of the
23 difference between 2 and 8?

24 A. Yes. One is more than the other,
25 not the same.



1 are getting closer. But as long as you have a choice
2 of nil and 100 deaths or 1000 deaths or 5 deaths, the
3 difference is substantial. I just really do believe
4 that.

5 Q. Sir, with respect, looking at it
6 the way I have put it to you, you will agree with me
7 that there is a difference between -- there is a
8 difference in the distinctions between site 1 and site
9 2 and site 1 and site 2A.

10 A. I just said that.

11 Q. Will you agree with me then that
12 in doing a comparative analysis it is important to pick
13 up the subtleties of these kinds of differences in
14 order that you can properly balance and trade off all
15 the various factors you have to consider?

16 A. Mr. Lederer, I am sorry I just
17 have to keep repeating it. I am saying if you are
18 doing a factoring analysis and you have got 8 sites or
19 10 sites it is very important. So you can start
20 ranking them and saying which would you eliminate, et
21 cetera, but when you get down to the last two sites,
22 the danger of doing what you are suggesting is what I
23 showed happened with Myra Schiff, both things are
24 related to low. I say there is a substantial
25 difference between risk and no risk. That's a sort of



1 A. Yes, I do.

2 Q. Can we agree then that the degree
3 of difference between the two sites in our first
4 example is greater than the degree of risk in our two
5 sites in the second example?

6 A. The degree of risk in absolute
7 terms has to be different because in a case of failure
8 one may have 10 people die ultimately and the other 12,
9 but you see that is really doing it on the ranking
10 factoring system that Mr. Walker was dealing with in
11 the 2C study. What you are getting over there, if I
12 could just show you, is you are saying you have got
13 site No. 1 which is nil and you have got site No. 2 and
14 I will just call it very bad. Then you say let's take
15 site No. 1 which is still the same site, nil, and then
16 you say site -- you called it 2A and I will call it
17 just bad.

18 You see my point is this: that if you
19 are looking at these two and you have got to make a
20 decision I am down to two sites. I have got to make a
21 decision. They are both substantially and incomparably
22 worse than nil. Well, you get to the point that I
23 think is important, is that if for some reason this
24 site never existed and you've got to compare those
25 sites, then you have a difficult situation because they



1 saying that it has a very questionable geologic
2 setting?

3 A. That's right.

4 Q. Do you agree?

5 A. Yes.

6 Q. Can we agree then that when you
7 compare those two sites, that is the nil site, no
8 impact, nobody within 100 miles against the site that
9 has people within 500 yards, and it has a questionable
10 geological setting, there is a tremendous difference
11 there for the public health and safety factor?

12 A. Yes.

13 Q. Let's start again and have a whole
14 new example. Again let us assume that our first site
15 has a nil ranking, nobody within 100 yards, exactly the
16 same as the first site in the earlier example?

17 A. Yes.

18 Q. Let us suppose looking at the
19 second site there is a difference with respect to the
20 second site in our first example.

21 A. Two and 2A.

22 Q. Let's suppose that what we have is
23 a site that has a reasonably secure geologic setting
24 with a greatly decreased risk of a contaminant escape;
25 do you understand?



1 A. This is of the opportunity
2 hydrogeologically if it fails?

3 Q. Yes.

4 A. Yes.

5 Q. Let us start again, and let us
6 suppose we have the site that has nil risk but our
7 other site this time is in fact naturally quite secure
8 geologically. Will you agree with me then that the
9 degree of risk with respect to that second site is now
10 less than in our first example. There is a difference
11 between the two of them?

12 A. I was talking about nil
13 geologically before than you were talking about
14 something else. You said the two sites, one was much
15 worse than the other geologically.

16 Q. I said to you that in both cases
17 we have assumed that one site is nil?

18 A. Nil risk of failure?

19 Q. That's right.

20 A. There are no people within 100
21 miles.

22 Q. Whatever you like, no people
23 living within 100 miles. Now, let us assume that on
24 the other site we have people that live 500 yards away.
25 Let us assume for the purposes of what we are now



1 However, Site A is a bit worse than Site B by X per
2 cent. Site B has only 2 people and Site A has 18, so
3 that is counterbalanced. When think you are in that
4 sort of fine area, but, when you are in an area where
5 whatever happens in one it is nil and in the other it
6 is some, then the difference between nil and some is
7 very, very substantial.

8 Q. Let us examine that for the
9 moment. I hope I can remember that you said. You just
10 said that if we were in the circumstance where the
11 potential damage is nil as opposed to a potential
12 damage of some, you have a significant difference. Let
13 us take nil then as the base. Let us suppose that one
14 of the hypothetical sites has a nil impact. Would you
15 agree with that?

16 A. Nil yes.

17 Q. Let us suppose that at the other
18 site there is actually a fairly high degree of risk.
19 In the natural sense it isn't geologically sound, do
20 you agree?

21 A. Yes

22 Q. That would demonstrate a great
23 difference wouldn't it, between our two sites, nil on
24 one, and this extremely risky situation on the other.
25 Do you agree?



1 MR. LANCASTER: I would agree with that,
2 Mr. Lederer. Make sure it is his evidence.

3 MR. LEDERER: Q. Mr. Kentridge, let's
4 continue. Forget the drawing. Will you agree that the
5 landfills proposed are in different geologic settings?

6 A. Yes.

7 Q. Would you agree with me that
8 different geologic settings, one sort of natural
9 geologic setting may be more secure than another?

10 A. Yes.

11 Q. Would you agree with me,
12 therefore, that when you look at those settings there
13 will be differences as to the degree of risk that
14 contaminants escape?

15 A. Yes, that is possible.

16 Q. Will you agree with me, therefore,
17 that in order to understand the nature of the risk that
18 you proposed it will be important to understand or have
19 some way of comparing the degree of risk of some kind
20 of contaminant escape?

21 A. No, I think it would be important
22 if you were in two areas and you had the sort of
23 factors, Mr. Lederer, where you could say there is this
24 geologic difference you are describing, some degree of
25 escape. One is a little more than the other you say.



1 withdraw it. It is only to make it simpler. It has
2 nothing to do with this case. I am not trying to
3 establish hydrogeologic principles. I am putting an
4 assumption to Mr. Kentridge something which is done
5 quite consistently in this hearing.

6 MR. GARROD: Mr. Chairman, the issue
7 very simply is, both Mr. Sobanski, Mr. Walker and
8 Mr. Kentridge all said there are wells around the site.
9 In the event of failure there is a risk to those wells.
10 The only issue that Mr. Lederer has been going at is
11 how important is that and he says he would give more
12 importance to that and the balancing of all these
13 factors than he believes Mr. Walker and Mr. Sobanski
14 gave to it. That's not a hydrogeology question.
15 That's a question of a decision-maker. Someone with
16 that kind of expertise, how important is this factor.

17 It is clear it doesn't rely on
18 hydrogeologic regime it relies on whether or not there
19 is something existing that would be put at risk in the
20 event of failure for whatever reason whether it is
21 engineering, hydrogeology or any other reason.

22 MR. LEDERER: Sir, with the greatest
23 respect, I have the right to question what this man has
24 done or whether there is some insufficiency and I
25 suggest there is.



1 Mr. Kentridge believes that somehow there is some
2 absolute value assessable against the kinds of dangers
3 he proposes and that hasn't been given enough value. I
4 understand that. My proposition to Mr. Kentridge is
5 going to be that there are features which limit this
6 kind of consideration that he hasn't considered, and as
7 a result his comparative analysis is flawed and this is
8 going to get at it, I hope, one of those two
9 propositions.

10 Secondly, with respect to what
11 Mr. Leitch says, these hydrogeologic assumptions as he
12 put it, have absolutely nothing to do with the facts of
13 this case. That is these actual proposals. These are
14 just assumptions that I want to put to Mr. Kentridge in
15 order to establish what I think is a very simple point
16 and he seems to have some difficulty with it and that's
17 the notion that you can have sites with geologic
18 settings. Some geologic settings are naturally more
19 secure than others, and therefore when it comes time to
20 evaluate the degree of risk, one of the things you have
21 to look at is, what is the geologic setting and the
22 degree of risk at that setting.

23 Now, if Mr. Leitch doesn't like this
24 particular example and it is only an example of what
25 might be considered to be a secure natural setting, I



1 I have a further objection in regard to what my friend
2 is now doing. He is presumably preparing with his own
3 hand an exhibit which is reflective of some
4 hydrogeologic notions, movement of water within the
5 regime of the ground. He can't express an opinion as
6 to whether or not there is any accuracy in it or not.
7 This witness by his own testimony cannot express an
8 opinion as to whether or not there is any accuracy in
9 it, and therefore it cannot become evidence in my
10 opinion and I object to it. That is Ms. Cronk's
11 problem with this method of proceeding because what
12 happens is that as my friend Mr. Lederer delimits some
13 notion or principle it becomes evidence before the
14 Board, but there is no expert who speaks to it.

15 In the circumstances that he is now
16 trying to do this he doesn't have the appropriate
17 witness to do it. If it was a land use planning notion
18 he was trying to diagram that would be one thing, but
19 when he is trying to give us, in essence, hydrogeologic
20 principles he and the land use planner -- I can't see
21 how the Board can accept that. There is nobody to
22 prove the diagram.

23 MR. LEDERER: Sir, if I can respond
24 first of all to Mr. Garrod. Mr. Garrod totally
25 misunderstands what I am doing here. I accept that



1 valley is that the groundwater will flow into the
2 valley?

3 MR. GARROD: Mr. Chairman, surely this
4 is a matter for argument? I mean Mr. Lederer is
5 pursuing a line of questioning with this witness as to
6 how much importance should one place on the fact that
7 people's wells might be affected in the event of
8 failure?

9 MR. LEDERER: That's not what I am
10 proposing to do here.

11 MR. GARROD: His witness, Mr. Walker has
12 placed a certain amount of importance on that fact, Mr.
13 Sobanski placed a certain amount of importance on that
14 fact. Mr. Kentridge has indicated he would place more
15 importance on that fact. The Board has to decide
16 ultimately how much importance it would place on that
17 fact. I can't see how this line of questioning
18 advances the decision the Board has to make about how
19 much importance to place on the fact that peoples'
20 wells in the vicinity of the site might be affected if
21 the system fails.

22 Frankly all of this getting into
23 hydrogeology with Mr. Kentridge, I can't see how it
24 advances it.

25 MR. LEITCH: In the absence of Ms. Cronk



1 Q. What I want to do for a moment is
2 just remove ourselves from this particular situation
3 and consider this in the abstract. Can we agree that
4 it is possible to have proposals for landfills which
5 are in quite different geologic settings?

6 A. Yes.

7 Q. Can we agree then that the
8 possibility of a breakdown will be quite different
9 depending upon those different settings?

10 A. I guess, you started off and said
11 let's presume that the landfill itself will be
12 engineered and there will be liners and other things,
13 and one is going to be, say, on a site with unfractured
14 clay and the other is in an area with great fractures
15 and it fails, then there certainly would be a
16 difference geologically.

17 Q. I don't think we need to get that
18 complicated. In the absence of Ms. Cronk I am going to
19 do some more drawing and see if we can't just make this
20 a whole lot simpler than you are implying it is.

21 Let us look at the geologic setting and
22 let us presume with me -- I want you to assume this is
23 so, we have two sites. One site is in the valley area
24 and below that site we have a very thick layer of clay.
25 You understand that the importance of being in the



1 more dangerous than the other site and he would go on
2 the assumption again that if things failed, of course.

3 Now, if you say one site is dangerous if
4 it fails because there are people downstream and if you
5 presume that any one farm operation has to stop working
6 or any one person becomes poisoned or dies, then to my
7 mind that is a substantial difference between two
8 areas.

9 It is the same as saying if someone
10 walks across the road and they may get killed or you
11 can live in an area where there is no danger of that.

12 Q. So what you are telling me now is
13 that where Mr. Sobanski has failed is an understanding
14 of the absolute nature of the risk which is, if there
15 is somebody who might be hurt by this as opposed to a
16 situation where nobody can be, then that clearly has
17 got to be a big difference; therefore I disagree with
18 Mr. Sobanski. It is a big difference by definition?

19 A. That's right.

20 Q. Let's examine that and let's look
21 at what you have done here. As I understand it, your
22 conclusion is based upon the notion, I think you have
23 just said, as to what will happen if there is a
24 breakdown?

25 A. Yes.



1 just hydrogeology because that is only important
2 because you are saying what if the site fails, the
3 engineering fails. Then if the engineering fails and
4 you are saying at one site people get water from wells.
5 I don't find this -- it seems to be more dangerous,
6 Mr. Lederer.

7 Q. Sir, the concern that I have here
8 is not whether one is more dangerous than the other.
9 On the contrary. You have agreed with Mr. Sobanski
10 about that. It is the notion of understanding of why
11 it is that you say the degree of difference between
12 these two sites is greater than that suggested by
13 Mr. Sobanski in his work, and I simply suggest to you
14 that he is in a lot better shape to make that analysis
15 because he has a much better understanding of the
16 technology involved in making that decision than you
17 do? That is all.

18 A. Perhaps I can just go over it
19 again, Mr. Lederer.

20 Q. Why don't you just answer my
21 question and we will proceed?

22 A. I am trying to answer, then I will
23 have to say no again. I don't agree, because I think
24 Mr. Sobanski said, and I am not going to disagree at
25 all, I agree with what he is saying. At one site it is



1 members in themselves may have the same degree of
2 expertise that I have, where you are trying to assess a
3 broad range of items, and therefore in the end,
4 although you may not be a hydrogeologist or anything,
5 any of the other disciplines, that you are trying to
6 assess from the evidence which is better than the
7 others.

8 One of the assessments you have to make
9 once you have got that information -- you have seen
10 Mr. Sobanski's letter which I completely agree with it
11 is -- is to say right, with that letter if one site has
12 therefore in the case of failure Mr. Sobanski says
13 there is more danger here than there, how important is
14 that? That is what I say if you are worried about
15 importance, that is when you get to the alternative of
16 just checking two sites, one against another, and not
17 using the factor that to say that one has more danger
18 than the other.

19 If it is in the area of risk I believe
20 then that has a lot of weight.

21 Q. But, sir, it is a question of
22 comparing the two sites as to the degree of risk in a
23 particular technical area when you look solely at
24 hydrogeology; isn't it?

25 A. You are looking at the risk of not



1 the technical understanding of the area being studied?

2 A. To understand the degree of risk,
3 well actually, to understand the degree of risk I
4 suppose you would need to be an expert in risk analysis
5 rather than a hydrogeologist.

6 Q. Sir, are you an expert in risk
7 analysis?

8 A. No, I am not a specific expert in
9 risk analysis. I have used the basis of saying I
10 believe it is important there is some risk as against
11 no risk.

12 Q. Let me suggest to you again, sir,
13 and then we will look at some particulars of this.
14 Will you agree with me that you are not in as good a
15 position as a hydrogeologist to undertake an assessment
16 as to the difference between these two sites?

17 A. No, I wouldn't do a
18 hydrogeological study.

19 Q. On that basis would you agree with
20 me the Board would be much better then to listen to the
21 Region's experts who in fact have that expertise in
22 trying to come to an understanding of the degree of
23 difference between the two sites?

24 A. Well, I have difficulty with that,
25 Mr. Lederer, because I go on the basis that the Board



1 part of their job is to gather all of this variety of
2 information and then just sort of sift it through and
3 assess it and weigh one to the other.

4 Now, from my experience when I look at
5 risk and I say one area is going to create risk and
6 that is the highest priority and in the other area it
7 will not be and you can avoid it. Then I think that is
8 a very important factor. I think I have as much
9 knowledge about how to weigh that up as anybody.

10 Q. Sir, you are not a hydrogeologist?

11 A. I don't think that has a bearing
12 on this.

13 Q. Answer the question, you are not a
14 hydrogeologist?

15 A. No, I am not.

16 Q. Would you agree with me that with
17 respect to this one issue where we are dealing with
18 hydrogeology, do you agree?

19 A. We are dealing with the attendant
20 risk that comes out of a failure. It is not just to do
21 with hydrogeology. It has to do with engineering and
22 it is to do with who lives around the site, it can't be
23 isolated as hydrogeology.

24 Q. Do you agree with me, sir, that in
25 order to understand the degree of risk you have to have



1 it had been -- I thought the way it had been presented
2 by Mr. Walker was very clear. It wasn't necessary to
3 get further amplification. I think Mr. Sobanski's
4 letter was clear. I think the charts didn't quite
5 reflect that.

6 Q. Sir, you have no additional
7 hydrogeologic evidence or information to rely on other
8 than the reports of Mr. Sobanski and the evidence
9 presented here by the Region's hydrogeologist?

10 A. That is correct.

11 Q. Sir, what I am suggesting to you
12 is, that you are not in as good a position as the
13 experts who actually undertook this work to indicate
14 the degree of difference between these two sites
15 suggested by that work; are you?

16 A. I think I am. You see, I think
17 what you are getting at, Mr. Lederer, is do I have the
18 capability of saying that if an expert had said that
19 there is so to say no impact on one site and an impact
20 that he much prefers one site over the other. I
21 certainly have, I believe, the understanding to see
22 what he means by this. I think the interpretation I
23 have is perhaps a better interpretation than his
24 because it is part of my training and I think the
25 training of the consultants who are retained by Halton,



1 Mr. Walker's evidence?

2 A. For a part of it.

3 Q. Were you here that when he
4 indicated when doing this comparative analysis and
5 preparing these charts he relied on the Region's
6 experts in each of the areas of their expertise?

7 A. I don't recall him saying that but
8 it sounds likely that he would have.

9 Q. I want you to assume for the
10 purposes of what I am now going to ask you, that in
11 fact he did say this and he did place this reliance on
12 their work. In this case we can agree that the
13 expertise he relied on would be the expertise of the
14 Region's hydrogeologist?

15 A. Yes.

16 Q. Sir, you are not trained as a
17 hydrogeologist are you?

18 A. No.

19 Q. I presume you don't claim to be an
20 expert in that area?

21 A. No, not especially.

22 Q. Did you retain anyone, did you
23 retain a hydrogeologist to help you understand the work
24 that was undertaken by the Region here?

25 A. No. I think I looked at the way



1 contained in Mr. Walker's report where they look at 2C
2 and then the technical studies, there is one section in
3 it which says alternative water supply and downgradient
4 well users, moderate high and moderate high as the
5 impact.

6 When the totality of it is read, you
7 don't seem to get the differential that comes up. For
8 example, it says under the hydrogeology factor
9 potential impacts of landfill contingency. It says
10 over there with the quality, impact from landfill can
11 be restricted to the site.

12 Q. You are relying on these charts to
13 suggest that the difference is the larger difference
14 you portrayed?

15 A. Yes, and not just looking at the
16 end of Mr. Sobanski's letter. I agree with that
17 entirely and as I said I had no difference in the
18 overall conclusion but I think the difference is great
19 because when you look at the case, especially if you
20 take health as being so important, Mr. Lederer, I am
21 saying in one case if there is failure then there is
22 substantial concern and the other it isn't. It's a
23 very large difference and I didn't get this difference
24 coming out of these charts.

25 Q. Sir, were you here for



1 are no groundwater and surface water
2 users. Therefore we favour Site F over
3 Site D."

4 Do you see that?

5 A. Yes, I do.

6 Q. Sir, that is consistent with your
7 own conclusions, is it not?

8 A. Yes.

9 Q. Because of the fact that there are
10 no ground water or surface water users at the one site
11 whereas there are at the other, he prefers the one
12 where it does not have those users present; do we
13 agree?

14 A. Yes, I do.

15 Q. So, sir, what I suggest to you
16 then is that seeing that you agree with Mr. Sobanski's
17 conclusion and seeing that the basis of his conclusion
18 is the same as your own, there really is no reason here
19 for us to see any difference in the degree of
20 difference that the Walker Wright team find between
21 these two sites and the one that you do. There is no
22 explanation here for that difference?

23 A. Well, I think there is. You see
24 you have just taken Mr. Sobanski's letter but if you
25 also look at, say, some of the charts that are



1 there is a lower risk of direct impact on water supply;
2 do you see that one?

3 A. Yes.

4 Q. That summarizes it?

5 A. Yes, that's the bottom line.

6 Q. Would I be correct in saying then
7 that the basis of your analysis really is the water use
8 in the vicinity of the two sites?

9 A. Yes.

10 Q. Now, can we then look at the
11 conclusion arrived at by the Region's consultants with
12 respect to this issue and would you go please to
13 Exhibit H-14 and to appendix A. As we have all
14 learned, those of us who have been here from the
15 beginning, it is sometimes a little bit tricky to make
16 this work. If you go to the appendices and look for
17 page A-4, the last page of the letter from
18 Mr. Sobanski. Let me just read that. This is
19 Mr. Sobanski's conclusion of this comparison you have
20 undertaken:

21 "Considering the advantages of each site
22 we feel that those of Site F outweigh
23 those of Site D. In particular Site F
24 is better from the point of view of
25 public health and safety because there



1 with respect to either of the two sites?

2 A. It is a conclusion of what would
3 happen, you are quite right.

4 Q. And the fourth one, really sets
5 the condition we are looking at what happens if
6 containment fails?

7 A. Yes and then it says there is
8 public risk of some degree and not so in the other, so
9 I said F is substantially preferable from a health
10 viewpoint.

11 Q. So really it is a situation where
12 in one case you see some risk for water users and on
13 the other case you don't see much risk because of the
14 nature of the use in the area and because of the fact
15 it is a serviced area?

16 A. Yes, I think we are just saying
17 that if the system fails one site would be much
18 preferable to the other in terms of health risks that
19 are associated with the sites. I think that is sort of
20 consistent with Mr. Walker's evidence and information
21 in his report.

22 Q. If we go to page 45 now, to Table
23 6, we see this sort of summarized. In the one case
24 there is a higher risk of drinking water pollution for
25 residents and agricultural uses and the second one is



1 Site D and I apologize if I didn't make it clear, I
2 have said the first one is firstly just the sheer
3 ability to provide water for household use if you would
4 like to look at that. Then I have looked at the other
5 activities on Site D and said now how do people make a
6 living. You can always buy some bottled water if you
7 want some water or a cup of tea. I have identified
8 other uses and said now let us look at Site F. As I
9 can see Site F, the residents don't have a problem, but
10 it seems there is no other downstream reliance for
11 other things -- that's what I am trying to explain.

12 Q. Can we look at the third point
13 then under both of them. First of all, Site D:

14 "Failure of landfill containment
15 facilities would contaminate groundwater
16 supplies. Failure of landfill
17 contaminant facilities would not
18 contaminate essential drinking water
19 supplies."

20 Can we really agree that those are the conclusion of
21 the two that precede it.

22 A. That's right.

23 Q. In the sense of trying to
24 understand the distinction between the two of them, the
25 third item doesn't add anything of a factual nature



1 supply and then below that no downstream reliance on
2 groundwater supply. Do you see that?

3 A. Yes.

4 Q. Sir, I am suggesting to you that
5 so that we can understand this chart, that the second
6 of those two points under Site F is really the result
7 of the first one. In other words, because there is a
8 fully serviced system there is no downstream reliance
9 on the water supply?

10 A. That is right, but it is sort of
11 somewhat different from that, Mr. Lederer, because the
12 first two lines are speaking about the drinking supply.
13 We are saying, you know, the residents et cetera, and
14 the wells, later on in the second one I speak about the
15 other activities, such as the livestock operations, et
16 cetera. I was looking to see are there any other
17 things downstream on F.

18 Q. Couldn't we just as easily
19 understand this as saying that on the Site D site there
20 is a risk for people who rely on this water for their
21 wells and there is a risk of farming operations as
22 opposed to the fact at Site F there is no such risk in
23 either case?

24 A. I think it is a little bit more
25 than that, Mr. Lederer. You see, if you are looking at



1 Q. Now, I wanted to come to some
2 understanding of your basis, or the basis of your
3 analysis with respect to this issue of public health
4 and safety and water as a contaminant pathway in
5 particular. With that in mind, can we go to Table 1 of
6 your report and I am sorry I have omitted to write the
7 pages down. Page 12, the missing page 12.

8 Just looking at Site D for the moment
9 and the first element that is referred to there. I
10 hear you say there is a risk that the groundwater wells
11 or the drinking water supply of local residents may be
12 impacted?

13 A. That is correct.

14 Q. Secondly that downstream use of
15 the land for agricultural activities may also be
16 affected?

17 A. In a sort of situation where the
18 system fails.

19 Q. That is the risk, the public
20 health and safety risk that you perceive in all of
21 this, do you agree?

22 A. Yes.

23 Q. Can we now look at Site F.
24 Residents and local community is fully serviced or
25 serviceable with the City of Burlington piped water



1 A. Yes.

2 Q. In this particular case your work
3 and assessment in the area of public health and safety
4 has concentrated on water as a pathway for
5 contaminants?

6 A. That's right.

7 Q. As I understand your evidence and
8 in fact your report, you agree that it is appropriate
9 that you have this issue of public health and safety as
10 the first level of priority in the study?

11 A. Yes, I do.

12 Q. I think you agree, as well, that
13 the reports undertaken here on behalf of the Region of
14 Halton show a high level of concern for that issue, the
15 public health and safety?

16 A. Yes, I do.

17 Q. I take it as well, and I think
18 this is also in your report, that you believe and
19 accept this as being appropriate for the search for a
20 new landfill in the Region of Halton?

21 A. Yes, I do.

22 Q. I suppose all of that in a sense
23 is just a further indication of the validity of the
24 process that was undertaken here?

25 A. Yes, that is correct.



1 Walker Wright Young but everyone else failed to realize
2 that right on the edge of this site is a major chronic
3 care hospital, if we can just picture that
4 extraordinary circumstance, which could lead to saying
5 that Site F is clearly unacceptable as a site.

6 Then, I would certainly accept the
7 process that D was the second site and is an acceptable
8 site.

9 Q. So, regardless of the Board's
10 decision in this matter, the process has been an
11 acceptable one and Site D could be approved and
12 operated as a landfill if that was ultimately the
13 Board's finding?

14 A. That is hard to answer. If the
15 Board's finding is that it should be D then clearly in
16 terms of, I suppose, the legality of everything it
17 certainly can operate as a landfill site.

18 Q. With that in mind, with that
19 understanding, I would like to look at some of the work
20 you have undertaken here and can we start first of all
21 with what you have done in the area of public health
22 and safety?

23 First of all, you have said in your
24 report that there are a number of pathways of
25 contaminants, water among them; is that correct?



1 related? You may trade off, for example a benefit in
2 the hydrogeologic area against a benefit -- that's
3 putting it inappropriately. You may trade off
4 considerations in the hydrogeologic area against
5 factors surrounding the biophysical setting or traffic?

6 A. I think that's fine and I agree
7 with Mr. Walker, you try and rank factors as to what
8 is the most important to the least important.

9 Q. Sir, in order to do that, trade
10 off those unrelated factors, don't you need to know the
11 difference in the degree of risk with respect to each
12 of these factors?

13 A. That is an interesting point. You
14 may have to know the degree and you may have to go back
15 and say on a study, for example, if at the end of, in
16 my view, his work, the Walker report, had found that
17 the method that had been used led to a breakdown of
18 weighting because there wasn't a clear way of
19 determining how many points for example should be
20 allowed one or the other I agree. As it so happens
21 over here notwithstanding all of that, Mr. Walker did
22 determine the fact that four out of five favoured F and
23 I came to five out of six, including the most important
24 one.

25 I think on that basis it wouldn't to my



1 mind be practical in trying to get the job done and
2 saying this is important that we get a landfill into
3 operation to say no we had better spend so many more
4 mouths now finding out how we are going to put in a
5 scaling, say, for traffic.

6 Q. Mr. Kentridge, is the answer to my
7 question yes, because you are trading off things which
8 have no apparent relationship that you need to be aware
9 in each case of the degree of difference between the
10 two sites you are comparing? Is the answer to that
11 question yes?

12 A. No, I think I have to give it
13 again, Mr. Lederer. I think the question is that when
14 you have a case where you are trying to weigh up things
15 that are perhaps, for example, in similar ranking,
16 odour versus dust perhaps. It might be a very
17 difficult and complicated area with very fine
18 differentials. You may want to find a way to trade off
19 so it becomes very clear.

20 If, on the other hand, it becomes self-
21 evident, and I think I said this incidentally in my
22 evidence that I found this was a problem in trying to
23 trade off biophysical against agricultural as
24 Mr. Walker had done because there was no indication as
25 to the weighting and how you weighed the import of the



1 species and biophysical against the people that were
2 displaced. I said, therefore, if you have to make this
3 trade-off, make it easier to do the scaling later on,
4 which is what you are referring to, but they are
5 separated at an early stage.

6 So I have separated and I said my
7 conclusion is, that when I now see that I have got five
8 down one side and one on the other side, I could say,
9 oh, what I should also go and do now is really try and
10 get an accurate weighting so at the bottom line I can
11 have a score and say this is 100 per cent and that is
12 70, but I think it is such a large difference that is
13 not necessary. Mr. Walker didn't seem to do that at
14 the end either.

15 Q. Sir, you have talked about areas
16 of differences and fine distinctions. In order to
17 understand how fine the distinctions are and areas of
18 differences don't you need to know the degree of
19 difference with respect to each of the factors you are
20 evaluating?

21 A. Mr. Lederer, I am sorry and I
22 apologize, Mr. Chairman, but I will go through it
23 again. I think what I am trying to say is this: if you
24 had the six factors coming down and you knew public
25 health was very important and going down to costs.



1 When you started to come down you found there were a
2 number of subfactors, D was favoured in one, F in two,
3 D in three, F in four and D in five and F in six. And
4 then you said, well, that is very difficult. How do I
5 now weigh these up and really count them. I think what
6 you start to have to do and we did this at OWMC, a very
7 much more sophisticated scaling so you could add it up
8 at the end.

9 If you do it and you just say well, here
10 are the two charts and we have been through the whole
11 thing and you have got D and you have got F and you say
12 F, F, F, D. I don't think the calculation you are
13 talking about is important because at the end it is
14 very clear, particularly if the most important one is
15 on F, which way it adds up. I don't think anything is
16 gained except an expenditure of time and money to put a
17 scaling against that.

18 Q. So what you say is that it is 4 to
19 1 here so it is so clear you don't need to do what I am
20 suggesting?

21 A. 5 to 1 in the end, and that is
22 right, it is so clear I don't think it is needed.

23 Q. The five things are: hydrogeology
24 -- what are the five items that you have listed?
25 Sorry, it is public health and safety.



1 A. Social, biophysical, agricultural,
2 cultural and then you go on to the rest, engineering
3 and costs.

4 Q. Let us say every single one of
5 those except public health and safety favoured Site F.
6 Every single one of them except public health and
7 safety favoured Site F and the public health and
8 safety favoured Site D. That would be 5 to 1 again; do
9 you agree?

10 A. That's right.

11 Q. Can we agree, sir, that in that
12 circumstance that if the risk to public health and
13 safety was bad enough at one site that would be enough
14 to over-balance everything else?

15 A. I think that would be the exact
16 consensual judgment that the team would have to make
17 up, to say does the public health and safety there
18 over-balance everything else.

19 Q. In order to do that, will you
20 agree with me first of all that it is therefore not
21 just a matter of counting things up and saying it is 5
22 to 1, it is a little more subtle than that?

23 A. No, no, I said, and I gave you the
24 subtlety before when I said A, B, but I said when you
25 have this and the first one which is public health and



1 safety is there, then you don't need to go into the
2 subtleties, Mr. Lederer.

3 Q. Would you agree with me that it is
4 not really a matter of counting up 5 to 1?

5 A. In this case I believe it is.

6 Q. Will you agree with me, sir, that
7 in the example I gave to you, it is not a case of
8 adding 5 to 1?

9 A. I did explain that, Mr. Lederer.

10 Q. Mr. Kentridge, with the greatest
11 of respect at some point I have a right to have my
12 question answered.

13 MR. LANCASTER: He is asking a different
14 question.

15 THE WITNESS: If it is a different
16 circumstance you may have to add them up in a different
17 way.

18 MR. LANCASTER: And you gave him the
19 circumstance.

20 MR. LEDERER: Thank you.

21 Q. In order to understand which
22 circumstance you are in, wouldn't you have to have the
23 kind of analysis I am talking about, wouldn't you need
24 to know just exactly how great the public health and
25 safety risk actually was?



1 A. If you were in that sort of
2 circumstance, yes, I think if you did you may decide
3 you have to go and call in a risk analysis consultant
4 and try and evaluate that, because you see in that case
5 what you may have, is that certain risks, which are not
6 under public health and safety perhaps, but might fall
7 under traffic deaths have to be weighed up.

8 Q. Sir, if you don't know that before
9 you do the work how can you know whether or not the
10 risk is sufficient to require that additional study. I
11 am suggesting to you, Mr. Kentridge, there is a
12 weakness in your report and the weakness is that you
13 have failed to take into account the degree of
14 difference with respect to these various factors
15 particularly in this case, the health and safety
16 factor.

17 A. I don't agree with that.

18 Q. Thank you. Let us move on. Can
19 we agree, sir, that quite apart from the natural
20 geological setting and its impact on the degree of risk
21 that one of the things you can do when you put in a
22 landfill site is monitor it with proposed contingency
23 measures?

24 A. Yes.

25 Q. Can we agree that depending on the



1 particular circumstances those monitoring process and
2 contingency measures may be more known and understood
3 than others, technology more understood in some cases?

4 A. I think it is fairly standard to
5 put in monitoring for this kind of process.

6 Q. Can we agree, sir, that in certain
7 cases when looking at contaminant escape one of the
8 things we are going to want to know about is the
9 confidence we can have in monitoring and contingency
10 systems that are being proposed on each site?

11 A. I suppose all I could say is that
12 we anticipate it would be state of the art.

13 Q. You are not understanding my
14 question. I am saying to you, first of all, there are
15 differences in what may be proposed at different sites,
16 do you agree?

17 A. Yes.

18 Q. Can we agree that since what we
19 are talking about here is the possibility of
20 contaminant escape. Can we agree that monitoring and
21 contingencies will help in controlling contaminant
22 escape?

23 A. Absolutely.

24 Q. So in evaluating the possibility
25 of contaminant escape, can we agree that it helps to



1 know about the monitoring and contingency being
2 proposed?

3 A. I am sure that's right.

4 Q. Can we agree that that will help
5 us understand what the possibilities are of a
6 contaminant escape in fact taking place?

7 A. I don't think you can know it
8 absolutely certainly. Nothing I have ever seen in the
9 work I have done.

10 Q. Of course you can't know it
11 absolutely, but you can have some level of confidence,
12 some general level of understanding?

13 A. I think we certainly can have an
14 idea that one will work better than another.

15 Q. In evaluating whether or not, in
16 evaluating something which is based on the notion of
17 contaminant escape, don't you need to know what
18 monitoring and what contingencies are being proposed so
19 that you can evaluate the degree of chance, the
20 likelihood of contaminant escape taking place?

21 A. I think that is back to your
22 previous line of questioning, Mr. Lederer. That is if
23 you can put all your faith, say, in a technical fix,
24 that the degree of danger is so limited you don't have
25 to worry about it. I don't really agree with that



1 approach because if you took that approach I think you
2 would just count on the engineering satisfying
3 everything. There is not a great record of engineering
4 landfill standing out. I think one just has to say, in
5 the event, please God, it doesn't happen, of the whole
6 system breaking down which is a safer site than the
7 other, and that certainly I have got to tell you I
8 believe in it, it is the approach I took in it and
9 working on OWMC and the other consultants.

10 Q. Sir, will you agree with me that
11 in evaluating these situations, if you had a system of
12 monitoring and contingencies which had been used many
13 times before and everybody knew it would work that
14 there would be less chance of escape in the
15 circumstance in which the monitoring was something
16 quite new and the contingencies had never been tried
17 before?

18 A. You would certainly have more
19 confidence in a known system. It certainly wouldn't be
20 better than a new system, you would have more
21 confidence.

22 Q. Would you agree with me, sir,
23 that in evaluating a site on the basis of contaminant
24 escape, one of the things you would want to evaluate is
25 whether or not the monitoring system was known and



1 understood, because if it was, you would have more
2 confidence that the escape would not occur?

3 A. Yes, absolutely.

4 Q. Wouldn't that have to work into
5 the kind of analysis you have done here. Wouldn't that
6 be a factor that would determine the degree of risk
7 involved and therefore the value to be given to public
8 health and safety considerations?

9 A. That's why I said I think we are
10 back to where we were and that is the fact that when
11 you have got nil and risk, I think that's a very large
12 difference.

13 Q. But the difference will -- the
14 difference, however large it may be, will be different
15 as between the two sites?

16 A. Oh, yes.

17 Q. When you come to balance those two
18 sites with respect to that factor and all other
19 factors, it may very well be that that degree of
20 difference, that is from large to, if you like, super-
21 large, maybe a factor in coming to your overall
22 decision as to which is the preferred site; isn't that
23 right?

24 A. It may be. I suppose ...

25 Q. You didn't do that here, sir?



1 A. Can you just really go over that
2 again, because I am not sure I understand.

3 Q. You have agreed with me that there
4 is a difference. You say it is going to be large no
5 matter which it is, but there is a difference?

6 A. Yes.

7 Q. So I am suggesting to you, okay,
8 let us assume that one is large and one is super-large.
9 Now, so let us assume, and I am suggesting to you that
10 when you come to balance that consideration with all
11 the other factors that you have to look at in
12 ultimately coming to a decision as to which site to
13 approve, the distinction between large and super-large
14 is something that will affect the decision that you
15 make. The trade-offs and balances that you undertake?

16 A. If one site ... I am not trying
17 to be difficult, but you are saying two sites, one is
18 large in health and the other is super-large and then
19 you will take that into account.

20 Q. I am saying that when you come to
21 balance public health and safety with the other
22 factors, one of the things which will be considered is
23 that difference between large and super-large. That
24 will be a factor to be considered in the balancing of
25 all the various factors that are brought to bear in



1 making this kind of decision?

2 A. So if this was large or super-
3 large and all the other factors were down on the other
4 side that would be a bearing, like when it is small or
5 super-small.

6 Q. Whatever.

7 A. I think you would look at it and
8 you may in the end determine that however small it was
9 or however large the weighting for health was important
10 enough it would outweigh everything else.

11 Q. Sir, you haven't done that here
12 have you? You haven't considered the possibility of a
13 difference between these two sites on the basis of, our
14 example now, large and super-large. That's nowhere in
15 your analysis is it?

16 A. No, because I have said, that I
17 think there is a substantially greater difference than
18 Mr. Walker had and furthermore this other work, this
19 trade-off isn't necessary because maybe it is very
20 fortunate for the municipality and as a result of the
21 analysis all of the other factors with the exception of
22 one happened to be down the one side.

23 Q. We have been through all of that,
24 the whole business of counting everything up sometimes
25 and not counting them up others. The answer to my



1 question, however, is, yes, we did not consider that in
2 the work we undertook; right? Do you agree with that?
3 You are giving me a reason why, I am not pretending I
4 understand it, but you are giving me a reason why.
5 Would you agree with me that that is not something you
6 did?

7 A. No, I didn't do that, I looked at
8 one as being really close to nil and the other having a
9 risk factor. I thought that was a big difference.
10 That is all I did.

11 Q. Sir, will you agree with me, then,
12 that there is, in effect, some limiting factor to the
13 work that you undertook here, because we aren't able to
14 balance the various differences between these sites
15 under each of these factors. All we have got is an
16 absolute value?

17 A. That's right.

18 Q. Thank you.

19 A. But I think that's what I really
20 started off by saying, I think at the very beginning, I
21 am going on a comparison to say what is the difference
22 between the two, just telling you A is more than B or
23 less than B. That is a much more refined system than
24 saying they are both low or low to moderate.

25 Q. In order to know that, sir, you



1 have to be able to compare the differences between what
2 we have called in our little exchange here, the large
3 and the super-large distinction. You have to have that
4 to make that kind of judgment, don't you?

5 A. No.

6 Q. Sir, let us go on and look at
7 agriculture and biophysical now. Can we agree and I
8 have asked a vast number of people these kinds of
9 questions. Do you agree with me that we are, as a
10 society, producing a lot of garbage?

11 A. Yes.

12 Q. Would you agree with me you have
13 to put it somewhere?

14 A. Yes.

15 Q. Would you agree with me, for the
16 moment, based on present technology some significant
17 proportion of it will have to go to landfill?

18 A. Yes.

19 Q. So you agree with the proposition
20 that we have to have a landfill?

21 A. Yes, I do.

22 Q. Will you agree with me and I think
23 you did already, that no matter where we propose to put
24 landfill it is going to have some negative impact?

25 A. Yes.



1 Q. Will you also agree with me, and I
2 think you have already, that there are a large number
3 of factors to be taken into account?

4 A. Yes.

5 Q. Will you agree with me that in
6 evaluating of these factors, I think you have already
7 done this, you have to trade off these various issues
8 to see whether the site can on balance be approved?

9 A. Yes.

10 Q. Can we agree that one of the
11 factors used, one of the factors to be considered is
12 the use to which the land is being put to at present?

13 A. Yes.

14 Q. Would you agree with me that in
15 looking at the land use, what you have to do is conduct
16 site specific studies to evaluate that land use?

17 A. Yes.

18 Q. Consider the value to the
19 community based on the results of those studies?

20 A. Yes.

21 Q. Will you agree with me that
22 ultimately then you have to take the information you
23 gather with respect to land use and put it into the
24 hopper and balance it against all the other factors
25 that you have to trade off?



- 1 A. Yes.
- 2 Q. At some point you have to do that,
3 can we agree?
- 4 A. Yes.
- 5 Q. In this case there is land use at
6 one site which is Site F which is, generally seems to
7 be supported by the notion of a biophysical study as it
8 is being used? The import of the biophysical study is
9 to look at how that land is being presently occupied;
10 can we agree?
- 11 A. What is the value of the land and
12 the highest value is in the biophysical sense.
- 13 Q. At Site D can we agree that the
14 land use, the highest use is the agricultural use?
- 15 A. Yes.
- 16 Q. Those things have to get thrown in
17 the hopper in some fashion and be traded off?
- 18 A. Right.
- 19 Q. Now, as I understand it, your
20 disagreement with the way in which you interpret what
21 was done here is that those two things were traded off
22 directly against each other as opposed to being put in
23 the general hopper?
- 24 A. They were traded off against each
25 other and too early in the process.



1 Q. That's exactly my point. Can we
2 agree that the real debate here is not whether you
3 trade them off but rather when you do it in the
4 process?

5 A. Yes, you will be trading things
6 off in the process and you may not, as it so happens,
7 trade those two things against one another. Certainly
8 I do agree with you as to when it is done in the
9 process. I think it is being done too soon.

10 Q. I want to look at what you are
11 suggesting ought to be done and if I understand it
12 correctly, what you are saying, perhaps we can just go
13 to your report at page 9. Perhaps it won't be
14 necessary. Let us go to page 9, the bottom of page 9.

15 "Our conclusion is that while Site D is
16 the preferred landfill location from a
17 biophysical view, Site F is preferred
18 from an agricultural view."

19 The point is you really stopped there, you don't trade
20 the two of them off?

21 A. Right.

22 Q. We see the same thing if we go to
23 page 14, the bottom again:

24 "Table 2 compares two sites based on the
25 agricultural factor. Here the



1 conclusion is reversed with the impact
2 on Site D being much greater since the
3 inherent land capability is higher than
4 that of Site F."

5 Correct?

6 A. I am sorry, what page, page 14 you
7 say?

8 Q. Yes, the bottom.

9 A. Oh, yes, okay.

10 Q. As I understand it then, what
11 happens here is that you have determined that
12 agriculture is really more important as a consideration
13 than the biophysical issues. I take that from page 9
14 of your report where you say:

15 "It appears reasonable to treat
16 agriculture as a separate factor in view
17 of its importance and the questionable
18 logic of recognizing it within the
19 'Natural Environment' heading."

20 I take it that your view is that agriculture is the
21 more important of these two uses.

22 A. As a general use.

23 Q. Yes.

24 A. Yes. I think so because there has
25 been, you know, so much more, I don't go here,



1 Mr. Lederer, because it is Class 1 or 2, I am just
2 saying agriculture, and because I feel that the
3 government policy on agricultural land is so well
4 enunciated and strongly stated that I don't see
5 something that would tend in this case to make me feel
6 at any rate ... I just want to say one other thing.

7 Another reason why is because I said in
8 this case the agricultural policy or the policy relates
9 also to people who will be living and displaced. That
10 was my reasoning.

11 Q. Now, sir, if you decide that
12 agriculture is a higher factor, are you not in fact
13 predetermining any trade-off in land uses as between
14 agricultural land and land occupied by biophysical
15 concerns?

16 A. I avoided doing that by saying it
17 is my view that for these reasons it is not just pre-
18 determined, I didn't come in with a notion based on the
19 reports that it is more important but that is what I
20 said when I went down to my ultimately chart,
21 Mr. Lederer. I made a point of saying I haven't in
22 fact changed the ranking or rating of these. I just
23 retained the ones that were done by Walker Wright Young
24 in their area, not saying...

25 Q. I understand that you have kept



1 the order in the same, sir, but I don't think, with
2 respect, that is the response to the question. If you
3 determine that agriculture is the more important factor
4 are you not pre-determining any analysis which compares
5 a site in agriculture with a site that uses and has a
6 biophysical use. Because you say agriculture is
7 important the moment you have an agricultural site it
8 will be more important?

9 A. No, in fact you don't do that. It
10 wasn't done here in that degree of detail in
11 Mr. Wright's reports, but certainly in the work I have
12 done in OWMC we have many circumstance where you will
13 rank one factor higher than another and then at the
14 sub-factor level you will scale certain factors in a
15 different way, so that when you get the multiplication
16 you may say this is a more important than this, but
17 when you look at all the various sub-factors and you
18 scale them and do the arithmetic, then this ends up
19 with a greater impact than the other.

20 Q. I thought up until now we were
21 talking about how you don't scale things, but let us
22 ignore that.

23 A. I didn't say that, Mr. Lederer.

24 Q. I am afraid that I really don't
25 understand your answer to that question, so let me try



1 it again. You have agriculture and you say it is more
2 important than biophysical. You have made that
3 determination; correct?

4 A. Yes.

5 Q. Therefore, you then come to
6 evaluate the two sites, one is in agriculture and one
7 is biophysical. Don't you already know that the
8 agricultural land use will become more important
9 because you have already said it is the more important
10 factor?

11 A. I think what we have said is this
12 and I will give you a hypothetical example. You could
13 take agriculture and say well, biophysical. You may
14 say the importance of the matters in the scaling that
15 this maybe has an importance of five and that has an
16 importance of three.

17 Then when you go into the sub-factors
18 you might find here that there are some sub-factors
19 that you give a scaling or weighting to of times two.
20 It might be some, this may relate to the quality of the
21 soil, it may relate to the farming practice, it could
22 relate to the size of the fields. It could relate to
23 the heat units in the area. You look at the
24 biophysical factor and you look at what is on the site.
25 You may look to see whether there is an endangered



1 species and you might say that that is times seven, and
2 despite what you have started with, when you get down
3 to that, you will get an actual determination.

4 Q. So will you look at what is on the
5 actual site and see what is there and apply it to the
6 predetermined order?

7 A. Later on to the actual weighting.

8 Q. Is that what we find at the bottom
9 of page 43 of your study? Here you are comparing the
10 policies that applied to those two areas, the mineral
11 aggregate policy on the one hand and the Food Land
12 Guidelines on the other?

13 A. No, because what I was doing over
14 there was not comparing the actual minerals on-site if
15 you like, but just comparing two policies. Looking at
16 these policies, I knew that this would lead to some
17 question, saying well you seem to have two government
18 policies that perhaps are at odds with one another.
19 Are they in fact at odds or in this case can you just
20 read the document and read what the government has said
21 and determine that one seems to take precedence over
22 the other. That's what I did there. It is not the
23 same as that.

24 Q. I misunderstood that so let us go
25 back to what you have got here. What you have got is,



1 you pre-order agriculture and biophysical and you look
2 at the two things together, you look at the site
3 specific -- sorry -- you look at the sites in a
4 specific fashion and that may have the effect of
5 changing the ordering in a particular case?

6 A. Or the import of it. .

7 Q. Sir, if that is what you are doing
8 then aren't you doing precisely what you say Mr. Walker
9 ought not to do which is you are comparing the two
10 sites directly with respect to this one factor?

11 A. What they are doing is if in the
12 ultimate stage, or if you had a stage where there are
13 many, many sites and it is difficult to winnow them
14 out, which was not the case here, you can get into a
15 system of scaling as well as ranking the factors. What
16 I was saying is that if you start to do this right at
17 the beginning, and you know, you could do it right at
18 the beginning and say, oh, we are going to put
19 agriculture in public health because of the danger and
20 try and pre-determine a way off, although there was no
21 indication in the report as to how that decision was
22 come to. That leads to a danger so you are better off
23 to say let's leave this to the end if it becomes
24 necessary.

25 Q. I don't want to go back into this



1 chart again, but my suggestion to you is you can't
2 possibly know if it is necessary unless you know what
3 the degree of difference is?

4 A. Then I think I have to disagree
5 with you.

6 Q. Let us go back and talk about
7 agriculture. Can you flip the chart back where you had
8 agriculture and biophysical? Mr. Kentridge, there
9 appear to be, if I understand this, now two steps to
10 this as you propose it. The first one is that you do
11 some analysis to determine that going in agriculture in
12 this case is more significant than biophysical; is that
13 correct? That is represented by your 5 and 3?

14 A. There may be certain things, in
15 fact, that are exclusionary.

16 Q. Can we agree then that there is a
17 bias now in favour of agriculture before you look at
18 the site specifically at all?

19 A. There may be.

20 Q. So can we agree then that to the
21 extent there is a bias now in favour of agriculture
22 that you have gone some way, it simply stands to
23 reason, biasing your results in favour of any site that
24 happens to have an agricultural use?

25 A. One site has and one hasn't, yes,



1 absolutely, but it doesn't bias it if tw sites have an
2 agricultural.

3 Q. Let us look at the second part of
4 what you have done here which is that you have applied
5 some site specific consideration which impacts upon
6 this ranking of agriculture versus biophysical;
7 correct?

8 A. That is what those figures show,
9 yes.

10 Q. When you do that part of it, sir,
11 are you now not doing precisely what you said
12 Mr. Walker ought not to do which is to compare these
13 two land uses directly?

14 A. Well, you are not comparing these
15 two uses directly because what you would have is really
16 A, B, public health if you like, engineering, cultural,
17 social. You are going to do a whole lot of things and
18 you are not comparing these in this way at all, but
19 rather taking the gross result of these two figures to
20 compare them. That is the point.

21 If you can take a gross result I think
22 you are likely to reach the more valid conclusion than
23 if you said this proves that this is 21 points and that
24 10 points so it is 2.1 times as good as the other. I
25 think the question of doing this is that you have the



1 whole chart running cross and at the end you can get a
2 gross addition as to the differences of the sites.

3 Q. But, sir, surely we have agreed
4 that these two factors have a common base which is the
5 use to which the land is being put, do you agree?

6 A. Biophysical and -- the one is
7 natural like on the land and the other is farming.

8 Q. The use to which the land is being
9 put?

10 A. I suppose its use would have to be
11 the crop.

12 Q. Sir, at some point then aren't you
13 going to directly compare either specifically within
14 the study or simply as a result of this overall
15 balancing. Isn't that what you are doing?

16 A. Well, let me just explain to you
17 why I think this is so important that it is separated
18 out. If we had to get into this stage and if I had
19 thought it was necessary, I would have done two things.
20 I would have done it myself or suggested to our clients
21 that it needs to be done.

22 Secondly, I would have said, I think I
23 see a major flaw in Mr. Walker's undertaking in that he
24 has missed out doing something that is basic to the
25 work. I didn't claim that he had missed it out because



1 as it so happens in this case, I think the conclusion
2 that can be drawn, is very evident, but I did point out
3 at the beginning, notwithstanding that I agreed with
4 the process, I think this part of it is not correct
5 because what it would seem to be saying is I firstly
6 decided maybe he hasn't, that biophysical is the same
7 as agricultural, it may be more or less, it is not
8 explained and then there is a discussion about the
9 species on Site F and there is a comparison of farming
10 and then there is a general conclusion that is drawn, I
11 think that is on page 9.

12 I will go back if I can. The general
13 conclusion that Site D is marginally preferred. There
14 is no explanation of how these figures arrived, what
15 weighting was given, et cetera. In fact I believe even
16 in the actual cross-examination Mr. Walker then said
17 they were equal.

18 I am saying now you don't have to get
19 into that level at this early stage. You go to the
20 level where you keep them separated and if you need to
21 later on, I am quite sure that if Mr. Walker found that
22 the conclusions in his case 4 to 1 which were much more
23 difficult to reach, he would have gone on to the next
24 stage. He is well aware of this and would have done
25 this sort of work.



1 I am saying it is not necessary because
2 the result became very evident.

3 Q. Let us look at what
4 Mr. Walker actually did do. First of all, could you
5 tell me, sir, what was the source for this conclusion
6 you have just referred to at page 9 of your report that
7 the two are put together. What stage of the study are
8 you referring to?

9 A. In what way?

10 Q. You have said at page 9, you just
11 referred the Board to it, that agriculture is one of
12 the major differences. I am sorry, I have given you
13 the wrong reference, pardon me. You just said looking
14 at page 10 that Site D is marginally preferred in the
15 natural environment category although Walker stated
16 that they were equal. Where do you get that it was the
17 Halton's consultants' general conclusion that site D is
18 marginally preferred in the natural environment
19 category?

20 A. I will tell you where you get it
21 for one thing.

22 Q. I suggest to you, sir, that it is
23 at the 2C level of study?

24 A. Yes.

25 Q. Can we then look at the



1 comparative level of study and look at the charts
2 dealing with this. C2C, this is chart 2, actually it
3 starts at C2A, I am sorry, chart 2. Here we have the
4 biophysical factor, do you see that with all the
5 various component of it?

6 A. Yes.

7 Q. Coming down to a ranking of Site D
8 first and Site F second? Do you see that?

9 A. I am sorry, what page are you on?

10 Q. The third page of chart 2, C2C?

11 A. Right.

12 Q. Do you see that?

13 A. Yes.

14 Q. Then you have the agricultural
15 factor and you have the various sub-sets of that and
16 you have the ranking here Site D2 and Site F1. Do you
17 see that?

18 A. Yes.

19 Q. I would like you to show me where
20 in the comparative study you find what you are
21 suggesting was done which is a direct trading off of
22 this one factor against the other.

23 A. Well, I would read in his report
24 over here on page EX-5.

25 Q. That is the executive summary?



1 A. Yes.

2 Q. Just a minute.

3 A. "The differential between sites
4 within the natural environment category
5 are similarly not considered to be
6 large. Biophysical impact with respect
7 to Site F is relatively high despite a
8 reduction in the area that would be
9 disturbed by landfilling. This
10 reduction would mean that some plant
11 communities at F which would have been
12 displaced under the Stage 2C analysis
13 will not now be disturbed by
14 landfilling. There is also a reduction
15 in site area at Site D, however, the
16 vegetation communities are not
17 considered to be important. Proposed
18 agricultural after use at Site D lends a
19 moderating effect to otherwise high
20 impacts on long-term agricultural use.
21 Overall Site D is marginally preferred
22 for a landfill within this category."

23 Q. Sir, would you agree with me that
24 in order to understand these studies you have to look
25 beyond the executive summaries to the substance of the



1 report itself?

2 A. Yes.

3 Q. Would you go to pages 25, 26 and
4 27 for me?

5 A. Yes.

6 Q. Would you agree with me this is
7 the body of the report that deals with that, the
8 portion of the report that deals with this?

9 A. Yes.

10 Q. Would you agree with me that there
11 is a discussion with respect to biophysical?

12 A. Correct.

13 Q. And a discussion with respect to
14 the agricultural?

15 A. Correct.

16 Q. There is nothing there?

17 A. That's in the executive summary.

18 Q. Would you agree with me that the
19 implication involved is that these things were done as
20 you suggest Mr. Walker should have done them but they
21 are discussed separately and thrown in to the pot
22 where they are balanced out with everything else in the
23 executive summary?

24 A. Yes, except that I think that they
25 are an illogical pair to be in the same pot.



1 Q. When I said the same pot I mean
2 everything, all factors that are considered?

3 A. I am saying to put biophysical, as
4 I started off in my -- this morning -- Mr. Lederer, to
5 put biophysical and agriculture as two factors that
6 jointly make up the natural environment, I don't think
7 it is logical because I don't think agriculture is
8 natural environment at all. I think, Mr. Chairman, it
9 is the antithesis. It shouldn't have been in the pot.
10 It may be in the same pot, that is why natural
11 environment ranked so high. I think that you try and
12 avoid these trade-offs from the point of view of being
13 as careful as possible until the last stage where you
14 then try and evaluate the importance of the various
15 factors and then weigh them.

16 Q. Sir, can we now go to page 14 of
17 your study, please?

18 A. I am sorry, the page number?

19 Q. Fourteen. This deals with how you
20 have treated the biophysical factor and I would like to
21 look at the second half of that paragraph:

22 "However, the proximity of Sassafrass
23 Woods - identified by the Ministry of
24 Natural Resources is a valuable and
25 significant environmental area



1 essentially containing the same species
2 of flora and fauna, may moderate the
3 biophysical significance of Site F."

4 Do you see that?

5 A. Yes.

6 Q. I am interested by the use of the
7 word "may". I presume that if these were the only two
8 areas in Ontario that had these species then in fact it
9 wouldn't be enough to moderate the existence of them
10 on-site, the potential destruction of them on Site F
11 because there happen to be some more just down the
12 road?

13 A. Yes, I would like to explain this
14 if I may, Mr. Lederer. Why I put this statement in in
15 this way is that when I reviewed the report on the
16 biophysical and got my understanding of what they are
17 talking about, I also reviewed the information on the
18 transcript in terms of the two areas of cross-
19 examination I dealt with earlier from Ms. Hellas, and
20 came to the conclusion that this really related to one
21 of the things you had mentioned about added work as
22 people go on. I said, now really what she said there,
23 it would appear that this may moderate the significance
24 as mentioned in the report because this is extra
25 information that appears to have come in subsequent to



1 the report.

2 Q. Well, I understand that is the
3 reason why the word appears. I am interested in what
4 its significance is, so let's try it again. Will you
5 agree with me that if these were the only two locations
6 in Ontario in which you could find these species then
7 the existence of the Sassafrass Woods would not
8 moderate the risk of the loss of that species in this
9 area?

10 A. If you found, for example, there
11 was an endangered plant and only one found example in
12 both areas, it may be that both areas should be saved
13 absolutely.

14 Q. On the other hand, if it turned
15 out that these kinds of species occurred with a
16 reasonable frequency throughout the province, then you
17 might say that the existence of the Sassafrass Woods
18 would modify it because you weren't really risking
19 anything and you knew they existed elsewhere?

20 A. That's right.

21 Q. Now, can I assume then from the
22 use of the word "may" that you are not sure presently
23 whether it will or will not moderate?

24 A. Yes, you are quite correct.

25 Q. Would I be right in assuming, sir,



1 that at least in part, this is because you are not a
2 person with the expertise of someone like Ms. Hellas.
3 You are not an expert in the biophysical issue or
4 questions?

5 A. And also because I think this work
6 perhaps hasn't been done. As I can see from Ms Hellas'
7 cross-examination she responded to Mr. Garrod that
8 perhaps to get a more definitive answer additional work
9 would have to be done and perhaps more thorough study
10 by her of the Sassafrass Woods. It is not just myself.
11 These have come up.

12 Q. I understood you to say to
13 Mr. Garrod in direct examination that Ms. Hellas had
14 given evidence --

15 Would you prefer to have a break?

16 MR. LANCASTER: We are due for one. I
17 think we will take a break.

18 MR. LEDERER: I can take a hint, sir.

19 ---Recess

20 MR. LANCASTER: Please be seated.

21 MR. LEDERER: Q. Mr. Kentridge, at the
22 moment at which we adjourned we were discussing the
23 matter of the moderating impact of the presence of the
24 Sassafrass Woods. Do you recall?

25 A. Yes.



1 Q. I think we had got to the point
2 where we had agreed that we wouldn't be certain or not
3 whether it would moderate in this particular case; do
4 you agree with that?

5 A. Yes, I think to know thoroughly
6 you would have to have a more detailed study.

7 Q. Would you agree with me, ignoring
8 for the moment the matter of the more detailed study,
9 that would you would have to have is someone to look at
10 this who had expertise in the area?

11 A. I think, for example, I said in
12 the word of Ms. Hellas you would have to look at that
13 and I think in her cross-examination, if I might just
14 refer to it if I could.

15 Q. Mr. Kentridge, I am happy to have
16 you refer to anything you want and I can't stop you
17 saying whatever you want, but these questions aren't
18 really that hard. It is going to take us a lot longer
19 if we keep going back and forth. If you want to refer
20 to it by all means refer to it but I really haven't
21 raised Ms. Hellas' name. Maybe you could just answer
22 the question.

23 Do you agree with me that in order to
24 come to that conclusion you would have to have someone
25 look at this who had particular expertise in the area?



1 A. Yes, but I would just like to
2 refer to what she said to see if there is some
3 information that is of value, Mr. Lederer.

4 Q. Let me suggest that since you have
5 answered yes, let me tell you why, because in your
6 direct examination in response to Mr. Garrod you said
7 she indicated that these particular species were not
8 particularly rare. Do you recall referring to that in
9 her transcript?

10 A. I read it out so that is why I am
11 just looking to recall that. She said it had been
12 identified under the International Biological Program
13 at Sassafrass Woods. That has been designated as an
14 ESA. In Site F there are very significant features,
15 none are in danger, and then she speaks about the
16 question that there are a lot of species that are
17 common throughout such as she found oak and hickory on
18 all of our 2C sites.

19 She concluded that none of these
20 vegetation types is unusual or uncommon in Halton. I
21 think to some extent she seems to have a general
22 knowledge, I suppose though, to understand it you would
23 have to go and do a detailed count.

24 Q. Let us go back. Can we agree that
25 it requires somebody with expertise in this area to



1 determine whether or not the presence of the Sassafrass
2 Woods has a moderating influence?

3 A. That's right.

4 Q. Were you here for Ms. Hellas'
5 evidence?

6 A. No.

7 Q. Have you reviewed all of her
8 studies?

9 A. Yes, I have read the studies by
10 Bird and Hale.

11 Q. Have you reviewed her curriculum
12 vitae?

13 A. No, I have no recollection.

14 Q. Are you prepared to agree with me
15 that -- or assume with me for the purpose of these
16 questions that her CV demonstrates that she is an
17 expert in this area and she was accepted as such by
18 this Board?

19 A. Yes.

20 Q. Would you agree with me then that
21 somebody with this expertise has looked at this matter?

22 A. That's right, they have looked at
23 Site F and Site D.

24 Q. Would you agree with me that if
25 you wanted to see the importance of those statements



1 that you have now quoted, one of the places that you
2 would look at is H-14 the comparative study and the
3 work she did with respect to this question of
4 biophysical and rare plants and such at these two
5 sites. Do you agree with that?

6 A. Yes.

7 Q. Maybe we could look at that and
8 that is Appendix C. Do you have that?

9 A. Yes.

10 Q. Looking at C-14 can we see under
11 Site F, vegetation community types uncommon, loss of
12 wide range of vegetation habitat types not well
13 represented elsewhere and indicative of Carolinian
14 conditions with oak, hickory. Do you see that?

15 A. Yes.

16 Q. There are some rare plants,
17 uncommon plants, do you agree?

18 A. Yes, but you know, I don't know,
19 she said including oak, hickory but then she said they
20 are represented everywhere.

21 Q. Can we go up to on C-15 under
22 plant species, rare; do you see that?

23 A. Yes.

24 Q. Do you see loss of at least three
25 provincially rare species and numerous species; do you



1 see that?

2 A. Yes, I do.

3 Q. If we go over the page now into
4 her conclusion to page C-18, considering the biological
5 characteristics of the sites as summarized above, it
6 can be seen that Site D has minor and Site F has major
7 biological constraints to the development of a
8 municipal landfill site. Do you see that?

9 A. Yes, I do.

10 Q. Would you agree with me, sir, that
11 what we have here is the fact that somebody with
12 expertise has looked at this comparison and with or
13 without consideration of the moderating influence, or
14 rather with the consideration of the moderating
15 influence has come to the determination that Site D has
16 minor and Site F has major impact with respect to
17 biological constraints, with the moderating influence
18 considered.

19 MR. GARROD: Mr. Chairman, I hesitate to
20 interrupt my friend because I don't want to be
21 disruptive, but as he has pointed out on other
22 occasions witnesses change their evidence after
23 producing reports and during the testimony, including
24 the cross-examination, different facts come to light,
25 or which have to be taken into consideration.



1 In fairness, Mr. Kentridge, has
2 indicated that part of what he is relying on is the
3 transcript of that work. Mr. Lederer is now moving
4 back to the report which doesn't necessarily reflect
5 whatever changes may have come up in cross-examination.
6 Could Mr. Kentridge at least be given the opportunity
7 to consider the overall picture.

8 MR. LEDERER: Sir, I want to indicate to
9 you that I consider this objection to be most improper
10 because it has now given this witness an explanation
11 for what has been going on here. I was very careful in
12 the questions that I asked. I referred Mr. Kentridge
13 to the transcript and he went through it. Then I said
14 to him in order to understand how all of that plays out
15 here wouldn't you want to look at the report, and he
16 agreed with that.

17 That was his moment to say no. I don't
18 agree with that because this represents change. He
19 didn't say that and he doesn't therefore agree with the
20 proposition Mr. Garrod has put. It is not up to Mr.
21 Garrod to stand up and say, oh, no, no, no that 's not
22 fair because there is this explanation and that
23 explanation. It is now not just a question of saying
24 that's an objection, I am not sure where this is going,
25 it is an objection that runs to the substance of what



1 this witness is saying and it is improper and
2 Mr. Garrod should be so instructed.

3 MR. GARROD: Mr. Chairman, in my
4 submission there is nothing at all improper.
5 Mr. Lederer is putting information to the witness the
6 witness wasn't here. All I am saying is, the witness
7 deserves the entire picture and Mr. Lederer, in my
8 submission, there is not at all wrong in what I did.

9 MR. LANCASTER: The question should be
10 able to stand.

11 THE WITNESS: I was saying to
12 Mr. Lederer or you asked and you said that her report
13 was the moderating influence. I was saying for
14 clarification with or without the moderating influence
15 and of course I thought that you had missaid the word.

16 MR. LEDERER: Q. You are aware that
17 Ms. Hellas was aware of the Sassafrass Woods when she
18 did her study?

19 A. No, I don't think she took into
20 account the importance of the Sassafrass Woods and that
21 is why it came out in this...

22
23 Q. Will you agree Ms. Hellas was
24 aware of the Sassafrass Woods?

25 A. That there was a Sassafrass Woods



1 there, yes. I am sure she was.

2 Q. You agreed that Ms. Hellas was an
3 expert in this area?

4 A. I wanted to say that I am sure she
5 was because it came out when Mr. Garrod asked her were
6 you aware of the Sassafrass Woods and she said, yes I
7 know about the Sassafrass Woods.

8 Q. So now we know she was aware of
9 the Sassafrass Woods. You have agreed she is an expert
10 in this area?

11 A. Yes, I do.

12 Q. You agreed you were not an expert
13 in this area?

14 A. Yes, I did.

15 Q. Now, sir, I would suggest to you
16 therefore that you are simply not in a position to tell
17 us whether or not an expert has properly considered
18 some matter in her field and not in your own?

19 A. What I saw out of this and brought
20 out trying to say that it may moderate it is that I
21 could see nothing in the Bird and Hale report that
22 indicated that in looking at the conclusions that they
23 had given weight to the nearby ESA. This came out
24 under cross-examination.

25 It seems to me just reading what is in



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1 front of me that if there had been some moderating
2 influence, I might have expected it to be referred to.
3 I am saying here it may moderate the biophysical
4 significance because when I see this and read it it
5 appears to me that the weighting was not given to Site
6 F in terms of saying when I reach my conclusion I have
7 taken into account fully what happens in the Sassafrass
8 Woods.

9 I still think it is an important
10 biophysical area. I have never seen that in the Bird
11 and Hale report. I referred, therefore, and I have it
12 in my notes as to what happened in fact in the cross-
13 examination when there was an agreement that in fact
14 there was such a feature and that is why I guess there
15 was a degree of caution. This may moderate the
16 biological significance and it turned out she hadn't
17 tried to weigh these two features up. I imagine that
18 for something as important as the Sassafrass Woods,
19 there may have been a mention of it if it was of
20 significance to her.

21 It may also be, Mr. Lederer, that
22 someone was given an instruction that I want you to
23 look at the biophysical on D and the biophysical on F
24 and when they are looking at the biophysical on F or D
25 they don't elect to go on the stream bed as they run



1 through D or nearby in Sixteen Mile Creek. That is all
2 I am suggesting.

3 Q. Now, the idea of this, as I
4 understand it, is that we are not risking, if there is
5 a moderating influence what you are really saying is
6 that decreases the degree of loss because we are not
7 risking as much because we have similar plants and
8 species nearby?

9 A. In a broad sort of natural
10 habitat, yes.

11 Q. So you apply this factor as it
12 were to decrease the nature of the risk of that loss?

13 A. I say it may and when I evaluate
14 it later on I have said biophysically F obviously much
15 more sensitive than D and therefore preference in that
16 case would be going to Site D for the landfill.

17 Q. Sir, in this case we are
18 interested in a possible existence of a factor which
19 will decrease the possibility of loss of these species
20 in this area; isn't that right?

21 A. Yes.

22 Q. Just as hydrogeologically, for
23 example, we would be interested in the factor that
24 decreases the possibility of contaminants flowing off
25 the site?



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1 A. Yes.

2 Q. Just as you agreed with me
3 ultimately that we would be interested in the kinds of
4 mitigation being proposed, isn't that correct?

5 A. Yes.

6 Q. Thank you very much, all right.
7 Can we agree that there is in the area surrounding Site
8 D a tremendous amount of land occupied in agricultural
9 use?

10 A. Yes.

11 Q. Can we agree, therefore, that
12 using precisely the same logic as you have attempted to
13 use with respect to the Sassafrass Woods, that if we
14 were to take away Site D from the agricultural use in
15 fact we are not risking much because we have got lots
16 of other agricultural land in this area?

17 A. That is really an illogical
18 conclusion to draw, because on one hand you are talking
19 about rare, not even rare and endangered species or an
20 uncommon species. It may be uncommon up here, but down
21 south in the Carolinas may be extremely common. You
22 say it is important that we retain some species of this
23 and preferably here.

24 In the other case you speak about one of
25 the most basic productive elements of our society in



1 terms of agriculture where there is a clearly
2 enunciated government policy that we have to protect it
3 at all costs, we have explained Class 1 to 4 lands are
4 important, we know they are in Ontario because we don't
5 have that much heat as we go much further north, and it
6 is not only that you are losing this piece of
7 productive land, but you are endangering other
8 productive lands around.

9 It is just too easy to say, oh, we just
10 lose a bit of agricultural land here and there. That
11 is why because this has happened in the past the
12 government has developed this policy, specifically to
13 avoid the nibbling away and to say there has to be a
14 very clear case for expanding agricultural land.

15 Q. Let us see if we can come to some
16 understanding now of the difference here. In the case
17 of the biophysical resource there will be a difference
18 if we have assurance that there will be other lands
19 with those same features remaining. If there are other
20 lands with those features remaining then that is a
21 reason for saying it will be okay to use Site F for
22 landfill, correct?

23 A. Firstly I go to the beginning and
24 say I have taken and accepted that you can use Site F
25 for landfill in any event, Mr. Lederer.



1 Q. Site D.

2 A. No, Site F. I am talking about
3 Site F for landfill, because of the sensitivity of the
4 biophysical situation isn't such that it precludes Site
5 F.

6 Q. I think we would all agree with
7 that.

8 A. Good. Taking that I have said the
9 actual significance of the species, as to whether they
10 are just uncommon, whether there is a lot of them, if
11 not in Halton, somewhere else has to be taken into
12 account as well. So, you know, when I look at that ...

13 Q. So if there are those kinds of
14 species elsewhere in Halton that is a reason for
15 saying, that is another reason for saying it is okay to
16 go to Site F. It helps the Site F case as it were?

17 A. Yes, that's right.

18 Q. On the other hand if you have
19 agricultural land and you have lots of agricultural
20 land in Halton, quite apart from this site, that
21 nonetheless does not help the Site D case?

22 A. Not at all.

23 Q. And the reason for that I presume
24 is that in your view, first of all, Food Land
25 Guidelines policies?



1 A. That is the first policy. The
2 second reason about it is because I think in my view
3 the significance of displacing people and the potential
4 livelihood is of greater significance than displacing
5 some Carolinian species and some oak hickory and other
6 things. That is my view of it.

7 Q. I want you to understand, sir,
8 that I don't actually disagree with that at all. My
9 concern rather is for the consistency of the approach
10 that you have taken. The consistency of the values
11 that you have applied. I am suggesting to you that in
12 fact you have treated the proximity of similar uses,
13 agricultural in the one case and biophysical concerns
14 in the other case in precisely the opposite fashion at
15 these two sites. Do you agree with that?

16 A. Yes.

17 Q. So you agree with that? Agree
18 with me then, without for the moment getting at whether
19 there is a reason for it, so we can get a simple
20 answer. Can we agree that that is not consistent
21 treatment?

22 A. Consistent is just the wrong word.
23 It puts the suggestion that there is some error in my
24 logic and I don't think there is error in my logic.

25 Q. Can you agree with me, I don't



1 mean to suggest -- the error in the logic lies behind
2 the rationale of what you have done. Let us ignore the
3 rationale again for the moment. Would you agree with
4 me you are treating them differently?

5 A. Differently, yes.

6 Q. With respect to the agricultural
7 resource, can I presume that you are first of all
8 driven by what has been taken by people here to be the
9 policy thrust of Food Land Guidelines in part?

10 A. In part.

11 Q. Can I also presume that you are
12 driven by the notion that the agricultural resource
13 ought to be considered in its entirety because we are
14 trying to protect that resource in its entirety. The
15 overall context in which we find agricultural uses?

16 A. I suppose the Food Land Guideline
17 deals with it in its entirety. I deal with it from
18 that side. On the other I deal with the persons making
19 a living in agriculture within the ambit of Site D.

20 Q. So it is not sort of Site D in
21 particular. It is the notion of protecting the
22 agricultural resource at large?

23 A. I just said both. I said it is
24 the Food Land Guidelines deal with agriculture in the
25 generality, and I said in addition, the words I used



1 is, I am concerned about those people living and making
2 their livelihood out of agriculture either on the site
3 or in the ambit of the site.

4 Q. Now, can you agree with me, sir,
5 let us have a look at both of those. Let us start off
6 first of all with the people. You would agree with me
7 that in certain circumstances it may be necessary to
8 place a public use on lands owned by individuals?

9 A. Yes, I do.

10 Q. When that happens those people may
11 be displaced?

12 A. Yes, I do.

13 Q. That is just a factor in our
14 society?

15 A. It does happen.

16 Q. As I understand it in this case
17 this is a reason for distinguishing between Site F and
18 Site D. In the one case that will happen and in the
19 other case it won't happen?

20 A. I think it is also a case when it
21 happens or has to happen you have got to balance the
22 public good against minimizing the personal impact and
23 to try and be fair and equitable to each, a decision
24 where you, the way I put it, you achieve the greatest
25 public good with the minimum private impact.



1 Q. I want to come back and look at
2 the notion of this agricultural, the way in which you
3 treat neighbouring agricultural lands. I am wondering
4 whether or not one of the considerations you looked at
5 is the agricultural resource as a whole in Halton and
6 how it will be affected by this proposal, is that a
7 factor that you considered?

8 A. No. I don't think I would look
9 and say what does this do to the totality of Halton.
10 That is going back to your earlier argument where you
11 are saying is this important in the case of Halton and
12 I said I think when you look at agriculture as a whole
13 that is why the government came up with their policy to
14 say that we can't have nibbling of little pieces away
15 because it is always easy to argue and say 100 acres
16 here or there isn't so important in the totality of
17 things. I think that is part of their whole argument
18 or reasoning behind this Food Land Guidelines is to
19 prevent that and say unless there is a very specific
20 reason whether it is 5 acres or 20 acres, unless you
21 can very clearly enunciate the losses and why they have
22 to be, we don't want any losses in Ontario.

23 To that extent it is not just my concern
24 about how many acres there are in Halton.

25 Q. We will come and deal with the



1 Food Land Guidelires in that context a little bit
2 later. Let us move on then. Perhaps we should go to
3 page 16 of your report. Do you have that there?

4 A. Yes.

5 Q. I am looking at the middle
6 paragraph:

7 "The high impact on long-term
8 agricultural use on Site D is identified
9 by the Halton consultants. However,
10 this level of impact was modified by the
11 proposed agricultural after-use."

12 Do you see that?

13 A. Yes.

14 Q. I take it from that that you agree
15 that there is a modification to the impact on
16 agriculture as a result of the restoration that is
17 being proposed?

18 A. No, what I mean to say is, the
19 report suggests that the impact will be modified as a
20 result of restoration.

21 Q. That's not something that you
22 necessarily agree with then?

23 A. I don't think it seems that there
24 have been a great deal, as far as I have been able to
25 find out, proven facts on rehabilitation. The times



1 and the problems -- the time before rehabilitation can
2 take place is -- well, it is long enough that I am not
3 very concerned about it. The question that's there as
4 to how successful will it be.

5 Now, certainly if it is successful and
6 we are 50 years down the road, it will be perhaps
7 better, it may be better than no rehabilitation but it
8 is, I suppose, a little bit like you were describing
9 these, the mitigating factors. If you can mitigate and
10 carry out monitoring policies that are known and proved
11 they have more value than a suggestion about something
12 that you are not too sure of.

13 Q. So you have some doubts because
14 you are not certain as to whether or not this can
15 actually be effective?

16 A. That's right.

17 Q. Sir, can I assume you are not an
18 expert in agriculture?

19 A. I am only knowledgeable about it
20 to the effect that I deal with it commonly in preparing
21 plans, by-laws, official plans, and have to have input
22 from people who are, and have some way of assessing.

23 Q. You are not an agrologist, are
24 you, sir?

25 A. No.



1 Q. Have you reviewed the reports and
2 the evidence of Dr. Mackintosh?

3 A. Yes.

4 Q. You have no reason to dispute his
5 expertise in this area, do you?

6 A. No, I don't dispute his expertise
7 as an agrologist.

8 Q. Do you understand that it would be
9 possible in Dr. Mackintosh's view to restore this site
10 to within a certain percentage of what it is now?

11 MR. LEITCH: I don't think that was his
12 evidence.

13 MR. LEDERER: It was, I suggest, the
14 evidence of Mr. Hoffman.

15 Q. Do I take it you are not in a
16 position to disagree with the expertise of
17 Mr. Michael Hoffman?

18 A. No.

19 Q. You are not going to disagree with
20 his assessment as to the potential for restoration of
21 this site, are you?

22 A. No, I am not.

23 Q. I suggest to you, if we just read
24 your conclusion that follows on down in that paragraph,
25 the same on page 16:



1 "Restoration was deemed feasible by
2 Halton's consultants; however, if
3 rehabilitation is not as complete or as
4 successful as contemplated, this
5 modification of the impact level would
6 not be appropriate."

7 Do you see that, sir?

8 A. Yes.

9 Q. Everybody can agree with the
10 general principle if it is not as successful as
11 suggested then the impact and the results you suggest
12 is correct. However, I am suggesting to you, sir, that
13 you don't -- or are in no position -- you don't have
14 the expertise of these people and you are not in a
15 position to suggest in fact that these programs cannot
16 be effective as they have suggested. Would you agree
17 with that, you don't have the expertise?

18 A. I don't have the expertise as an
19 agrologist, but I think they are dealing with something
20 that goes a little bit beyond agrology in that they are
21 talking about the practicality and where the people
22 that undertake this to try and determine the financial
23 feasibility, I think some of these are really unknown
24 questions.

25 I don't disagree with the sort of



1 conclusion that if it is farmed, this is the area and I
2 think Mr. Hoffman had some difference with the slope
3 and the area. That I don't disagree with that part,
4 but there are other parts beyond that.

5 Q. You would agree, then, you are not
6 in a position -- let me phrase it differently -- you
7 are not in a position to disagree that this restoration
8 may be possible to the extent suggested either by
9 Mr. Hoffman or Dr. Mackintosh?

10 A. Not disagreement with the actual
11 technical part may be possible, but that is rather
12 different from how will people operate it and farm it.

13 Q. You are concerned about the
14 commitment are you, first of all, of the Region to
15 actually go ahead with it?

16 A. Not with the Region but after it
17 is done, does it operate or does it become a white
18 elephant.

19 Q. Sir, would you agree with me that
20 the whole thesis here is that agriculture has a value
21 and therefore should be maintained?

22 A. That is certainly so.

23 Q. Would you agree with me then, sir,
24 that if that is correct, and if it continues to have
25 value 20 years after the site starts, and that is all



1 the motivation we are going to need and we should rest
2 assured that if it has value it will in fact be
3 restored?

4 A. Yes, but you may find 20 years
5 down the road as a result of this work, to give you a
6 hypothesis, Mr. Lederer, that as a result of the
7 landfill that the quality and type of farming
8 surrounding this may be very severely impacted. People
9 may decline to wish to farm. There may be a change of
10 land use. If that hypothesis is correct, because I do
11 think that a landfill has such a severe impact, it is a
12 non-compatible use. If that happened then it would be
13 hard to suggest that this site in question would be
14 farmed. That is all I am saying.

15 Q. Sir, all of those changes could
16 occur in any event whether there is a landfill here or
17 not?

18 A. I don't know anything that shows
19 those changes are likely to occur. The land value and
20 other things like that seems such to me, that I think
21 the policy statements, everything is encouraging to
22 assume indefinite long-term agricultural activity.

23 Q. Let us see if we can come to a
24 common understanding of where we are here. You are not
25 attacking the technical feasibility of this



1 restoration?

2 A. No, I am not.

3 Q. You are suggesting that it may
4 simply be, there may be no motivation of the people in
5 the area to actually farm the land. That seems to be
6 your problem?

7 A. There may be no motivation by the
8 time the landfill has been removed, the activities
9 around it may have removed the opportunities to farm,
10 that's right, Mr. Lederer. If that happens, I have
11 said then, this may not be as successful or as complete
12 as contemplated, and this modification would not be
13 appropriate.

14 I would like to say I have tried very
15 hard to be fair and careful in this report. I don't
16 think it is reasonable to say about something that is
17 out of line or out of the question. I have said there
18 seem to be questions about this area and I merely point
19 out, that if I can read it, Mr. Chairman, I said: if
20 rehabilitation is neither as complete or successful as
21 contemplated, this modification would not occur. It is
22 not really appropriate.

23 Q. What we are really talking about
24 here is that it is very difficult to predict people's
25 attitudes 20 years hence?



1 A. That is certainly possible. There
2 is no doubt about that.

3 Q. So, sir, in actual fact all we are
4 really dealing with here is the uncertainty of the
5 future which always exists; can we agree?

6 A. We are dealing with the
7 uncertainty except as a result of landfill I think the
8 uncertainty would be increased. Without the landfill
9 everything that I can examine seems to show a very
10 stable situation. That is all I am trying to say.

11 Q. Can we now move on to the matter
12 of the social environment and things that you have
13 looked at there. First of all, I gather population is
14 the first one?

15 A. Yes.

16 Q. If we go to page 21 of your
17 report, Table 3, your conclusion here, looking at the
18 bottom is:

19 "Population impacts at Site D (on-site
20 and adjacent) are greater than at Site
21 F."

22 A. Yes.

23 Q. So here we have a difference
24 again, a greater impact at Site D. Do you agree?

25 A. Yes.



1 Q. Then if you go to page 45 of your
2 report, here we begin to see an evaluation of the
3 degree of the distinction, as it were, because here
4 under population you say a high impact for on-site
5 population and adjacent population, with respect to
6 Site D on-site population impact is nil, low impact
7 on adjacent population because of urban context and
8 intervening land uses; correct?

9 A. Yes.

10 Q. In order to find an explanation of
11 this degree as we envisage it in the table on page 45,
12 I take it you have to go to the narrative of the
13 report?

14 A. That is true, partially, but I
15 think -- all right, please continue.

16 Q. You are agreeing with me, that's
17 at least one of the places you would find that
18 information?

19 A. Yes.

20 Q. Let us go to Site F, can we do
21 that. This would be at page 17.

22 A. Yes.

23 Q. The last full paragraph on the
24 page:

25 "Site F is vacant property. Therefore,



1 no disruption or dislocation of
2 residents would be involved. In fact
3 the present owner (National Sewer Pipe)
4 has expressed support for a landfill use
5 of its property and have proposed this
6 use for many years. Azova Investments
7 Limited, the owner of a small portion of
8 Site F also supports use of the land for
9 landfill."

10 A. Yes.

11 Q. So, there we have the factual
12 basis for you saying that the impact on Site F will be
13 nil?

14 A. Yes, and because not only have
15 they expressed support but there is no one living there
16 as I mentioned in the paragraph above. It starts:

17 "Direct on-site impact includes
18 disruption and dislocation of existing
19 residents. In our view..."

20 And I guess in this "our", I guess stands for Leon
21 Kentridge Associated Limited:

22 "...is the most important social
23 factor."

24 Q. If we look at Site D and follow
25 down into the next paragraph:



1 "The landfill uses on Site D include
2 five private residences, one of which
3 was recently burned..."

4 is that the Miller Figa?

5 A. The Miller Figa.

6 Q. I take it that burned?

7 A. Yes.

8 Q. There has been nobody living in it
9 since 1985?

10 A. That's correct.

11 Q. In order for someone to move into
12 it it would require some restoration?

13 A. Oh, yes.

14 Q. So then we are really dealing with
15 four private residences as matters presently stand?

16 A. That is correct.

17 Q. Or five if to be fair to you
18 looking at the top of page 18 if you include the
19 Tomosky property?

20 A. Yes.

21 Q. As I understand it then your
22 criticism, we went over this briefly this morning, your
23 criticism of the work done here is that they are both
24 treated in your view as being low because although the
25 difference in houses is, although the number of houses



1 is different, they both fall within the range
2 associated with the low impact analysis?

3 A. In the work done by Dr. Schiff.

4 Q. Yes?

5 A. That's right.

6 Q. Your answer is, that in comparing
7 the two sites, there should be a difference which is
8 demonstrated because there is a difference. There is a
9 difference in the number of houses?

10 A. I think there is a difference that
11 should be demonstrated, but I think firstly to suggest
12 no one is displaced is low and 10 people is low is just
13 sort of an error of logic. If no one is displaced I
14 think it is nil. I think if people are displaced, I
15 certainly do agree that if there were more than 4
16 houses or 13 people it is greater, but in my view of
17 looking at planning matters, it is a very serious
18 matter to move someone against their will through
19 expropriation.

20 Q. Now, sir, could you go with me to
21 page 19 of your report and to the sentence at the top
22 of the page:

23 "The application of this method to Sites
24 D and F resulted in the same ranking for
25 both of them at Stage 2C;..."



1 Do you see that?

2 A. Yes.

3 Q. I take it from that you are
4 relying on this conclusion that they were treated the
5 same from your reading of the 2C work by Dr. Schiff?

6 A. Not only that, I have seen her
7 transcript, and I have seen the recognition, I think
8 she recognized that the population changes are low to
9 moderate. I am saying more than that.

10 Q. Could you say that again? She
11 says the changes are what?

12 A. Originally, because there had been
13 a different number of people living on a site if there
14 are 13 now as against 10 it would be in the next
15 category upwards. I think she recognizes that, if I
16 remember the transcript, but that is not a fault of
17 hers, it is just a change of circumstance. What I am
18 saying is I think that this goes to one of the cores of
19 my concern, which is to say that if you use a way of
20 evaluating that is appropriate at the 2C stage, where
21 you are trying to eliminate and winnow down, it is not
22 as sensitive as if you are just comparing the two sites
23 and say this is worse or better than this because you
24 say they are both low. I think you could lose the
25 impact of how important it is when people are being



1 dislocated like this.

2 Q. You have made the point several
3 times, and I understand it that you think impacting on
4 individuals either by way of public health and safety,
5 any risk of that nature is substantial impact and I
6 take it you are now saying any risk of moving people
7 makes it a substantial social impact.

8 I understand that, but I am interested
9 in the comparison of the sites and the difference that
10 you see between them. That's the point that concerns
11 me throughout all of these questions, so I would like
12 to go back now and ask you, when you say that they are
13 treated the same and reading to you as I have from the
14 top of page 19, would you agree with me that what you
15 are relying on in coming to the conclusion that they
16 were treated the same, and it is right there in the
17 report, the Stage 2C study?

18 A. I think, I would have to check it,
19 but I think there is also in her later work, if you
20 give me some time, a similar analysis.

21 Q. Let us look at that work, let us
22 start with page C-3A, that is chart 3, the first page
23 of the charts in Exhibit H-14? That is appendix No...

24 Q. It is not the appendix it is the
25 charts. We will come to the appendix in a moment.



1 A. Following what page?

2 Q. It is right in the middle of the
3 charts.

4 DR. KINGHAM: It is the 51st page of the
5 document, if you have them all numbered.

6 MR. LEDERER: My copy is one of those
7 that hasn't yet found numbers.

8 THE WITNESS: I have it.

9 MR. LEDERER: Q. Pardon me?

10 A. I have it.

11 Q. Would you agree with me that when
12 we are talking about numbers which is your complaint,
13 we are really talking about the first of these factors
14 or sub-factors, measures of dislocation of residents
15 on-site?

16 A. That's right.

17 Q. Would you agree with me that if
18 you look at under technical studies comparative, you
19 will see that there is low moderate impact and low
20 impact?

21 A. It has gone from the 10 to the 14
22 and the 3 to the 4. I think she used 3.7 houses as
23 low. That is why she recognizes, as I said later on,
24 low moderate to low.

25 Q. Would you agree with me then that



1 for whatever reason there is in fact a difference in
2 the way Dr. Schiff treats these sites with respect to
3 this factor when we get to this comparative study
4 stage?

5 A. No. I think what she has done is,
6 she has used her same factors and her same definitions,
7 Mr. Lederer. She has merely recognized that there has
8 been a change in circumstances and there are now 14
9 persons as against 10 and therefore being quite
10 consistent with her charts, she says low moderate to
11 low. I think, first I wouldn't call it low, I would
12 call it nil and I think, to my mind, when you start to
13 compare nil to 14, that is a very large scale
14 difference. That is what I am trying to suggest.

15 Q. Mr. Kentridge, I understand that
16 you say, and you may well be right about this, I
17 frankly don't know. I understand you say that the
18 reason for the change is as a result of a changed
19 number of residents in the area. I understand that's
20 the reason.

21 Now, let me ask you the same question
22 again because I think I have covered that. I said to
23 you, do you agree that for whatever reason, maybe it is
24 changed circumstance, will you agree with me that for
25 whatever reason these sites were not treated as being



1 the same with respect to this issue for the purposes of
2 this analysis. One is treated as having a low moderate
3 impact and the other is a low impact?

4 A. That is right, yes.

5 Q. So to the extent that your report
6 suggests that for the purposes of comparison they were
7 treated the same, that is wrong. They weren't treated
8 the same, were they?

9 A. Not at this technical study stage,
10 absolutely correct.

11 Q. Thank you very much. Now, can we
12 just for completeness also look at what Ms. Schiff
13 actually wrote and this is Appendix E, and if you could
14 look at the second page under population impacts and
15 just looking at the concluding sentences with respect
16 to the two sites. You see the heading "Impact on
17 Community Facilities"?

18 A. Yes.

19 Q. If you move two paragraphs above
20 that:

21 "Other measures of population impact at
22 Site D remain the same but in the
23 limitations noted above and the site
24 continues to be rated moderate high on
25 this factor."



1 Do you see that?

2 A. Yes.

3 Q. Then Site F, just looking at the
4 last sentence in the paragraph immediately following:

5 "This site continues to be rated low
6 moderate with respect to population
7 impact."

8 Do you see that?

9 A. Yes, I am just reading. At Site F
10 there has been no change in population since there are
11 still no people on-site. That isn't a case that the
12 changes have not been reassessed. The site at F
13 continues to be rated low moderate with respect to
14 population.

15 Q. Do you see that?

16 A. Yes.

17 Q. Sir, would you agree with me again
18 that for whatever reason these sites were not treated
19 as being the same with respect to these population
20 impacts?

21 A. If I could just have one minute on
22 this, I wanted to find a reference.

23 When we go to this, you see if I can
24 read it to you she says:

25 "Other measures of population impact at



1 Site D remain the same but in the
2 limitations noted above the site
3 continues to be rated moderate high on
4 this factor."

5 That is how I read that. Just looking back here to the
6 social environment on Site D to see how she has this on
7 population. She says it continues to be rated moderate
8 high and with regard to Site F she says it continues to
9 be rated low moderate.

10 I think the concern, so to that extent
11 what she says does entirely concur with what we have
12 seen on chart No. 3. The totality of this scoring to
13 get low moderate or moderate high has to depend on what
14 is most likely in mind, the most important measure,
15 which is dislocation as low moderate to low.

16 If in that case just as a hypothesis
17 under population impact on this chart Site D didn't
18 read low moderate but read high and Site F nil, I would
19 like to suggest you would get a very different reading
20 as her final gross impact. That is what I was getting
21 at.

22 Q. The only point I have attempted to
23 make at this point is to the extent that your point
24 suggests on page 19 that these sites were treated the
25 same with respect to this issue and they weren't, were



1 they? With respect to this issue, with respect to this
2 issue at the comparative level of study?

3 A. I agreed with that earlier.

4 Q. That's the only point I have been
5 trying to make with you?

6 A. But I did agree with that earlier.
7 At this stage she shows a difference.

8 Q. Will you agree with me that it is
9 at this stage that the comparison of the two sites is
10 being undertaken?

11 A. That's right.

12 Q. So would you agree with me that
13 when we come to look at your work as a re-assessment of
14 the comparative study, what we ought to be looking at
15 is not the Stage 2C study, but rather, I think this is
16 self-evident, the comparative study to which I have now
17 referred to?

18 A. Yes, except, Mr. Lederer, that in
19 doing this she has changed her impacts only because she
20 has recognized that there are 14 persons is not an
21 appropriate that she has used to compare the two sites.

22 Q. You agree, I presume with the
23 notion that there is a greater impact at Site D with
24 respect to this factor than at Site F?

25 A. Yes.



1 Q. You agree therefore with the
2 general idea that she shows a greater impact at Site D
3 than at Site F?

4 A. Yes, I think her general
5 conclusion that D is more impacted than F; I would
6 agree with that.

7 Q. The only difference then is as to
8 the degree of difference?

9 A. That's what I said in my report.

10 Q. I understand, thanks very much.

11 MR. LEDERER: Mr. Chairman, Mr. Leitch
12 points out to me that it is 4:30. I am quite content
13 to continue.

14 MR. LANCASTER: How long will you be?

15 MR. LEDERER: I won't finish today.

16 MR. LANCASTER: You have answered the
17 question so we will come back at 9:30.

18 MR. LEITCH: I would like to introduce
19 Ms. Pat Anderson. She may be here from time to time.

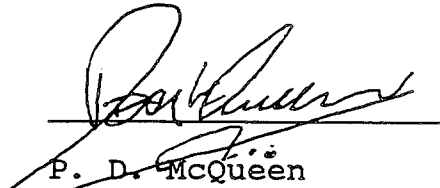
20 MR. LANCASTER: Thank you.

21 ---Adjournment at 4:32 p.m.

22
23 Certified Correct

24 (Page 23400 follows)

25


P. D. McQueen